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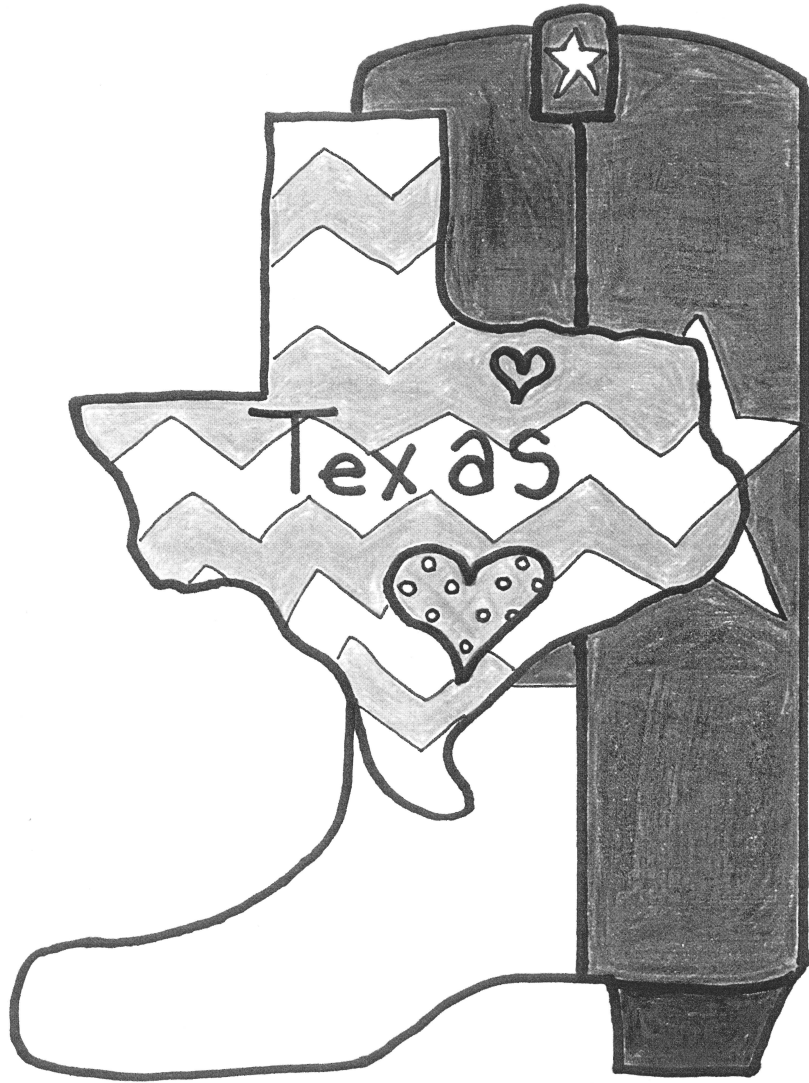
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Texas

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

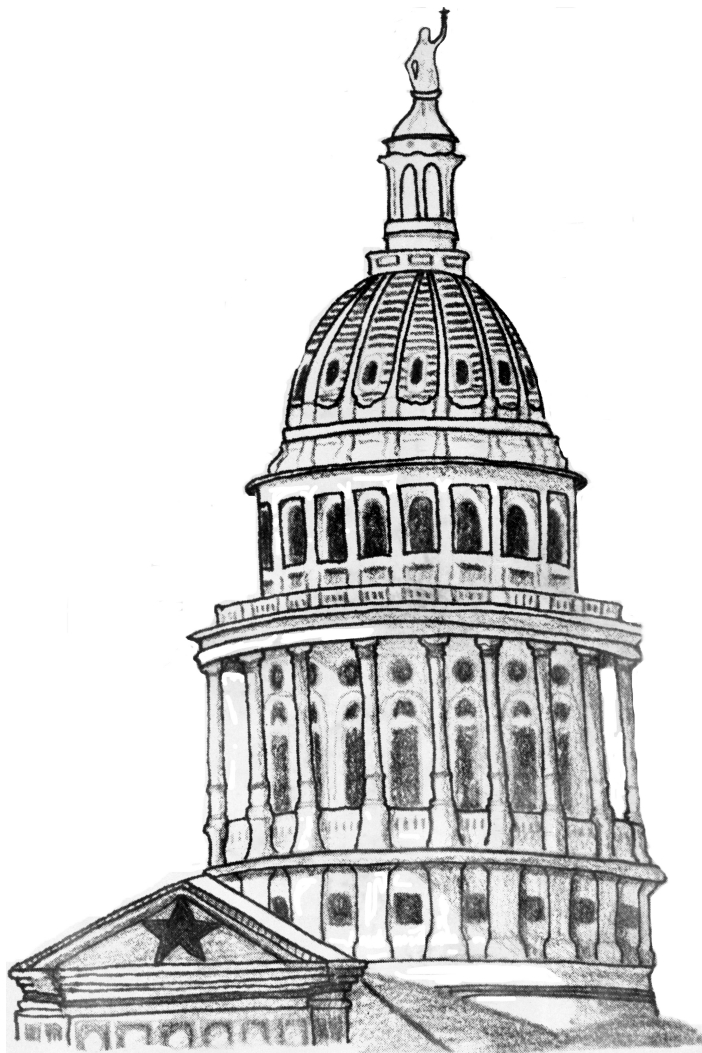
Appointments for March 3, 2022

TRD-202200856

Appointed as presiding officer of the Cameron County Regional Mobility Authority for a term to expire February 1, 2024, Frank Parker, Jr. of Brownsville, Texas (Mr. Parker is being reappointed).



Appointed as presiding officer of the Grayson County Regional Mobility Authority for a term to expire February 1, 2024, Robert W. Brady of Denison, Texas (Mayor Brady is being reappointed).



THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following: Requests for Opinions, Opinions, and Open Records Decisions.

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0448-KP

Requestor:

The Honorable Jaime A. Iracheta

Maverick County Attorney

208 Converse Street

Eagle Pass, Texas 78852

Re: Whether section 51.221 of the Water Code authorizes a limited liability company to vote in an election conducted pursuant to that section (RQ-0448-KP)

Briefs requested by April 7, 2022

RQ-0449-KP

Requestor:

Mr. Glenn A. Bower

Executive Director

Texas Funeral Service Commission

333 Guadalupe Street, Ste 2-110

Austin, Texas 78701

Re: Whether section 651.2035 requires the Texas Funeral Service Commission to disclose to a complainant information and materials compiled by the Commission in connection with a resolved complaint and investigation (RQ-0449-KP)

Briefs requested by April 7, 2022

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

TRD-202200843

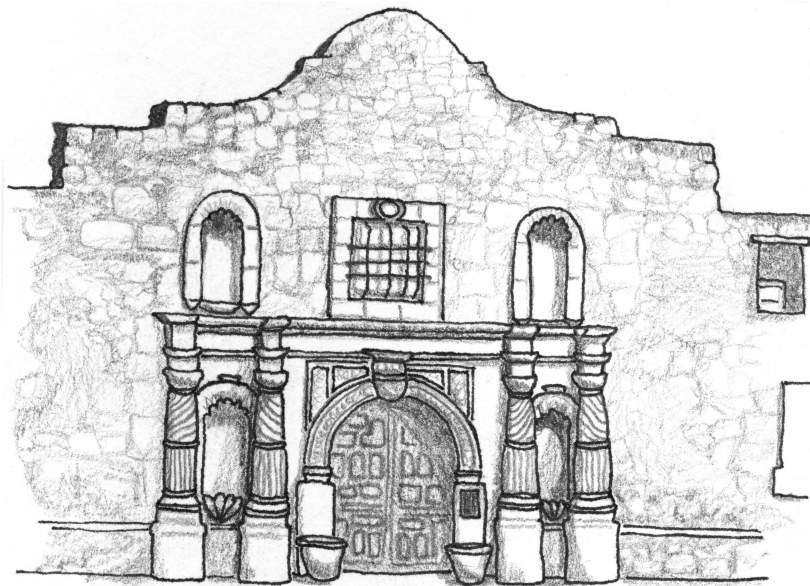
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: March 8, 2022





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 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

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

1 TAC §§353.1302, 353.1304, 353.1306, 353.1307, 353.1309, 353.1311, 353.1315, 353.1317, 353.1320, 353.1322

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §353.1302, concerning Quality Incentive Payment Program for Nursing Facilities on or after September 1, 2019; §353.1304, concerning Quality Metrics for the Quality Incentive Payment Program for Nursing Facilities on or after September 1, 2019; §353.1306, concerning Comprehensive Hospital Increase Reimbursement Program for program periods on or after September 1, 2021; §353.1307, concerning Quality Metrics and Required Reporting Used to Evaluate the Success of the Comprehensive Hospital Increase Reimbursement Program; §353.1309, concerning Texas Incentives for Physicians and Professional Services; §353.1311, concerning Quality Metrics for the Texas Incentives for Physicians and Professional Services Program; §353.1315, concerning Rural Access to Primary and Preventive Services Program; §353.1317, concerning Quality Metrics for Rural Access to Primary and Preventive Services Program; §353.1320, concerning Directed Payment Program for Behavioral Health Services; and §353.1322, concerning Quality Metrics for the Directed Payment Program for Behavioral Health Services, in Texas Administration Code Title 1, Part 15, Chapter 353, Subchapter O.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with approval requirements imposed by the Centers for Medicare and Medicaid Services (CMS), which required the Texas Health and Human Services Commission (HHSC) to make modifications related to proposed state-directed payment programs (DPPs) for state fiscal year 2022 and after.

Texas has pursued approval of five DPPs: the Quality Incentive Payment Program (QIPP), the Comprehensive Hospital Increased Reimbursement Program (CHIRP), the Texas Incentives for Physicians and Professional Services program (TIPPS), the Rural Access to Primary and Preventive Services program (RAPPS), and the Directed Payment Program for Behavioral Health Services (DPP BHS) for state fiscal year 2022. In March 2021, in accordance with 42 CFR 438.6(c) and the Special Terms

and Conditions (STCs) of the January 15, 2021, 1115 Waiver, Texas submitted "pre-prints" for CMS review and approval. The STCs were drafted and agreed to by Texas and CMS to govern the framework for approval of DPPs, with the clear intention to have an approved program(s) as the ultimate result. Based upon these STCs, Texas expected that CMS would participate in a collaborative process designed to work through and approve each program individually.

On August 18, 2021, CMS and Texas met for the first time in compliance with STC 34. During the call, CMS stated that the DPPs were not approvable, specifically noting the aggregate size of the proposed programs and CMS's purported belief that the amounts proposed were not actuarially sound. Texas requested a specific list of modifications required for each proposed DPP that would result in an approval. On August 20, 2021, CMS sent Texas a list of 19 issues, which can be grouped into five topics, and requested modifications for each program. HHSC and CMS have met every two business days since August 20, 2021, to work towards a resolution. The two entities have exchanged multiple rounds of written modifications, questions, and responses. The written exchanges can be found posted to the HHSC website at: <https://www.hhs.texas.gov/providers/medicaid-supplemental-payment-directed-payment-programs/directed-payment-programs>.

In November 2021, HHSC and CMS reached an agreement on four identified topic areas, but rule amendments are necessary to reflect those agreements. Without the agreed changes, CMS will not approve the DPPs proposed by Texas, and the programs will either cease to operate or not be implemented. A summary of the topics and the agreed modifications by HHSC are identified below.

Reconciliation

QIPP, TIPPS, RAPPS, and DPP BHS each included at least one component wherein the component payments would be allocated on an interim basis to providers based upon historical data, with a planned reconciliation performed to actual data to determine final payments at the end of the program year. In each case, the reconciliation was only triggered if a statistically significant percentage deviation between historical to actual data occurred. Otherwise, the interim payments would become final. CMS objected to this procedure and required the state to eliminate it. To advance the program approvals and work collaboratively with CMS, HHSC agreed to remove the triggering threshold and conduct the reconciliation at the end of the year.

Program Size

CHIRP payments were initially proposed to allow providers to receive average commercial incentive award (ACIA) rate increases up to their individual average commercial reimbursement (ACR) gap amounts. CMS stated that they believed

that the resulting proposed program size and payments to providers on a class basis were not reasonable and attainable. To advance the program approvals and work collaboratively with CMS, Texas agreed to cap ACIA increases so a class of providers could receive in aggregate only 90 percent of the classes' ACR gap amount.

Quality Improvement Measures

CMS stated that they believed that some quality measures were not outcome measures. They did not think Texas should use these measures to determine pay-for-performance and that, in some cases, the achievement requirements did not require providers to demonstrate continual improvement. Texas agreed to modify all program proposals, except for QIPP, to advance the program approvals and work collaboratively with CMS. These modifications pay all components as a uniform rate or payment increase, rather than considering them pay-for-performance. Texas also agreed to make modifications to achievement requirements in QIPP. Therefore, quality measure data submission would be considered a condition of participation for several components in the various programs.

Evaluation

CMS stated that they believed evaluations of the programs should isolate exclusively quality goal advancement for Medicaid managed care beneficiaries and not all Medicaid beneficiaries. CMS also required other modifications to the evaluations to ensure that the program evaluations were sufficiently detailed. Texas agreed to the required modifications to advance the program approvals and work collaboratively with CMS.

Non-Federal Share

CMS stated that they believed that some sources of local funds may not be permissible. This topic is unresolved, but the administrative rules that govern the DPPs are not impacted by this matter.

Additionally, the rules contain some modifications to appropriately align the rules with HHSC operational considerations. The rule amendments eliminate a potential mid-year enrollment process for RAPPs and DPP BHS. A program period is a 12-month rating period, and a mid-year enrollment is not feasible.

DPP BHS rules are also amended to clarify the eligible providers for the Program Period from September 1, 2021, through August 31, 2022, and eligible providers for Program Periods on or after September 1, 2022.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §353.1302(e) provides a reporting requirement for all quality data denoted in subsection (g) of this section and clarifies failure to meet any condition of participation will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

The proposed amendment to §353.1302(g) deletes the triggering threshold of 18 percent, provides the reconciliation will occur within 120 days after the last day of the program period, and provides the monthly payments to nursing facilities (NFs) will be triggered by the achievement of the performance requirements as described in §353.1304 of this subchapter or a uniform rate increase for which a NF must report quality data as described in §353.1304 of the subchapter as a condition of participation in the program.

The proposed amendment to §353.1302(h) provides the distribution of QIPP funds as a uniform rate increase will be equal to the total value of Component One for the Nursing Facility divided by twelve.

Proposed new §353.1304(h) provides alternate measures may be substituted for proposed or adopted measures as outlined in the subchapter, if required by CMS for federal approval.

The proposed amendment to §353.1306(c) provides that all participating hospitals must submit specific data to calculate the ACR gap unless the hospitals opt out of the optional program component. The proposed amendment also provides that hospitals are required to report the required data in subparagraph (B) of the subsection within four months of CMS approval, if the hospital did not report the required data in the program application. The proposed amendment also clarifies failure to meet any condition of participation will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

The proposed amendment to §353.1306(g) provides, in terms of eligibility, the maximum ACIA payments will be equal to 90 percent of the total estimated ACR gap for the class, including hospitals not participating in ACIA.

The proposed amendment to §353.1307(d) provides that hospitals must report all eligible quality metrics as a condition of participation, including data stratified by payor type.

The proposed amendment to §353.1307(e) provides that hospitals must report semiannually unless otherwise specified by the metric.

The proposed amendment to §353.1309(e) provides a reporting requirement for all quality data denoted in §353.1311 and clarifies failure to meet any condition of participation will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

The proposed amendment to §353.1309(g) provides monthly payments to health related institution and indirect medical education physician groups will be a uniform rate increase; deletes the triggering threshold of 18 percent, and provides the reconciliation will occur within 120 days after the last day of the program period.

The proposed amendment to §353.1309(h) deletes quality metric language and explanations of the calculations as these are no longer warranted.

The proposed amendment to §353.1311(b) deletes definitions for "Baseline," "Benchmark," and "Measurement Period."

The proposed amendment to §353.1311(d) deletes performance measure language and replaces it with quality metric requirements and deletes the current language providing that achievement of performance measures will trigger payments.

Proposed new §353.1311(g) provides HHSC will evaluate the success of the program based on a review of reported metrics; provides HHSC will publish interim findings; and provides HHSC will publish a final evaluation report within 270 days of the conclusion of the program period.

The proposed amendment to §353.1315(b) modifies the definition of "Program period" to delete language that currently allows a Rural health clinic (RHC) to apply to participate from March 1 until August 31 of the same program period.

The proposed amendment to §353.1315(f) provides entities are required to report all quality data denoted as required as a condition of participation in subsection (h) of the section and provides that failure to meet any condition of participation will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

The proposed amendment to §353.1315(h) deletes the current 10 percent reconciliation process; provides that providers must report quality data for Components One and Two as described in §353.1317.

The proposed amendment to §353.1315(i) deletes the current redistribution of non-dispersed funds process due to failure of one or more RHCs to meet performance requirements.

The proposed amendment to §353.1317(d) deletes the performance requirement language and replaces it with quality metric requirements; deletes the current language that a payment will be triggered by the achievement of performance measures; and provides an RHC must report all quality metrics as a condition of participation in the program.

Proposed new §353.1317(h) provides HHSC will evaluate the success of the program based on a review of reported metrics; provides HHSC will publish interim findings; and provides HHSC will publish a final evaluation report within 270 days of the conclusion of the program.

The proposed amendment to §353.1320(a) deletes the terminology pertaining to community mental health centers (CMHC) and replaces it with behavioral health providers.

The proposed amendment to §353.1320(b) adds a definition for "local behavioral health authority (LBHA)," provides a definition for "providers" based on the applicable program year, and modifies the definition of "program period" to delete language allowing participation in a modified program period.

The proposed amendment to §353.1320(e) provides the provider is required to report all quality data denoted as required as a condition of participation and provides that failure to meet any conditions of participation will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

The proposed amendment to §353.1320(h) clarifies the provider must provide at least one Medicaid service to a Medicaid managed care client; provides the monthly payment will be paid as a uniform rate increase for Component One and Two; provides that the reconciliation will occur 120 days after the last day of the program period based on actual utilization; deletes the 10 percent trigger threshold for the reconciliation; and provides that providers must report quality data as described in §353.1322.

The proposed amendment to §353.1322(d) deletes the performance language and replaces it with quality metric requirements; deletes language pertaining to achievement of performance measures; and provides participating providers must report data stratified by payor type.

Proposed new §353.1322(g) provides HHSC will evaluate the success of the program based on a statewide review of reported metrics; provides HHSC will publish interim findings; and provides HHSC will publish a final evaluation report within 270 days of the conclusion of the program.

Additional edits are made throughout the rule for consistency and clarity.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, there will be an estimated increase in revenue to state government as a result of enforcing and administering the rules as proposed.

The potential effect on state government for each year of the first five years proposed rules are in effect is an estimated cost of \$2,345,748,194 in Other Funds (\$6,607,267,179 in All Funds (AF)) in fiscal year (FY) 2022, \$2,646,105,975 in Other Funds (\$6,607,267,179 in AF) in FY 2023, \$2,651,391,580 in Other Funds (\$6,607,267,179 in AF) in FY 2024, \$2,651,391,580 in Other Funds (\$6,607,267,179 in AF) in FY 2025, \$2,651,391,580 in Other Funds (\$6,607,267,179 in AF) in FY 2026. The estimates may fluctuate year to year based on HHSC's assessment of various factors or CMS's approval of all or some of the applicable programs.

For each year of the first five years the rules will be in effect, there may be an anticipated fiscal impact for local governments. HHSC lacks sufficient information to determine the potential fiscal impact.

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will not create a new rule;
- (6) the proposed rules will expand existing rules
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will positively affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

Participation in the programs described in the proposed rules is optional.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not have an effect on local economy as the program is voluntary.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rules are in effect, the public benefit will be the continued ability of Medicaid managed care clients to have continued access to care and to incentivize

providers to improve the quality of services provided, as a result of the additional financial resources that will support continued provider operations.

Trey Wood, Chief Financial Officer, has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because participation in the programs is optional.

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

Questions about the content of this proposal may be directed to Victoria Grady at (512) 438-2680 in the HHSC Provider Finance Department.

Written comments on the proposal may be submitted to Victoria Grady, Director of Provider Finance, HHSC Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; or by email to ProviderFinanceDept@hhs.texas.gov.

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) 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 emailing comments, please indicate "Comments on Proposed Rule 22R009" in the subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; 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 Medicaid payments under Texas Human Resources Code, Chapter 32; and Texas Government Code §533.002, which authorizes HHSC to implement the Medicaid managed care program.

The proposed amendments implement Texas Human Resources Code, Chapter 32; Texas Government Code, Chapter 531; and Texas Government Code, Chapter 533. No other statutes, articles, or codes are affected by this proposal.

§353.1302. *Quality Incentive Payment Program for Nursing Facilities on or after September 1, 2019.*

(a) Introduction. This section establishes the Quality Incentive Payment Program (QIPP) for nursing facilities (NFs) providing services under Medicaid managed care on or after September 1, 2019. QIPP is designed to incentivize NFs to improve quality and innovation in the provision of NF services to Medicaid recipients through the use of metrics that are expected to advance at least one of the goals and objectives of the state's quality strategy.

(b) Definitions. The following definitions apply when the terms are used in this section. Terms that are used in this and other sections of this subchapter may be defined in §353.1301 (relating to General Provisions) or §353.1304 (relating to Quality Metrics for the Quality Incentive Payment Program for Nursing Facilities on or after September 1, 2019) of this subchapter.

(1) CHOW application--An application filed with HHSC for a NF change of ownership (CHOW).

(2) Program period--A period of time for which an eligible and enrolled NF may receive the QIPP amounts described in this section. Each QIPP program period is equal to a state fiscal year (FY) beginning September 1 and ending August 31 of the following year.

(3) Network nursing facility--A NF located in the state of Texas that has a contract with a Managed Care Organization (MCO) for the delivery of Medicaid covered benefits to the MCO's enrollees.

(4) Non-state government-owned NF--A network nursing facility where a non-state governmental entity located in the state of Texas holds the license and is a party to the NF's Medicaid provider enrollment agreement with the state.

(5) Private NF--A network nursing facility not owned by a governmental entity located in the state of Texas, and holds a license.

(6) Regional Healthcare Partnership (RHP)--A collaboration of interested participants that work collectively to develop and submit to the state a regional plan for health care delivery system reform as defined and established under Chapter 354, Subchapter D, of this title (relating to Texas Healthcare Transformation and Quality Improvement Program).

(7) Runout Period--A period of 23 months following the end of the program period during which the MCO may make adjustments to the MCO member months.

(c) Eligibility for participation in QIPP. A NF is eligible to participate in QIPP if it complies with the requirements described in this subsection.

(1) The NF is a non-state government-owned NF.

(A) The non-state governmental entity that owns the NF must certify the following facts on a form prescribed by HHSC.

(i) That it is a non-state government-owned NF where a non-state governmental entity holds the license and is party to the facility's Medicaid contract; and

(ii) That all funds transferred to HHSC via an inter-governmental transfer (IGT) for use as the state share of payments are public funds.

(B) The NF must be located in the state of Texas in the same RHP as, or within 150 miles of, the non-state governmental entity taking ownership of the facility, be owned by the non-state governmental entity for no less than four years prior to the first day of the program period, or must be able to certify in connection with the enrollment application that they can demonstrate an active partnership between the NF and the non-state governmental entity that owns the NF. The following criteria demonstrate an active partnership between the NF and the non-state governmental entity that owns the NF.

(i) Monthly meetings (in-person or virtual) with NF administrative staff to review the NF's clinical and quality operations and identify areas for improvement. Meetings should include patient observations; regulatory findings; review of CASPER reports, quality measures, grievances, staffing, risk, incidents, accidents, and infection

control measures; root cause analysis, if applicable; and design of performance improvement plans.

(ii) Quarterly joint trainings on topics and trends in nursing home care best practices or on needed areas of improvement.

(iii) Annual, on-site inspections of the NF by a non-state governmental entity-sponsored Quality Assurance team.

(2) The NF is a private NF. The NF must have a percentage of Medicaid NF days of service that is greater than or equal to 65 percent. For each private NF, the percentage of Medicaid NF days is calculated by summing the NF's Medicaid NF fee-for-service and managed care days of service, including dual-eligible demonstration days of service, and dividing that sum by the facility's total days of service in all licensed beds. Medicaid hospice days of service are included in the denominator but excluded from the numerator.

(A) The days of service will be annualized based on the NF's latest cost report or accountability report but from a year in which HHSC required the submission of cost reports.

(B) HHSC will exclude any calendar days that the NF was closed due to a natural or man-made disaster. In such cases, HHSC will annualize the days of service based on calendar days when the NF was open.

(d) Data sources for historical units of service. Historical units of service are used to determine an individual private NF's QIPP eligibility status and the distribution of QIPP funds across eligible and enrolled NFs.

(1) All data sources referred to in this subsection are subject to validation using HHSC auditing processes or procedures as described under §355.106 of this title (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports).

(2) Data sources for the determination of each private NF's QIPP eligibility status are listed in priority order below. For each program period, the data source must be from a cost-reporting year and must align with the NF's fiscal year.

(A) The most recently available Medicaid NF cost report for the private NF. If no Medicaid NF cost report is available, the data source in subparagraph (B) of this paragraph must be used.

(B) The most recently available Medicaid Direct Care Staff Rate Staffing and Compensation Report for the private NF. If no Medicaid Direct Care Staff Rate Staffing and Compensation Report is available, the data source in subparagraph (C) of this paragraph must be used.

(C) The most recently available Medicaid NF cost report for a prior owner of the private NF. If no Medicaid NF cost report for a prior owner of the private NF is available, the data source in subparagraph (D) of this paragraph must be used.

(D) The most recently available Medicaid Direct Care Staff Rate Staffing and Compensation Report for a prior owner of the private NF. If no Medicaid Direct Care Staff Rate Staffing and Compensation Report for a prior owner of the private NF is available, the private NF is not eligible for participation in QIPP.

(3) Data sources for determination of distribution of QIPP funds across eligible and enrolled NFs are listed in priority order below. For each program period, the data source must be from a cost-reporting year and must align with the NF's fiscal year.

(A) The most recently available Medicaid NF cost report for the NF. If the cost report covers less than a full year, reported values are annualized to represent a full year. If no Medicaid NF cost

report is available, the data source in subparagraph (B) of this paragraph must be used.

(B) The most recently available Medicaid Direct Care Staff Rate Staffing and Compensation Report for the NF. If the Staffing and Compensation Report covers less than a full year, reported values are annualized to represent a full year. If no Staffing and Compensation Report is available, the data source in subparagraph (C) of this paragraph must be used.

(C) The most recently available Medicaid NF cost report for a prior owner of the NF. If the cost report covers less than a full year, reported values are annualized to represent a full year. If no Medicaid NF cost report for a prior owner of the NF is available, the data source in subparagraph (D) of this paragraph must be used.

(D) The most recently available Medicaid Direct Care Staff Rate Staffing and Compensation Report for a prior owner of the NF. If the Staffing and Compensation Report covers less than a full year, reported values are annualized to represent a full year.

(e) Conditions of Participation [requirements]. As a condition of participation, all NFs participating in QIPP must do the following.

(1) The NF must submit a properly completed enrollment application, on a form prescribed by HHSC, by the due date determined by HHSC. The enrollment period must be no less than 30 calendar days, and the final date of the enrollment period will be at least nine days prior to the IGT notification.

(2) The entity that owns the NF must certify, on a form prescribed by HHSC, that no part of any payment made under the QIPP will be used to pay a contingent fee; and that the entity's agreement with the nursing facility does not use a reimbursement methodology containing any type of incentive, direct or indirect, for inappropriately inflating, in any way, claims billed to Medicaid, including the NF's receipt of QIPP funds. The certification must be received by HHSC with the enrollment application described in paragraph (1) of this subsection.

(3) If a provider has changed ownership in the past five years in a way that impacts eligibility for the program, the provider must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the provider, and which reference the administration of, or payment from, this program.

(4) The NF must ensure that HHSC has access to the NF records referenced in subsection (c) of this section and the data for the NF from one of the data sources listed in subsection (d) of this section. Participating facilities must ensure that these records and data are accurate and sufficiently detailed to support legal, financial, and statistical information used to determine a NF's eligibility during the program period.

(A) The NF must maintain these records and data through the program period and until at least 90 days following the conclusion of the runout period.

(B) The NF will have 14 business days from the date of a request from HHSC to submit to HHSC the records and data.

(C) Failure to provide the records and data could result in adjustments pursuant to §353.1301(k) of this subchapter.

(5) Report all quality data denoted as required as a condition of participation in subsection (g) of this section.

(6) Failure to meet any conditions of participation described in this subsection will result in removal of the provider from

the program and recoupment of all funds previously paid during the program period.

(f) Non-federal share of QIPP payments. The non-federal share of all QIPP payments is funded through IGTs from sponsoring non-state governmental entities. No state general revenue is available to support QIPP.

(1) HHSC will share suggested IGT responsibilities for the program period with all QIPP eligible and enrolled non-state government-owned NFs at least 15 days prior to the IGT declaration of intent deadline. Suggested IGT responsibilities will be based on the maximum dollars available under the QIPP program, plus eight percent, for the program period as determined by HHSC; forecast STAR+PLUS NF member months for the program period as determined by HHSC; and the distribution of historical Medicaid days of service across non-state government-owned NFs enrolled in QIPP for the program period. HHSC will also share estimated maximum revenues each eligible and enrolled NF could earn under QIPP for the program period. Estimates are based on HHSC's suggested IGT responsibilities and an assumption that all enrolled NFs will meet 100 percent of their quality metrics. The purpose of sharing this information is to provide non-state government-owned NFs with information they can use to determine the amount of IGT they wish to transfer.

(2) Sponsoring governmental entities will determine the amount of IGT they wish to transfer to HHSC for the entire program period and provide a declaration of intent to HHSC 15 business days before the first half of the IGT amount is transferred to HHSC.

(A) The declaration of intent is a form prescribed by HHSC that includes the total amount of IGT the sponsoring governmental entity wishes to transfer to HHSC and whether the sponsoring governmental entity intends to accept Component One payments.

(B) The declaration of intent is certified to the best knowledge and belief of a person legally authorized to sign for the sponsoring governmental entity but does not bind the sponsoring governmental entity to transfer IGT.

(3) Sponsoring governmental entities will transfer the first half of the IGT amount by a date determined by HHSC. The second half of the IGT amount will be transferred by a date determined by HHSC. The IGT deadlines and all associated dates will be published on the HHSC QIPP webpage by January 15 of each year.

(4) Reconciliation. HHSC will reconcile the actual amount of the non-federal funds expended under this section during each program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period using the methodology described in §353.1301(g) of this subchapter.

(g) QIPP capitation rate components. QIPP funds will be paid to MCOs through four components of the STAR+PLUS NF managed care per member per month (PMPM) capitation rates. The MCOs' distribution of QIPP funds to the enrolled NFs will be based on each NF's performance related to the quality metrics as described in §353.1304 of this subchapter. The NF must have had at least one Medicaid client in the care of that NF for each reporting period to be eligible for payments.

(1) Component One.

(A) The total value of Component One will be equal to 110 percent of the estimated amount of the non-federal share of the QIPP.

(B) Interim allocation of funds across qualifying non-state government-owned NFs will be proportional, based upon historical Medicaid days of NF service.

~~[(C) Monthly payments to non-state government-owned NFs will be triggered by achievement of performance requirements as described in §353.1304 of this subchapter.]~~

~~(C) [(D)] Private NFs are not eligible for payments from Component One.~~

~~(D) [(E)] The interim allocation of funds across qualifying non-state government-owned NFs will be reconciled to the actual distribution of Medicaid NF days of service across these NFs during the program period as captured by HHSC's Medicaid contractors for fee-for-service and managed care 120 [180] days after the last day of the program period. [This reconciliation will only be performed if the weighted average (weighted by Medicaid NF days of service during the program period) of the absolute values of percentage changes between each NF's proportion of historical Medicaid days of NF service and actual Medicaid days of NF service is greater than 18 percent.]~~

~~(E) NFs must report quality data as described in §353.1304 of this subchapter as a condition of participation in the program.~~

(2) Component Two.

(A) The total value of Component Two will be equal to a percent of remaining QIPP funds after accounting for the funding of Component One and Component Four.

(i) For the program period September 1, 2019, through August 31, 2021, the percent will be equal to 30 percent.

(ii) For the program period beginning September 1, 2021, the percent will be equal to 40 percent.

(B) Allocation of funds across qualifying non-state government-owned and private NFs will be proportional, based upon historical Medicaid days of NF service.

~~(C) Monthly payments to NFs will be triggered by achievement of performance requirements as described in §353.1304 of this subchapter or a uniform rate increase for which a NF must report quality data as described in §353.1304 of this subchapter as a condition of participation in the program.~~

(3) Component Three.

(A) The total value of Component Three will be equal to a percent of remaining QIPP funds after accounting for the funding of Component One and Component Four.

(i) For the program period September 1, 2019, through August 31, 2021, the percent will be equal to 70 percent.

(ii) For the program period beginning September 1, 2021, the percent will be equal to 60 percent.

(B) Allocation of funds across qualifying non-state government-owned and private NFs will be proportional, based upon historical Medicaid days of NF service.

~~(C) Quarterly payments to NFs will be triggered by achievement of performance requirements as described in §353.1304 of this subchapter.~~

(4) Component Four.

(A) The total value of Component Four will be equal to 16 percent of the funds of the QIPP.

(B) Allocation of funds across qualifying non-state government-owned NFs will be proportional, based upon historical Medicaid days of NF service.

(C) Quarterly payments to non-state government-owned NFs will be triggered by achievement of performance requirements as described in §353.1304 of this subchapter.

(D) Private NFs are not eligible for payments from Component Four.

(5) Funds that are non-disbursed due to failure of one or more NFs to meet performance requirements will be distributed across all QIPP NFs based on each NF's proportion of total earned QIPP funds from Components One, Two, Three, and Four combined.

(h) Distribution of QIPP payments.

(1) Prior to the beginning of the program period, HHSC will calculate the portion of each PMPM associated with each QIPP-enrolled NF broken down by QIPP capitation rate component, quality metric, and payment period. For example, for a NF, HHSC will calculate the portion of each PMPM associated with that NF that would be paid from the MCO to the NF as follows.

(A) Monthly payments from Component One as a uniform rate increase [~~performance requirements are met~~] will be equal to the total value of Component One for the NF divided by twelve.

(B) Monthly payments from Component Two associated with each quality metric will be equal to the total value of Component Two associated with the quality metric divided by twelve.

(C) Quarterly payments from Component Three associated with each quality metric will be equal to the total value of Component Three associated with the quality metric divided by four.

(D) Quarterly payments from Component Four associated with each quality metric will be equal to the total value of Component Four associated with the quality metric divided by four.

(E) For purposes of the calculations described in subparagraphs (B), (C), and (D) of this paragraph, each quality metric will be allocated an equal portion of the total dollars included in the component.

(F) In situations where a NF does not have enough data for all quality metrics to be calculated, the funding associated with that metric will be evenly distributed across all remaining metrics within the component. If a NF does not have enough data for any quality metrics to be calculated, no funds will be earned.

(2) MCOs will distribute payments to enrolled NFs as they meet their reporting and quality metric requirements. Payments will be equal to the portion of the QIPP PMPM associated with the achievement for the time period in question multiplied by the number of member months for which the MCO received the QIPP PMPM. In the event of a CHOW, the MCO will distribute the payment to the owner of the NF at the time of the payment.

(i) Changes of ownership.

(1) A NF undergoing a CHOW from privately owned to non-state government owned or from non-state government owned to privately-owned will only be eligible to enroll as the new class of facility if HHSC received a completed CHOW application no later than 30 days prior to the first day of the enrollment period. All required documents pertaining to the CHOW (i.e., HHSC must have a complete application for a change of ownership license as described under 26 TAC §554.201 (relating to Criteria for Licensing) and 26 TAC §554.210 (relating to Change of Ownership and Notice of Changes) must be submitted in the timeframe required by HHSC.

(2) If an enrolled NF changes ownership, including to a new class of facility following the enrollment period or during the pro-

gram period, the NF under the new ownership must meet the eligibility requirements described in this section for the new owner's facility class in order to continue QIPP participation during the program period.

(3) An enrolled NF must notify the MCOs it has contracts with of a potential CHOW at least 30 days before the anticipated date of the CHOW. Notification is considered to have occurred when the MCO receives the notice.

(j) Changes in operation. If an enrolled NF closes voluntarily or ceases to provide NF services in its facility, the NF must notify the HHSC Provider Finance Department by email at qipp@hhsc.state.tx.us. Notification is considered to have occurred when HHSC receives the notice.

(k) Recoupment. Payments under this section may be subject to recoupment as described in §353.1301(j) and §353.1301(k) of this subchapter.

§353.1304. Quality Metrics for the Quality Incentive Payment Program for Nursing Facilities on or after September 1, 2019.

(a) Introduction. This section establishes the quality metrics that may be used in the Quality Incentive Payment Program (QIPP) for nursing facilities (NFs) on or after September 1, 2019.

(b) Definitions. The following definitions apply when the terms are used in this section. Terms that are used in this and other sections of this subchapter may be defined in §353.1301 (relating to General Provisions) or §353.1302 (relating to Quality Incentive Payment Program for Nursing Facilities on or after September 1, 2019) of this subchapter.

(1) Baseline--A NF-specific initial standard used as a comparison against NF performance in each metric throughout the program period to determine progress in the QIPP quality metrics.

(2) Benchmark--A metric-specific initial standard set prior to the start of the program period and used as a comparison against a NF's progress throughout the program period.

(c) Quality metrics. For each program period, HHSC will designate one or more quality metrics. Any quality metric included in QIPP will be evidence-based. HHSC may modify quality metrics from one program period to the next. The proposed quality metrics for a program period will be presented to the public for comment in accordance with subsection (f) of this section.

(d) Performance requirements. For each program period, HHSC will specify the performance requirements associated with designated quality metrics. The proposed performance requirements for a program period will be presented to the public for comment in accordance with subsection (f) of this section. Achievement of performance requirements will trigger payments for the QIPP capitation rate components as described in §353.1302 of this subchapter.

(e) Quality assurance. All data and documentation supplied to HHSC by the NF to demonstrate achievement of performance requirements is subject to validation and audit. HHSC will select a random, representative sample of participating NFs for quality assurance review each program period and will conduct reviews on one-fourth of the total sample each program quarter.

(1) If selected, the NF will have 14 business days from the date of the request from HHSC to submit to HHSC the required data and documentation.

(2) If the selected NF fails to participate in the review or to provide the required data or documentation, any payments to the provider for the quality metric or component under review may be con-

sidered an Overpayment and subject to recoupment or adjustment as described in §353.1301(k) of this subchapter.

(f) Notice and hearing.

(1) HHSC will publish notice of the proposed metrics and their associated performance requirements no later than December 1 of the calendar year that precedes the first month of the program period. The notice must be published either by publication on HHSC's Internet web site or in the *Texas Register*. The notice required under this section will include the following:

(A) instructions for interested parties to submit written comments to the HHSC regarding the proposed metrics and performance requirements; and

(B) the date, time, and location of a public hearing.

(2) Written comments will be accepted within 15 business days of publication. There will also be a public hearing within that 15-day period to allow interested persons to present comments on the proposed metrics and performance requirements.

(g) Quality metric publication. Final quality metrics and performance requirements will be provided through the QIPP webpage on HHSC's website on or before February 1 of the calendar year that also contains the first month of the program period.

(h) Substitution of Measures. Alternate measures may be substituted for measures proposed under subsection (f) of this section or adopted under subsection (g) of this section if required by the Centers for Medicare and Medicaid Services for federal approval of the program.

§353.1306. *Comprehensive Hospital Increase Reimbursement Program for program periods on or after September 1, 2021.*

(a) Introduction. This section establishes the Comprehensive Hospital Increase Reimbursement Program (CHIRP) for program periods on or after September 1, 2021, wherein the Health and Human Services Commission (HHSC) directs a managed care organization (MCO) to provide a uniform reimbursement increase to hospitals in the MCO's network in a designated service delivery area (SDA) for the provision of inpatient services, outpatient services, or both. This section also describes the methodology used by HHSC to calculate and administer such reimbursement increases. CHIRP is designed to incentivize hospitals to improve access, quality, and innovation in the provision of hospital services to Medicaid recipients through the use of metrics that are expected to advance at least one of the goals and objectives of the state's managed care quality strategy.

(b) Definitions. The following definitions apply when the terms are used in this section. Terms that are used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions).

(1) Average Commercial Reimbursement (ACR) gap--The difference between what an average commercial payor is estimated to pay for the services and what Medicaid actually paid for the same services.

(2) Children's hospital--A children's hospital as defined by §355.8052 of this title (relating to Inpatient Hospital Reimbursement).

(3) Inpatient hospital services--Services ordinarily furnished in a hospital for the care and treatment of inpatients under the direction of a physician or dentist, or a subset of these services identified by HHSC. Inpatient hospital services do not include skilled nursing facility or intermediate care facility services furnished by a hospital with swing-bed approval, or any other services that HHSC determines should not be subject to the rate increase.

(4) Institution for mental diseases (IMD)--A hospital that is primarily engaged in providing psychiatric diagnosis, treatment, or care of individuals with mental illness. IMD hospitals are reimbursed as freestanding psychiatric facilities under §355.8060 of this title (relating to Reimbursement Methodology for Freestanding Psychiatric Facilities).

(5) Medicare payment gap--The difference between what Medicare is estimated to pay for the services and what Medicaid actually paid for the same services.

(6) Outpatient hospital services--Preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished to outpatients of a hospital under the direction of a physician or dentist, or a subset of these services identified by HHSC. HHSC may, in its contracts with MCOs governing rate increases under this section, exclude from the definition of outpatient hospital services such services as are not generally furnished by most hospitals in the state, or such services that HHSC determines should not be subject to the rate increase.

(7) Program period--A period of time for which HHSC will contract with participating MCOs to pay increased capitation rates for the purpose of provider payments under this section. Each program period is equal to a state fiscal year beginning September 1 and ending August 31 of the following year.

(8) Rural hospital--A hospital that is a rural hospital as defined in §355.8052 of this title.

(9) State-owned non-IMD hospital--A hospital that is owned and operated by a state university or other state agency that is not primarily engaged in providing psychiatric diagnosis, treatment, or care of individuals with mental disease.

(10) Urban hospital--An urban hospital as defined by §355.8052 of this title.

(c) Conditions of Participation [requirements]. As a condition of participation, all hospitals participating in CHIRP must allow for the following.

(1) The hospital must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period must be no less than 21 calendar days and the final date of the enrollment period will be at least nine days prior to the IGT notification.

(A) In the application, the hospital must select whether it will participate in the optional program component described in subsection (g)(3) of this section. A hospital cannot participate in the program component described in subsection (g)(3) of this section without also participating in the program component described in subsection (g)(2) of this section.

(B) All hospitals must [If the hospital chooses to participate in the optional program component described in subsection (g)(3) of this section, the hospital may be required to] submit certain necessary data to calculate the ACR gap. However, a hospital may indicate that it does not wish to participate in the optional program component described in subsection (g)(3) of this section.

(C) A hospital is required to maintain all supporting documentation at the hospital for any information provided under subparagraph (B) of this paragraph for a period of no less than 5 years.

(D) For a program period that begins on or after September 1, 2021, any hospital that did not report the data described in subparagraph (B) of this paragraph in the application for the program must report the data within four months of Centers for Medicare and Medicaid Services (CMS) approval of the program.

(2) The entity that owns the hospital must certify, on a form prescribed by HHSC, that no part of any payment made under the CHIRP will be used to pay a contingent fee and that the entity's agreement with the hospital does not use a reimbursement methodology that contains any type of incentive, directly or indirectly, for inappropriately inflating, in any way, claims billed to the Medicaid program, including the hospitals' receipt of CHIRP funds. The certification must be received by HHSC with the enrollment application described in paragraph (1) of this subsection.

(3) If a provider has changed ownership in the past five years in a way that impacts eligibility for this program, the provider must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the provider and which reference the administration of, or payment from, this program.

(4) All quality metrics for which a hospital is eligible based on class, as described in subsection (d) of this section, must be reported by the participating hospital [to be eligible for payment].

(5) Failure to meet any conditions of participation described in this subsection will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

(d) Classes of participating hospitals.

(1) HHSC may direct the MCOs in an SDA that is participating in the program described in this section to provide a uniform percentage rate increase to all hospitals within one or more of the following classes of hospital with which the MCO contracts for inpatient or outpatient services:

- (A) children's hospitals;
- (B) rural hospitals;
- (C) state-owned non-IMD hospitals;
- (D) urban hospitals;
- (E) non-state-owned IMDs; and
- (F) state-owned IMDs.

(2) If HHSC directs rate increases to more than one class of hospital within the SDA, the percentage rate increases directed by HHSC may vary between classes of hospital.

(e) Eligibility. HHSC determines eligibility for rate increases by SDA and class of hospital.

(1) Service delivery area. Only hospitals in an SDA that includes at least one sponsoring governmental entity are eligible for a rate increase.

(2) Class of hospital. HHSC will identify the class or classes of hospital within each SDA described in paragraph (1) of this subsection to be eligible for a rate increase. HHSC will consider the following factors when identifying the class or classes of hospital eligible for a rate increase and the percent increase applicable to each class:

(A) whether a class of hospital contributes more or less significantly to the goals and objectives in HHSC's managed care quality strategy, as required in 42 C.F.R. §438.340, relative to other classes;

(B) which class or classes of hospital the sponsoring governmental entity wishes to support through IGTs of public funds, as indicated on the application described in subsection (c) of this section;

(C) the estimated Medicare gap for the class of hospitals, based upon the upper payment limit demonstration most recently submitted by HHSC to CMS [the Centers for Medicare and Medicaid Services (CMS)];

(D) the estimated ACR gap for the class or individual hospitals, as indicated on the application described in subsection (c) of this section; and

(E) the percentage of Medicaid costs incurred by the class of hospital in providing care to Medicaid managed care clients that are reimbursed by Medicaid MCOs prior to any rate increase administered under this section.

(f) Services subject to rate increase.

(1) HHSC may direct the MCOs in an SDA to increase rates for all or a subset of inpatient services, all or a subset of outpatient services, or all or a subset of both, based on the service or services that will best advance the goals and objectives of HHSC's managed care quality strategy.

(2) In addition to the limitations described in paragraph (1) of this subsection, rate increases for a state-owned IMD or non-state-owned IMD are limited to inpatient psychiatric hospital services provided to individuals under the age of 21 and to inpatient hospital services provided to individuals 65 years or older.

(3) CHIRP rate increases will apply only to the in-network managed care claims billed under a hospital's primary National Provider Identifier (NPI) and will not be applicable to NPIs associated with non-hospital sub-providers owned or operated by a hospital.

(g) CHIRP capitation rate components. CHIRP funds will be paid to MCOs through two components of the managed care per member per month (PMPM) capitation rates. The MCOs' distribution of CHIRP funds to the enrolled hospitals may be based on each hospital's performance related to the quality metrics as described in §353.1307 of this subchapter (relating to Quality Metrics and Required Reporting Used to Evaluate the Success of the Comprehensive Hospital Increase Reimbursement Program). The hospital must have provided at least one Medicaid service to a Medicaid client for each reporting period to be eligible for payments.

(1) In determining the percentages described under subsection (i)(1) and (2) of this section, HHSC will consider:

(A) information from the participants in the SDA (including hospitals, managed-care organizations, and sponsoring governmental entities) on the amount of IGT the sponsoring governmental entities propose to transfer to HHSC to support the non-federal share of the increased rates for the first six months of a program period, as indicated on the applications described in subsection (c) of this section;

(B) the class or classes of hospital determined in subsection (e)(2) of this section;

(C) the type of service or services determined in subsection (f) of this section;

(D) actuarial soundness of the capitation payment needed to support the rate increase;

(E) available budget neutrality room under any applicable federal waiver programs;

(F) hospital market dynamics within the SDA; and

(G) other HHSC goals and priorities.

(2) The Uniform Hospital Rate Increase Payment (UHRIP) is the first component.

(A) The total value of UHRIP will be equal to a percentage of the estimated Medicare gap on a per class basis.

(B) Allocation of funds across hospital classes will be proportional to the combined Medicare gap of each hospital class within an SDA to the total Medicare gap of all hospital classes within the SDA.

(3) The Average Commercial Incentive Award (ACIA) is the second component.

(A) The total value of ACIA will be equal to a percentage of the ACR gap less payments received under UHRIP.

(B) The maximum ACIA payments will be equal to a percentage of the total estimated ACR gap for the class, including hospitals that are not participating in ACIA. For the program period proposed to begin on September 1, 2021, and program periods thereafter, the percentage is 90 percent.

(C) ~~(B)~~ Allocation of funds across hospitals will be proportional to each participating hospital's individual ACR gap to the total ACR gap for all participating hospitals in the SDA. For example, if two hospitals in a class in an SDA both have anticipated base payments of \$100 and UHRIP payments of \$50, but one hospital has an estimated ACR gap of \$300 between its base payment and the estimate payment it would have received from a commercial payor, and the other hospital has an estimated ACR gap of \$100, HHSC will first reduce the gaps by the UHRIP payment of \$50 to a gap of \$250 and \$50, respectively. HHSC would then apply a uniform percentage of the gap (e.g., 50 percent of the gap) and would calculate an ACIA payment of \$125 and \$25, respectively. HHSC will then direct the MCOs to pay a percentage increase for the first hospital of 125 percent in addition to the 50 percent increase under UHRIP for the first hospital for a total increase of 175 percent above the contracted base rate, and 25 percent in addition to the 50 percent increase under UHRIP for the second hospital for a total increase of 75 percent.

(h) Distribution of CHIRP payments. CHIRP payments will be based upon actual utilization and will be paid as a percentage increase above the contracted rate between the MCO and the hospital.

(i) Determination of percentage of rate increase.

(1) HHSC will determine the percentage of rate increase applicable to one or more classes of hospital by program component.

(A) UHRIP rate increases will be determined by HHSC to be the percentage that is estimated to result in payments for the class that are equivalent to the amount described under subsection (g)(2)(A) of this section.

(B) ACIA will be determined by HHSC to be a percentage that is estimated to result in payments for the hospital that are equivalent to the amount described under subsection (g)(3)(A) of this section.

(2) HHSC will limit the percentage rate increases determined pursuant to this subsection to no more than the levels that are supported by the amount described in subsection (j)(3) of this section. Nothing in this section may be construed to limit the authority of the state to require the sponsoring governmental entities to transfer additional funds to HHSC following the reconciliation process described in §353.1301(g) of this subchapter, if the amount previously transferred is less than the non-federal share of the amount expended by HHSC in the SDA for this program.

(3) After determining the percentage of rate increase using the process described in paragraphs (1) and (2) of this subsection, HHSC will modify its contracts with the MCOs in the SDA to direct the percentage rate increases.

(j) Non-federal share of CHIRP payments. The non-federal share of all CHIRP payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support CHIRP.

(1) HHSC will communicate suggested IGT responsibilities for the program period with all CHIRP hospitals at least 10 calendar days prior to the IGT declaration of intent deadline. Suggested IGT responsibilities will be based on the maximum dollars to be available under the CHIRP program for the program period as determined by HHSC, plus eight percent; and forecast member months for the program period as determined by HHSC. HHSC will also communicate estimated revenues each enrolled hospital could earn under CHIRP for the program period with those estimates based on HHSC's suggested IGT responsibilities and an assumption that all enrolled hospitals will meet 100 percent of their quality metrics and maintain consistent utilization with the prior year.

(2) Sponsoring governmental entities will determine the amount of IGT they intend to transfer to HHSC for the entire program period and provide a declaration of intent to HHSC no later than 21 business days before the first half of the IGT amount is transferred to HHSC.

(A) The declaration of intent is a form prescribed by HHSC that includes the total amount of IGT the sponsoring governmental entity intends to transfer to HHSC.

(B) The declaration of intent is certified to the best knowledge and belief of a person legally authorized to sign for the sponsoring governmental entity but does not bind the sponsoring governmental entity to transfer IGT.

(3) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred no fewer than 14 business days before IGT transfers are due. Sponsoring governmental entities will transfer the first half of the IGT amount by a date determined by HHSC, but no later than June 1. Sponsoring governmental entities will transfer the second half of the IGT amount by a date determined by HHSC, but no later than December 1. HHSC will publish the IGT deadlines and all associated dates on its Internet website no later than March 15 of each year.

(k) Effective date of rate increases. HHSC will direct MCOs to increase rates under this section beginning the first day of the program period that includes the increased capitation rates paid by HHSC to each MCO pursuant to the contract between them.

(l) Changes in operation. If an enrolled hospital closes voluntarily or ceases to provide hospital services in its facility, the hospital must notify the HHSC Provider Finance Department by hand delivery, United States (U.S.) mail, or special mail delivery within 10 business days of closing or ceasing to provide hospital services. Notification is considered to have occurred when the HHSC Provider Finance Department receives the notice.

(m) Reconciliation. HHSC will reconcile the amount of the non-federal funds actually expended under this section during the program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period using the methodology described in §353.1301(g) of this subchapter.

(n) Recoupment. Payments under this section may be subject to recoupment as described in §353.1301(j) and §353.1301(k) of this subchapter.

§353.1307. Quality Metrics and Required Reporting Used to Evaluate the Success of the Comprehensive Hospital Increase Reimbursement Program.

(a) Introduction. This section establishes the quality metrics and required reporting that may be used in the Comprehensive Hospital Increase Reimbursement Program (CHIRP).

(b) Definitions. The following definitions apply when the terms are used in this section and in metrics and performance requirements developed under subsections (f) and (g) of this section. Terms that are used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions) or §353.1306 of this subchapter (relating to the Comprehensive Hospital Increase Reimbursement Program for program periods on or after September 1, 2021).

(1) Baseline--An initial standard used as a comparison against performance in each metric throughout the program period to determine progress in the CHIRP quality metrics.

(2) Benchmark--A metric-specific initial standard set prior to the start of the program period and used as a comparison against an individual hospital or hospital class's progress throughout the program period.

(3) Measurement period--The time period used to measure achievement of a quality metric.

(c) Quality metrics. For each program period, HHSC will designate one or more quality metrics that HHSC will evaluate for each CHIRP capitation rate component as described in §353.1306(g) of this subchapter.

(1) Each quality metric will be identified as a structure, process, or outcome measure.

(2) Each quality metric will be evidence-based.

(d) Quality metrics and program evaluation. HHSC will use reported performance of quality metrics to evaluate the degree to which the arrangement advances at least one of the goals and objectives that are incentivized by the payments described under §353.1306(g) of this subchapter.

(1) All quality metrics for which a hospital is eligible based on class must be reported by the participating hospital as a condition of participation.

(2) Participating hospitals must stratify any reported data by payor type and must report data according to requirements published under subsection (f) of this section.

(e) Participating Hospital Reporting Frequency.

(1) Participating hospitals will be required to report semiannually [~~quarterly~~] unless otherwise specified by the metric. The reported information will be used to conduct interim evaluations of the program.

(2) Participating hospitals will also be required to furnish information and data related to quality measures and performance requirements established in accordance with subsection (f) of this section within 30 calendar days after a request from HHSC for more information.

(f) Notice and hearing.

(1) HHSC will publish notice of the proposed metrics and their associated performance requirements no later than January 31 preceding the first month of the program period. The notice must be published either by publication on HHSC's website or in the *Texas Register*. The notice required under this section will include the following:

(A) instructions for interested parties to submit written comments to HHSC regarding the proposed metrics and performance requirements; and

(B) the date, time, and location of a public hearing.

(2) Written comments will be accepted for 15 business days following publication. There will also be a public hearing within that 15-day period to allow interested persons to present comments on the proposed metrics and performance requirements.

(g) Publication of Final Metrics and Performance Requirements. Final quality metrics and performance requirements will be provided through HHSC's website on or before February 28 of the calendar year that also contains the first month of the program period. If Centers for Medicare and Medicaid Services requires changes to quality metrics or performance requirements after February 28 of the calendar year [~~but before the first month of the program period~~], HHSC will provide notice of the changes through HHSC's website.

(h) Evaluation Reports.

(1) HHSC will evaluate the success of the program based on a statewide review of reported metrics. HHSC may publish more detailed information about specific performance of various participating hospitals, classes of hospitals, or service delivery areas.

(2) HHSC will publish interim evaluation findings regarding the degree to which the arrangement advanced the established goal and objectives of each capitation rate component.

(3) HHSC will publish a final evaluation report within 270 days of the conclusion of the program period.

§353.1309. Texas Incentives for Physicians and Professional Services.

(a) Introduction. This section establishes the Texas Incentives for Physicians and Professional Services (TIPPS) program. TIPPS is designed to incentivize physicians and certain medical professionals to improve quality, access, and innovation in the provision of medical services to Medicaid recipients through the use of metrics that are expected to advance at least one of the goals and objectives of the state's managed care quality strategy.

(b) Definitions. The following definitions apply when the terms are used in this section. Terms that are used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions) or §353.1311 of this subchapter (relating to Quality Metrics for the Texas Incentives for Physicians and Professional Services Program).

(1) Health Related Institution (HRI) physician group--A network physician group owned or operated by an institution named in Texas Education Code §63.002.

(2) Indirect Medical Education (IME) physician group--A network physician group contracted with, owned, or operated by a hospital receiving either a medical education add-on or a teaching medical education add-on as described in §355.8052 of this title (relating to Inpatient Hospital Reimbursement) for which the hospital is assigned or retains billing rights for the physician group.

(3) Intergovernmental Transfer (IGT) Notification--Notice and directions regarding how and when IGTs should be made in support of the program.

(4) Network physician group--A physician group located in the state of Texas that has a contract with a Managed Care Organization (MCO) for the delivery of Medicaid covered benefits to the MCO's enrollees.

(5) Other physician group--A network physician group other than those specified under paragraphs (1) and (2) of this subsection.

(6) Program period--A period of time for which an eligible and enrolled physician group may receive the TIPPS amounts described in this section. Each TIPPS program period is equal to a state fiscal year beginning September 1 and ending August 31 of the following year.

(7) Total program value--The maximum amount available under the TIPPS program for a program period, as determined by HHSC.

(8) Suggested IGT responsibility--Notice of potential amounts that a governmental entity may wish to consider transferring in support of the program.

(c) Eligibility for participation in TIPPS. A physician group is eligible to participate in TIPPS if it complies with the requirements described in this subsection.

(1) Physician group composition. A physician group must indicate the eligible physicians, clinics, and other locations to be considered for payment and quality measurement purposes in the application process.

(2) Minimum volume. Physician groups must have a minimum denominator volume of 30 Medicaid managed care patients in at least 50 percent of the quality metrics in each Component to be eligible to participate in the Component.

(3) The physician group is:

- (A) an HRI physician group;
- (B) an IME physician group; or
- (C) any other physician group that:

(i) can achieve the minimum volume as described in paragraph (2) of this subsection;

(ii) is located in a service delivery area with at least one sponsoring governmental entity; and

(iii) served at least 250 unique Medicaid managed care clients in the prior state fiscal year.

(d) Data sources for historical units of service and clients served. Historical units of service are used to determine a physician group's eligibility status and the estimated distribution of TIPPS funds across enrolled physician groups.

(1) HHSC will use encounter data and will identify encounters based upon the billing provider's national provider identification (NPI) number and taxonomy code combination that are billed as a professional encounter only.

(2) HHSC will use the most recently available Medicaid encounter data for a complete state fiscal year to determine eligibility status of other physician groups.

(3) HHSC will use the most recently available Medicaid encounter data for a complete state fiscal year to determine distribution of TIPPS funds across eligible and enrolled physician groups.

(4) In the event of a disaster, HHSC may use data from a different state fiscal year at HHSC's discretion.

(5) The data used to estimate eligibility and distribution of funds will align with the data used for purposes of setting the capitated rates for managed care organizations for the same period.

(6) HHSC will calculate the estimated rate that an average commercial payor would have paid for the same services using either data that HHSC obtains independently or data that is collected from providers through the application process described in subsection (c) of this section.

(7) If HHSC is unable to compute an actuarially sound payment rate based on private payor information described in paragraph (6) of this subsection for any services, then those services will be removed from consideration from the TIPPS program.

(8) All services billed and delivered at a Federally Qualified Health Center, dental services, and ambulance services are excluded from the scope of the TIPPS program.

(9) Encounter data used to calculate payments for this program must be designated as paid status. Encounters reported as a paid status, but with zero or negative dollars as a reported paid amount will not be included in the data used to calculate payments for the TIPPS program.

(10) If a provider with the same Tax Identification Number as the payor is being paid more than 200 percent of the Medicaid reimbursement on average for the same services in a one-year period, then a related-party-adjustment will be applied to the encounter data for those encounters. This adjustment will apply a calculated average payment rate from the rest of the provider pool to the related-parties paid units of service.

(e) Conditions of Participation [requirements]. As a condition of participation, all physician groups participating in TIPPS must allow for the following.

(1) The physician group must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period will be no less than 21 calendar days, and the final date of the enrollment period will be at least nine days prior to the release of suggested IGT responsibilities.

(2) The entity that bills on behalf of the physician group must certify, on a form prescribed by HHSC, that no part of any TIPPS payment will be used to pay a contingent fee nor may the entity's agreement with the physician group use a reimbursement methodology that contains any type of incentive, directly or indirectly, for inappropriately inflating, in any way, claims billed to the Medicaid program, including the physician group's receipt of TIPPS funds. The certification must be received by HHSC with the enrollment application described in paragraph (1) of this subsection.

(3) If a provider has changed ownership in the past five years in a way that impacts eligibility for the TIPPS program, the provider must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the provider and which reference the administration of, or payment from, the TIPPS program.

(4) Report all quality data denoted as required as a condition of participation in §353.1311(d)(1) of this subchapter.

(5) Failure to meet any conditions of participation described in this subsection will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

(f) Non-federal share of TIPPS payments. The non-federal share of all TIPPS payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support TIPPS.

(1) HHSC will communicate suggested IGT responsibilities for the program period with all TIPPS eligible and enrolled HRI physician groups and IME physician groups at least 10 calendar days prior to the IGT declaration of intent deadline. Suggested IGT responsibilities will be based on the maximum dollars available under the TIPPS program for the program period as determined by HHSC, plus eight percent; forecasted member months for the program period as determined by HHSC; and the distribution of historical Medicaid utilization across HRI physician groups and IME physician groups, plus estimated utilization for eligible and enrolled other physician groups within the same service delivery area, for the program period. HHSC will also communicate estimated maximum revenues each eligible and enrolled physician group could earn under TIPPS for the program period with those estimates based on HHSC's suggested IGT responsibilities and an assumption that all enrolled physician groups will meet 100 percent of their quality metrics.

(2) Sponsoring governmental entities will determine the amount of IGT they intend to transfer to HHSC for the entire program period and provide a declaration of intent to HHSC 21 business days before the first half of the IGT amount is transferred to HHSC.

(A) The declaration of intent is a form prescribed by HHSC that includes the total amount of IGT the sponsoring governmental entity intends to transfer to HHSC.

(B) The declaration of intent is certified to the best knowledge and belief of a person legally authorized to sign for the sponsoring governmental entity but does not bind the sponsoring governmental entity to transfer IGT.

(3) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred no fewer than 14 business days before IGT transfers are due. Sponsoring governmental entities will transfer the first half of the IGT amount by a date determined by HHSC, but no later than June 1. Sponsoring governmental entities will transfer the second half of the IGT amount by a date determined by HHSC, but no later than December 1. HHSC will publish the IGT deadlines and all associated dates on its Internet website by March 15 of each year.

(4) Reconciliation. HHSC will reconcile the amount of the non-federal funds actually expended under this section during each program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period using the methodology described in §353.1301(g) of this subchapter.

(g) TIPPS capitation rate components. TIPPS funds will be paid to Managed Care Organizations (MCOs) through three components of the managed care per member per month (PMPM) capitation rates. The MCOs' distribution of TIPPS funds to the enrolled physician groups will be based on each physician group's performance related to the quality metrics as described in §353.1311 of this subchapter. The physician group must have provided at least one Medicaid service to a Medicaid client in each reporting period to be eligible for payments.

(1) Component One.

(A) The total value of Component One will be equal to 65 percent of total program value.

(B) Allocation of funds across qualifying HRI and IME physician groups will be proportional, based upon historical Medicaid clients served.

(C) Monthly payments to HRI and IME physician groups will be a uniform rate increase [triggered by performance requirements as described in §353.1311 of this subchapter].

(D) Other physician groups are not eligible for payments from Component One.

(E) Providers must report quality data as described in §353.1311 of this subchapter as a condition of participation in the program.

(F) [(E)] HHSC will reconcile the interim allocation of funds across qualifying HRI and IME physician groups to the actual distribution of Medicaid clients served across these physician groups during the program period, as captured by Medicaid MCOs contracted with HHSC for managed care 120 [180] days after the last day of the program period. [This reconciliation will only be performed if the weighted average (weighted by Medicaid clients served during the program period) of the absolute values of percentage changes between each practice group's proportion of historical Medicaid clients served and actual Medicaid clients served is greater than 18 percent.]

(2) Component Two.

(A) The total value of Component Two will be equal to 25 percent of total program value.

(B) Allocation of funds across qualifying HRI and IME physician groups will be proportional, based upon historical Medicaid utilization.

(C) Payments to physician groups will be a uniform rate increase [triggered by achievement of performance requirements as described in §353.1311 of this subchapter].

(D) Other physician groups are not eligible for payments from Component Two.

(E) Providers must report quality data as described in §353.1311 of this subchapter as a condition of participation in the program.

(F) HHSC will reconcile the interim allocation of funds across qualifying HRI and IME physician groups to the actual distribution of Medicaid clients served across these physician groups during the program period as captured by Medicaid MCOs contracted with HHSC for managed care 120 days after the last day of the program period.

(3) Component Three.

(A) The total value of Component Three will be equal to 10 percent of total program value.

(B) Allocation of funds across physician groups will be proportional, based upon actual Medicaid utilization of specific procedure codes as identified in the final quality metrics or performance requirements described in §353.1311 of this subchapter.

(C) Payments to physician groups will be a uniform rate increase [triggered by achievement of performance requirements as described in §353.1311 of this subchapter during the reporting period prior to the payment period].

(D) Providers must report quality data as described in §353.1311 of this subchapter as a condition of participation in the program.

[(4) Funds that are non-disbursed due to failure of one or more physician groups to meet performance requirements will be distributed across all qualifying physician groups in the service delivery area based on each physician group's proportion of total earned TIPPS funds from Components One, Two and Three combined at the end of the year.]

(h) Distribution of TIPPS payments.

(1) Before the beginning of the program period, HHSC will calculate the portion of each PMPM associated with each TIPPS en-

rolled practice group broken down by TIPPS capitation rate component [~~quality metric,~~] and payment period. For example, for a physician group, HHSC will calculate the portion of each PMPM associated with that group that would be paid from the MCO to the physician group as follows.

(A) Monthly payments from Component One [~~as performance requirements are met~~] will be equal to the total value of Component One for the physician group divided by twelve.

(B) Semi-annual payments from Component Two [~~associated with each quality metric~~] will be equal to the total value of Component Two for the physician group [~~associated with the quality metric~~] divided by 2.

(C) Payments from Component Three [~~associated with each quality metric~~] will be equal to the total value of Component Three attributed as a uniform rate increase based upon historical utilization.

~~[(D) For purposes of the calculation described in subparagraph (B) of this paragraph, a physician group must achieve a minimum of 75 percent of benchmark measures for which the provider has a minimum denominator volume of 30 Medicaid managed care patients to be eligible for full payment of the benchmark measures. If a physician group achieves 50 percent of benchmark measures for which the provider has a minimum denominator volume of 30 Medicaid managed care patients, it is eligible for 75 percent payment. If a physician group achieves 25 percent of benchmark measures for which the provider has a minimum denominator volume of 30 Medicaid managed care patients, it is eligible for 50 percent payment.]~~

~~[(E) For purposes of the calculation described in subparagraph (C) of this paragraph, a physician group must achieve a minimum of 50 percent of benchmark measures for which the provider has a minimum denominator volume of 30 Medicaid managed care patients to be eligible for full payment.]~~

~~[(F) For purposes of the calculations described in subparagraph (C) of this paragraph, in situations where a practice does not have minimum denominator volume of 30 Medicaid managed care patients for a quality metric to be calculated, the funding associated with that metric will be evenly distributed across all remaining metrics within the component for which the provider has the minimum denominator volume of 30 Medicaid managed care patients.]~~

(2) MCOs will distribute payments to enrolled physician groups as directed by HHSC [~~as they meet their reporting and quality metric requirements~~]. Payments will be equal to the portion of the TIPPS PMPM associated with the achievement for the time period in question multiplied by the number of member months for which the MCO received the TIPPS PMPM.

(i) Changes in operation. If an enrolled physician group closes voluntarily or ceases to provide Medicaid services, the physician group must notify the HHSC Provider Finance Department by hand delivery, United States (U.S.) mail, or special mail delivery within 10 business days of closing or ceasing to provide Medicaid services. Notification is considered to have occurred when the HHSC Provider Finance Department receives the notice.

(j) Reconciliation. HHSC will reconcile the amount of the non-federal funds actually expended under this section during each program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period using the methodology described in §353.1301(g) of this subchapter [~~and, as applicable, subsection (g)(1)(E) of this section~~].

(k) Recoupment. Payments under this section may be subject to recoupment as described in §353.1301(j) and §353.1301(k) of this subchapter.

§353.1311. Quality Metrics for the Texas Incentives for Physicians and Professional Services Program.

(a) Introduction. This section establishes the quality metrics that may be used in the Texas Incentives for Physician and Professional Services (TIPPS) program.

(b) Definitions. [~~The following definitions apply when the terms are used in this section.~~] Terms that are used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions) or §353.1309 of this subchapter (relating to the Texas Incentives for Physicians and Professional Services).

~~[(1) Baseline—An initial standard used as a comparison against performance in each metric throughout the program period to determine progress in the quality metrics.]~~

~~[(2) Benchmark—A metric-specific initial standard set prior to the start of the program period and used as a comparison against a physician group's progress throughout the program period.]~~

~~[(3) Measurement Period (MP)—The time period used to measure achievement of a quality metric.]~~

(c) Quality metrics. For each program period, HHSC will designate one or more metrics for each TIPPS capitation rate component.

(1) Each quality metric will be identified as a structure measure, improvement over self (IOS) measure, or benchmark measure.

(2) Any metric developed for inclusion in TIPPS will be evidence-based.

(d) Quality metric [~~Performance~~] requirements. For each program period, HHSC will specify the requirements [~~performance requirement~~] that will be associated with the designated quality metric. [~~Achievement of performance requirements will trigger payments for the TIPPS capitation rate components as described in §353.1309 of this subchapter. The following performance requirements are associated with the quality metrics described in subsection (e) of this section.~~]

(1) A physician group must report all quality metrics in any Component in which it is participating as a condition of participation [~~to be eligible for payment~~]. Participating physician groups must stratify any reported data by payor type and must report data according to requirements published under subsection (f) of this section.

~~[(2) Achievement of quality metrics.]~~

~~[(A) To achieve a structure measure, providers must report their progress on associated activities for each MP.]~~

~~[(B) Achievement of an IOS measure is based on reporting of the baseline for each MP. For each program period except the one beginning September 1, 2021, achievement is based on meeting or exceeding during the MP the benchmark set prior to the start of the program period.]~~

~~[(C) Achievement of a benchmark measure is based on reporting for each MP and meeting or exceeding during the MP the benchmark set prior to the start of the program period.]~~

(2) [(3)] Reporting frequency. Quality metrics [~~Achievement~~] will be reported semi-annually unless otherwise specified by the quality metric.

(e) Notice and hearing.

(1) HHSC will publish notice of the proposed metrics and their associated [performance] requirements no later than January 31 preceding the first month of the program period. The notice must be published either by publication on HHSC's website or in the *Texas Register*. The notice required under this section will include the following:

(A) instructions for interested parties to submit written comments to HHSC regarding the proposed metrics and [performance] requirements; and

(B) the date, time, and location of a public hearing.

(2) Written comments will be accepted for 15 business days following publication. There will also be a public hearing within that 15-day period to allow interested persons to present comments on the proposed metrics and [performance] requirements.

(f) Publication of Final Metrics and [Performance] Requirements. Final quality metrics and [performance] requirements will be provided through HHSC's website on or before February 28 of the calendar year that also contains the first month of the program period. If Centers for Medicare and Medicaid Services requires changes to quality metrics or [performance] requirements after February 28 of the calendar year [but before the first month of the program period], HHSC will provide notice of the changes through HHSC's website.

(g) Evaluation Reports.

(1) HHSC will evaluate the success of the program based on a statewide review of reported metrics. HHSC may publish more detailed information about specific performance of various participating physician groups, classes of physician groups, or service delivery areas.

(2) HHSC will publish interim evaluation findings regarding the degree to which the arrangement advanced the established goal and objectives of each capitation rate component.

(3) HHSC will publish a final evaluation report within 270 days of the conclusion of the program period.

§353.1315. Rural Access to Primary and Preventive Services Program.

(a) Introduction. This section establishes the Rural Access to Primary and Preventive Services (RAPPS) program. RAPPS is designed to incentivize rural health clinics (RHCs) to improve quality, access, and innovation in the provision of medical services to Medicaid recipients through the use of metrics that are expected to advance at least one of the goals and objectives of the state's managed care quality strategy.

(b) Definitions. The following definitions apply when the terms are used in this section. Other terms used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions) or §353.1317 of this subchapter (relating to Quality Metrics for the Rural Access to Primary and Preventive Services Program).

(1) Freestanding rural health clinic (RHC)--A network RHC that is not affiliated with a hospital.

(2) Hospital-based RHC--A network RHC that is affiliated with a hospital.

(3) Intergovernmental transfer (IGT) notification--Notice and directions regarding how and when IGTs should be made in support of RAPPS.

(4) Network RHC--An RHC located in the state of Texas that has a contract with a managed care organization (MCO) for the delivery of Medicaid covered services to the MCO's enrollees.

(5) Program period--A period of time for which the Texas Health and Human Services Commission (HHSC) contracts with MCOs to pay increased capitation rates for the purpose of making RHC payments under this section. Each program period is equal to a state fiscal year beginning September 1 and ending August 31 of the following year. [An RHC that is unable to participate in RAPPS beginning September 1 may apply to participate from March 1 until August 31 of the same program period. Participation during such a modified program period is subject to the application and intergovernmental transfer (IGT) deadlines described in subsection (g) of this section.]

(6) Rural health clinic (RHC)--Has the meaning assigned by 42 U.S.C. Section 1396d(l)(1).

(7) Suggested IGT responsibility--Notice of potential amounts that a sponsoring governmental entity may wish to consider transferring in support of RAPPS.

(8) Total program value--The maximum amount available under the RAPPS program for a program period, as determined by HHSC.

(c) Classes of RHCs.

(1) HHSC may direct an MCO to provide an increased payment or percentage rate increase for certain services to all RAPPS-enrolled RHCs in one or more of the following classes of RHCs with which the MCO contracts for Medicaid services:

(A) hospital-based RHCs; and

(B) freestanding RHCs.

(2) If HHSC directs rate increases or payments to more than one RHC class in the service delivery area (SDA), the rate increases or payments may vary by RHC class. HHSC will consider the following factors in identifying the amount of the rate increase or payment for each class:

(A) the RHC class's contribution to the goals and objectives in the HHSC managed care quality strategy, as required in 42 C.F.R. §438.340, relative to other classes;

(B) the class or classes of RHC the sponsoring governmental entity wishes to support through IGTs of public funds, as indicated on the application described in subsection (f) of this section; and

(C) the actuarial soundness of the capitation payment needed to support the rate increase or payment.

(d) Eligibility. An RHC is eligible to participate in RAPPS if it meets the requirements described in this subsection.

(1) Location. The RHC must be located in an SDA with at least one sponsoring governmental entity.

(2) Minimum number of Medicaid managed care encounters. The RHC must have provided at least 30 Medicaid managed care encounters in the prior state fiscal year.

(e) Data sources for historical units of service and clients served. Historical units of service are used to determine an RHC's eligibility status and the estimated distribution of RAPPS funds across enrolled RHCs.

(1) HHSC will use encounter data and will identify encounters based upon the billing provider's national provider identification (NPI) number and provider type code.

(2) HHSC will use the most recently available Medicaid encounter data for a complete state fiscal year to determine the eligibility status of an RHC.

(3) HHSC will use the most recently available Medicaid encounter data for a complete state fiscal year to determine the distribution of RAPPs funds across enrolled RHCs.

(4) In the event that the historical data are not deemed appropriate for use by actuarial standards, HHSC may utilize data from a different state fiscal year at HHSC's discretion.

(5) The data used to estimate eligibility and distribution of funds will align with the data used for purposes of setting the capitation rates for MCOs for the same period.

(6) To determine total program value, HHSC will calculate the estimated rate that Medicare would have paid for the same services using either each RHC's state fiscal year 2019 federal cost report or last submitted cost report. For RHCs where a filed cost report was not found, the RHC's Medicare payments will be estimated using the SDA weighted average ratio of Medicare encounter-based reimbursements divided by MCO reimbursement data.

(7) Encounter data used to calculate RAPPs payments must be designated as paid status with a reported paid amount greater than zero. Encounters reported as paid status, but with a reported paid amount of zero or negative dollars, will be excluded from the data used to calculate RAPPs payments.

(8) If a provider with the same Tax Identification Number as the payor is being paid more than 200 percent of the Medicaid reimbursement on average for the same services in a one-year period, then a related-party-adjustment will be applied to the encounter data for those encounters. This adjustment will apply a calculated average payment rate from the rest of the provider pool to the related-party's paid units of service.

(f) Conditions of Participation [requirements]. As a condition of participation, all RHCs participating in RAPPs, as well as any entities billing on their behalf, must meet the following requirements.

(1) The RHC must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period will be no less than 21 calendar days, and the final date of the enrollment period will be at least nine calendar days prior to the release of suggested IGT responsibilities.

(2) An entity that bills on behalf of the RHC must certify, on a form prescribed by HHSC, that no part of any RAPPs payment will be used to pay a contingent fee and that the entity's agreement with the RHC does not use a reimbursement methodology that contains any type of incentive, directly or indirectly, for inappropriately inflating, in any way, claims billed to the Medicaid program, including the RHC's receipt of RAPPs funds. The certification must be received by HHSC with the enrollment application described in paragraph (1) of this subsection.

(3) If an RHC has changed ownership in the past five years in a way that impacts eligibility for RAPPs, the RHC must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the RHC and which reference the administration of, or payments from, RAPPs.

(4) Report all quality data denoted as required as a condition of participation in subsection (h) of this section.

(5) Failure to meet any conditions of participation described in this subsection will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

(g) Non-federal share of RAPPs payments. The non-federal share of all RAPPs payments is funded with IGTs from sponsoring

governmental entities. No state general revenue is available to support RAPPs.

(1) HHSC will communicate the following information for the program period to all RAPPs-enrolled hospital-based RHCs and sponsoring governmental entities at least 10 calendar days prior to the IGT declaration of intent deadline:

(A) suggested IGT responsibilities for the program period, which will be based on:

(i) the maximum funding amount available under RAPPs for the program period as determined by HHSC, plus ten percent;

(ii) forecasted member months for the program period as determined by HHSC; and

(iii) the distribution of historical Medicaid utilization across RHCs, plus the estimated utilization for enrolled RHCs within the same SDA, for the program period; and

(B) the estimated maximum revenues each enrolled RHC could earn under RAPPs for the program period, which will be based on HHSC's suggested IGT responsibilities and the assumption that all enrolled RHCs will meet 100 percent of their quality metrics.

(2) The estimated maximum revenues each enrolled RHC could earn under RAPPs for the program period, which will be based on HHSC's suggested IGT responsibilities and the assumption that all enrolled RHCs will meet 100 percent of their quality metrics.

(3) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred, no fewer than 14 business days before IGT transfers are due. The IGT notification will instruct sponsoring governmental entities as to the required IGT amounts. Required IGT amounts will include all costs associated with RHC payments and rate increases, including costs associated with MCO premium taxes, risk margin, and administration, plus ten percent.

(4) Sponsoring governmental entities will transfer the first half of the IGT amount by a date determined by HHSC, but no later than June 1. Sponsoring governmental entities will transfer the second half of the IGT amount by a date determined by HHSC, but no later than December 1. HHSC will publish the IGT deadlines and all associated dates on the HHSC website by March 15 of each year.

(h) RAPPs capitation rate components. RAPPs funds will be paid to MCOs through two components of the managed care per member per month (PMPM) capitation rates. The MCOs' distribution of RAPPs funds to the enrolled RHCs will be based on each RHC's performance related to the quality metrics as described in §353.1317 of this subchapter. The RHC must have had provided at least one Medicaid service to a Medicaid client for each reporting period to be eligible for payments.

(1) Component One.

(A) The total value of Component One will be equal to 75 percent of total program value.

(B) Allocation of funds across qualifying RHCs will be based upon historical Medicaid utilization and RHC class.

(C) Monthly payments to RHCs will be paid prospectively.

(D) HHSC will reconcile the interim allocation of funds across RAPPs-enrolled RHCs to the actual Medicaid utilization across these RHCs during the program period as captured by Medicaid MCOs contracted with HHSC for managed care 120 [+80] days after the last day of the program period. [This reconciliation will be performed only

if the weighted average (weighted by Medicaid utilization during the program period) of the absolute values of percentage changes between each RHC's proportion of historical Medicaid utilization and actual Medicaid utilization is greater than 10 percent.]

(E) Providers must report quality data as described in §353.1317 of this subchapter as a condition of participation in the program.

(2) Component Two.

(A) The total value of Component Two will be equal to 25 percent of total program value.

(B) Allocation of funds across qualifying RHCs will be based upon actual Medicaid utilization of specific procedure codes as identified in the final quality metrics and performance requirements described in §353.1317 of this subchapter.

(C) A percent increase on all applicable services will begin when an RHC demonstrates achievement of performance requirements as described in §353.1317 of this subchapter during the reporting period.

(D) Providers must report quality data as described in §353.1317 of this subchapter as a condition of participation in the program.

(i) Distribution of RAPPs payments.

(1) Prior to the beginning of the program period, HHSC will calculate the portion of each monthly prospective payment associated with each RAPPs-enrolled RHC broken down by RAPPs capitation rate component [~~quality metric,~~] and payment period. For example, for an RHC, HHSC will calculate the portion of each monthly prospective payment associated with that RHC that would be paid from the MCO to the RHC as follows.

(A) Monthly payments from Component One will be equal to the total value of Component One for the RHC divided by twelve.

(B) Payments from Component Two [~~associated with each quality metric~~] will be equal to the total value of Component Two attributed as a rate increase for specific services based upon historical utilization.

(C) For purposes of the calculation described in subparagraph (B) of this paragraph, an RHC must achieve quality metrics to be eligible for full payment as determined by performance requirements described in §353.1317(d) of this subchapter.

(2) An MCO will distribute payments to an enrolled RHC based on criteria established under subsection (i) of this section.

~~{(3) Funds that are non-disbursed due to failure of one or more RHCs to meet performance requirements will be distributed across all qualifying RHCs in the SDA based on each RHC's proportion of total earned RAPPs funds from Components One and Two combined after each payment period.}~~

(j) Changes in operation. If a RAPPs-enrolled RHC closes voluntarily or ceases to provide Medicaid services, the RHC must notify the HHSC Provider Finance Department by electronic mail to an address designated by HHSC, by hand delivery, United States (U.S.) mail, or by special mail delivery within 10 business days of closing or ceasing to provide Medicaid services. Notification is considered to have occurred when the HHSC Provider Finance Department receives the notice.

(k) Reconciliation. HHSC will reconcile the amount of the non-federal funds actually expended under this section during each pro-

gram period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period using the methodology described in §353.1301(g) of this subchapter [~~and, as applicable, subsection (h)(1)(D) of this section.~~]

(l) Recoupment. Payments under this section may be subject to recoupment as described in §353.1301(j) and §353.1301(k) of this subchapter.

§353.1317. Quality Metrics for Rural Access to Primary and Preventive Services Program.

(a) Introduction. This section establishes the quality metrics that may be used in the Rural Access to Primary and Preventive Services (RAPPs) program.

(b) Definitions. The following definitions apply when the terms are used in this section. Other terms used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions) or §353.1315 of this subchapter (relating to Rural Access to Primary and Preventive Services Program).

(1) Baseline--An initial standard used as a comparison against performance in each metric throughout the program period to determine progress in a RAPPs quality metric.

(2) Benchmark--A metric-specific initial standard set prior to the start of the program period and used as a comparison against a rural health clinic's (RHC's) progress throughout the program period.

(3) Measurement period--The time period used to measure achievement of a quality metric.

(c) Quality metrics. For each program period, the Texas Health and Human Services Commission (HHSC) will designate quality metrics for each RAPPs capitation rate component as described in §353.1315(h) of this subchapter.

(1) Each quality metric will be identified as a structure measure, improvement over self (IOS) measure, or benchmark measure.

(2) Each quality metric will be evidence-based.

(d) Quality metric [Performance] requirements. For each program period, HHSC will specify the requirements [performance requirement] that will be associated with the designated quality metric. [~~Achievement of performance requirements will trigger payments for the RAPPs capitation rate components as described in §353.1315(h) of this subchapter. The following performance requirements are associated with the quality metrics described in subsection (e) of this section.~~]

(1) Reporting of quality metrics. An RHC must report all quality metrics as a condition of participation in the program. An RHC must stratify any reported data by payor type and must report data according to requirements published under subsection (g) of this section. [for which it is eligible, as defined in §353.1315 of this subchapter, to be eligible for payment.]

(2) Achievement of quality metrics.

(A) To achieve a structure measure, an RHC must report its progress on associated activities for each measurement period.

(B) To achieve an IOS or benchmark measure, an RHC must meet or exceed the measure's goal for a measurement period. Goals will be established as either a target percentage improvement over self or performance above a benchmark as specified by the metric and determined by HHSC. In year one of the program, providers will establish a baseline for IOS measures.

(e) Participating RHC reporting frequency. Participating RHCs must report quality metrics [~~metric achievement~~] semi-annually unless otherwise specified by the quality metric.

(f) Notice and hearing.

(1) HHSC will publish notice of the proposed quality metrics and their associated [~~performance~~] requirements no later than January 31, preceding the first month of the program period. The notice must be published either by publication on HHSC's website or in the *Texas Register*. The notice required under this section will include the following:

(A) instructions for interested parties to submit written comments to HHSC regarding the proposed metrics and [~~performance~~] requirements; and

(B) the date, time, and location of a public hearing.

(2) Written comments will be accepted for 15 business days following publication. There will also be a public hearing within that 15-day period to allow interested persons to present comments on the proposed metrics and [~~performance~~] requirements.

(g) Publication of final metrics and [~~performance~~] requirements. Final quality metrics and [~~performance~~] requirements will be provided through HHSC's website on or before February 28 of the calendar year that also contains the first month of the program period. If the Centers for Medicare and Medicaid Services requires changes to quality metrics or [~~performance~~] requirements after February 28 [~~but before the first month of the program period~~], HHSC will provide notice of the changes through HHSC's website.

(h) Evaluation Reports.

(1) HHSC will evaluate the success of the program based on a review of reported metrics. HHSC may publish more detailed information about specific performance of various participating RHCs, classes of RHCs, or service delivery areas.

(2) HHSC will publish interim evaluation findings regarding the degree to which the arrangement advanced the established goal and objectives of each capitation rate component.

(3) HHSC will publish a final evaluation report within 270 days of the conclusion of the program period.

§353.1320. *Directed Payment Program for Behavioral Health Services.*

(a) Introduction. This section establishes the Directed Payment Program for Behavioral Health Services (DPP BHS). DPP BHS is designed to incentivize behavioral health providers [~~community mental health centers (CMHCs)~~] to improve quality, access, and innovation in the provision of medical and behavioral health services to Medicaid recipients through the use of metrics that are expected to advance at least one of the goals and objectives of the state's managed care quality strategy.

(b) Definitions. The following definitions apply when the terms are used in this section. Terms that are used in this section may be defined in §353.1301 of this subchapter (relating to General Provisions) or §353.1322 of this subchapter (relating to Quality Metrics for the Directed Payment Program for Behavioral Health Services).

(1) Average Commercial Reimbursement (ACR) gap--The difference between what an average commercial payor is estimated to pay for the services and what Medicaid actually paid for the same services.

(2) Certified community behavioral health clinic (CCBHC)--A clinic certified by the state in accordance with federal

criteria and with the requirements of the Protecting Access to Medicare Act of 2014 (PAMA).

(3) CCBHC cost-reporting gap--The difference between what Medicaid pays for services and what the reimbursement would be based on the CCBHC cost-reporting methodology.

(4) Community mental health center (CMHC)--An entity that is established under Texas Health and Safety Code §534.0015 and that:

(A) Provides outpatient services, including specialized outpatient services for children, the elderly, individuals with serious mental illness, and residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility.

(B) Provides 24-hour-a-day emergency care services.

(C) Provides day treatment or other partial hospitalization services, or psychosocial rehabilitation services.

(D) Provides screening for patients being considered for admission to state mental health facilities to determine the appropriateness of such admission.

(5) Intergovernmental transfer (IGT) notification--Notice and directions regarding how and when IGTs should be made in support of DPP BHS.

(6) Local behavioral health authority (LBHA)--An entity that is designated under Texas Health and Safety Code §533.0356.

(7) [~~(6)~~] Program period--A period of time for which the Texas Health and Human Services (HHSC) contracts with participating managed care organizations (MCOs) to pay increased capitation rates for the purpose of provider payments under this section. Each program period is equal to a state fiscal year beginning September 1 and ending August 31 of the following year. [~~A CMHC that is unable to participate in the program described in this section beginning September 1 may apply to participate beginning March 1 of the program period and ending August 31. Participation during such a modified program period is subject to the application and intergovernmental-transfer (IGT) deadlines described in subsection (j) of this section.~~]

(8) Providers--For program periods on or before August 31, 2022, an entity described in paragraph (4) of this subsection. For program periods on or after September 1, 2022, an entity described in paragraph (4) or (6) of this subsection.

(9) [~~(7)~~] Suggested IGT responsibility--Notice of potential amounts that a sponsoring governmental entity may wish to consider transferring in support of DPP BHS.

(10) [~~(8)~~] Total program value--The maximum amount available under the Directed Payment Program for Behavioral Health Services for a program period, as determined by HHSC.

(c) Classes of participating providers [~~CMHCs~~].

(1) HHSC may direct the MCOs to provide a uniform percentage rate increase or a uniform dollar increase to all providers [~~CMHCs~~] within one or more of the following classes of providers [~~CMHCs~~] with which the MCO contracts for services:

(A) Providers [~~CMHCs~~] that are certified CCBHCs; and

(B) Providers [~~CMHCs~~] that are not certified CCBHCs.

(2) If HHSC directs rate or dollar increases to more than one class of providers [~~CMHCs~~] within the service delivery area (SDA), the rate or dollar increases directed by HHSC may vary between classes.

(d) Data sources for historical units of service. Historical units of service are used to determine a provider's eligibility status to receive the estimated distribution of program funds across [eligible and] enrolled providers [CMHCs].

(1) HHSC will use encounter data and will identify encounters based upon the billing provider's national provider identification (NPI) number.

(2) The most recently available Medicaid encounter data for a complete state fiscal year will be used to determine the distribution of program funds across eligible and enrolled providers [CMHCs].

(3) In the event that the historical data are not deemed appropriate for use by actuarial standards, HHSC may use data from a different state fiscal year at the discretion of the HHSC actuaries.

(4) The data used to estimate distribution of funds will align to the extent possible with the data used for purposes of setting the capitation rates for MCOs for the same period.

(5) HHSC will calculate the estimated rate that an average commercial payor or Medicare would have paid for similar services or based on the CMS approved CCBHC cost report rate methodology using either data from Medicare cost reports or collected from providers.

(6) Encounter data used to calculate DPP BHS payments must be designated as paid status with a reported paid amount greater than zero. Encounters reported as paid status, but with a reported paid amount of zero or negative dollars, will be excluded from the data used to calculate DPP BHS payments.

(e) Conditions of Participation [requirements]. As a condition of participation, all providers [CMHCs] participating in the program must allow for the following.

(1) The provider [CMHC] must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period must be no less than 21 calendar days, and the final date of the enrollment period will be at least nine calendar days prior to the release of suggested IGT responsibilities.

(2) The entity that bills on behalf of the provider [CMHC] must certify, on a form prescribed by HHSC, that no part of any payment made under the program will be used to pay a contingent fee and that the entity's agreement with the provider [CMHC] does not use a reimbursement methodology that contains any type of incentive, directly or indirectly, for inappropriately inflating, in any way, claims billed to the Medicaid program, including the provider's [CMHC's] receipt of program funds. The certification must be received by HHSC with the enrollment application described in paragraph (1) of this subsection.

(3) If a provider has changed ownership in the past five years in a way that impacts eligibility for DPP BHS, the provider must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the provider and which reference the administration of, or payment from, DPP BHS.

(4) Report all quality data denoted as required as a condition of participation in subsection (h) of this section.

(5) Failure to meet any conditions of participation described in this section will result in removal of the provider from the program and recoupment of all funds previously paid during the program period.

(f) Determination of percentage of rate and dollar increase.

(1) HHSC will determine the percentage of rate or dollar increase applicable to providers [CMHC] by program component.

(2) HHSC will consider the following factors when determining the rate increase:

(A) the estimated Medicare gap for providers [CMHCs], based upon the upper payment limit demonstration most recently submitted by HHSC to the Centers for Medicare and Medicaid Services (CMS);

(B) the estimated Average Commercial Reimbursement (ACR) gap for the class or individual providers [CMHCs], as indicated in data collected from providers [CMHCs];

(C) the estimated gap for providers [CMHCs], based on the CCBHC cost-reporting methodology that is consistent with the CMS guidelines;

(D) the percentage of Medicaid costs incurred by providers [CMHCs] in providing care to Medicaid managed care clients that are reimbursed by Medicaid MCOs prior to any rate increase administered under this section; and

(E) the actuarial soundness of the capitation payment needed to support the rate increase.

(g) Services subject to rate and dollar increase. HHSC may direct the MCOs to increase rates or dollar amounts for all or a subset of provider [CMHC] services.

(h) Program capitation rate components. Program funds will be paid to MCOs through two components of the managed care per member per month (PMPM) capitation rates. The MCOs' distribution of program funds to the enrolled providers [CMHCs] will be based on each provider's [CMHC's] performance related to the quality metrics as described in §353.1322 of this subchapter. The provider [CMHC] must have provided at least one Medicaid service to a Medicaid managed care client for each reporting period to be eligible for payments.

(1) Component One.

(A) The total value of Component One will be equal to 65 percent of total program value.

(B) Allocation of funds across all qualifying CMHCs will be proportional, based upon historical Medicaid utilization.

(C) Monthly payments to providers [CMHCs] will be a uniform rate increase [triggered by achievement of requirements as described in §353.1322 of this subchapter].

(D) The interim allocation of funds across qualifying providers [CMHCs] will be reconciled to the actual Medicaid utilization across these providers [CMHCs] during the program period, as captured by Medicaid MCOs contracted with HHSC for managed care 120 [180] days after the last day of the program period. [~~This reconciliation will only be performed if the absolute values of percentage changes between each CMHC's proportion of historical Medicaid utilization and actual Medicaid utilization is greater than 10 percent.~~]

(E) Providers must report quality data as described in §353.1322 of this subchapter as a condition of participation in the program.

(2) Component Two.

(A) The total value of Component Two will be equal to 35 percent of total program value.

(B) Allocation of funds across all qualifying providers [CMHCs] will be based upon historical Medicaid utilization.

(C) Payments to providers [CMHCs] will be a uniform rate increase [triggered by achievement of performance requirements as described in §353.1322 of this subchapter].

(D) Providers must report quality data as described in §353.1322 of this subchapter as a condition of participation in the program.

[~~(3) Non-disbursed funds. Funds that are non-disbursed due to failure of one or more CMHCs to meet performance requirements will be distributed across all qualifying CMHCs based on each CMHC's proportion of total earned program funds from Components One and Two combined at the end of the year.~~]

(i) Distribution of the Directed Payment Program for Behavioral Health Services payments.

(1) Prior to the beginning of the program period, HHSC will calculate the portion of each payment associated with each enrolled provider [CMHC] broken down by program capitation rate component [~~quality metric,~~] and payment period. For example, for a provider [CMHC], HHSC will calculate the portion of each payment associated with that provider [CMHC] that would be paid from the MCO to the provider [CMHC] as follows.

(A) Monthly payments in the form of a uniform dollar increase for Component One will be equal to the total value of Component One attributed based upon historical utilization of the provider [CMHC] divided by twelve. An annual reconciliation will be performed for each provider based on actual utilization.

(B) Ongoing rate increases from Component Two [~~will be paid as performance requirements are met and~~] will be a uniform percentage rate increase on applicable services calculated based on the total value of Component Two for the providers [CMHCs] divided by historical utilization of the respective services.

(C) For purposes of the calculation described in subparagraph (B) of this paragraph, a provider [CMHC] must achieve a minimum number of measures as identified in §353.1322 of this subchapter to be eligible for full payment.

(2) MCOs will distribute payments to enrolled providers [CMHCs] based on criteria established under paragraph (1) of this subsection.

(j) Non-federal share of DPP BHS payments. The non-federal share of all DPP BHS payments is funded through IGTs from sponsoring governmental entities. No state general revenue that is not otherwise available to providers [CMHCs] is available to support DPP BHS.

(1) HHSC will communicate suggested IGT responsibilities for the program period with all DPP BHS eligible and enrolled providers [CMHCs] at least 10 calendar days prior to the IGT declaration of intent deadline. Suggested IGT responsibilities will be based on the maximum dollars available under DPP BHS for the program period as determined by HHSC, plus 10 percent; forecasted member months for the program period as determined by HHSC; and the distribution of historical Medicaid utilization across providers [CMHCs], for the program period. HHSC will also communicate estimated maximum revenues each eligible and enrolled provider [CMHC] could earn under DPP BHS for the program period with those estimates based on HHSC's suggested IGT responsibilities and an assumption that all enrolled providers [CMHCs] will meet 100 percent of their quality metrics.

(2) Sponsoring governmental entities will determine the amount of IGT they intend to transfer to HHSC for the entire program period and provide a declaration of intent to HHSC 21 business days before the first half of the IGT amount is transferred to HHSC.

(A) The declaration of intent is a form prescribed by HHSC that includes the total amount of IGT the sponsoring governmental entity intends to transfer to HHSC.

(B) The declaration of intent is certified to the best knowledge and belief of a person legally authorized to sign for the sponsoring governmental entity but does not bind the sponsoring governmental entity to transfer IGT.

(3) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred no fewer than 14 business days before IGT transfers are due. HHSC will instruct sponsoring governmental entities as to the IGT amounts necessary to fund the program at estimated levels. IGT amounts will include the non-federal share of all costs associated with the provider [CMHC] rate increase, including costs associated with MCO (Capitation) premium taxes, risk margin, and administration, plus 10 percent.

(4) Sponsoring governmental entities will transfer the first half of the IGT amount by a date determined by HHSC, but no later than June 1. Sponsoring governmental entities will transfer the second half of the IGT amount by a date determined by HHSC, but no later than December 1. HHSC will publish the IGT deadlines and all associated dates on its Internet website by March 15 of each year.

(k) Effective date of rate and dollar reimbursement increases. HHSC will direct MCOs to increase reimbursements under this section beginning the first day of the program period that includes the increased capitation rates paid by HHSC to each MCO pursuant to the contract between them.

(l) Changes in operation. If an enrolled provider [CMHC] closes voluntarily or ceases to provide Medicaid services, the provider [CMHC] must notify the HHSC Provider Finance Department by electronic mail to an address designated by HHSC, by hand delivery, United States (U.S.) mail, or special mail delivery within 10 business days of closing or ceasing to provide Medicaid services. Notification is considered to have occurred when HHSC Provider Finance Department receives the notice.

(m) Reconciliation. HHSC will reconcile the amount of the non-federal funds actually expended under this section during each program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period using the methodology described in §353.1301(g) of this subchapter [~~and, as applicable, subsection (h)(1)(D) of this section~~].

(n) Recoupment. Payments under this section may be subject to recoupment as described in §353.1301(j) - (k) of this subchapter.

§353.1322. Quality Metrics for the Directed Payment Program for Behavioral Health Services.

(a) Introduction. This section establishes the quality metrics and required reporting that may be used in the Directed Payment Program for Behavioral Health Services.

(b) Definitions. The following definitions apply when the terms are used in this section. Terms that are used in this section may be defined in §353.1301 (relating to General Provisions) or §353.1320 (relating to Directed Payment Program for Behavioral Health Services) of this subchapter.

(1) Baseline--An initial standard used as a comparison against performance in each metric throughout the program period to determine progress in the program's quality metrics.

(2) Benchmark--A metric-specific initial standard set prior to the start of the program period and used as a comparison against a provider's [community mental health center's (CMHC's)] progress throughout the program period.

(3) Measurement period--The time period used to measure achievement of a quality metric.

(c) Quality metrics. For each program period, the Texas Health and Human Services Commission (HHSC) will designate quality metrics for each of the program's capitation rate components as described in §353.1320(h) of this subchapter.

(1) Each quality metric will be identified as a structure measure, improvement over self (IOS) measure, or benchmark measure.

(2) Each quality metric will be evidence-based and will be presented to the public for comment in accordance with subsection (e) of this section.

(d) Quality Metric [Performance] requirements. For each program period, HHSC will specify the requirements [performance requirement] that will be associated with the designated quality metric that is expected to advance at least one of the goals and objectives in the Medicaid quality strategy. Quality metric data will [Achievement of performance requirements will trigger payments for the program's capitation rate components as described in §353.1320(h) and] be used to evaluate the degree to which the arrangement advances at least one of the goals and objectives that are incentivized by the payments described under §353.1320(h) of this subchapter. [For some quality metrics, achievement is tested merely on whether a CMHC meets or does not meet the established requirement. The following performance requirements are associated with the quality metrics described in subsection (e) of this section:]

(1) Reporting of quality metrics. All quality metrics must be reported as a condition of participation in the program. Participating providers must stratify any reported data by payor type and must report data according to requirements published under subsection (f) of this section. [for the CMHC to be eligible for payment.]

~~[(2) Achievement of quality metrics.]~~

~~[(A) To achieve a structure measure, a CMHC must report its progress on associated activities for each measurement period.]~~

~~[(B) To achieve an IOS or benchmark measure, a CMHC must meet or exceed the measure's goal for a measurement period. Goals will be established as either a target percentage improvement over self or performance above a benchmark as specified by the metric and determined by HHSC. In year one of the program, achievement of an IOS measure will be establishing a baseline.]~~

~~(2) [(3) Reporting frequency. Providers [CMHCs] must report quality metrics [metric achievement] semi-annually, unless otherwise specified by the metric.~~

~~(3) [(4) Other metrics related to improving the quality of care for Texas Medicaid beneficiaries. If HHSC develops additional metrics for inclusion in the Directed Payment Program for Behavioral Health Services, the associated performance requirements will be presented to the public for comment in accordance with subsection (e) of this section.~~

(e) Notice and hearing.

(1) HHSC will publish notice of the proposed quality metrics and their associated [performance] requirements no later than January 31 preceding the first month of the program period. The notice must be published either by publication on HHSC's website or in the *Texas Register*. The notice required under this section will include the following:

(A) instructions for interested parties to submit written comments to HHSC regarding the proposed metrics and [performance] requirements; and

(B) the date, time, and location of a public hearing.

(2) Written comments will be accepted for 15 business days following publication. There will also be a public hearing within that 15-day period to allow interested persons to present comments on the proposed metrics and [performance] requirements.

(f) Publication of final metrics and [performance] requirements. Final quality metrics and [performance] requirements will be provided through HHSC's website on or before February 28 of the calendar year that also contains the first month of the program period. If the Centers for Medicare and Medicaid Services requires changes to quality metrics or [performance] requirements after February 28 of the calendar year [~~but before the first month of the program period~~], HHSC will provide notice of the changes through HHSC's website.

(g) Evaluation Reports.

(1) HHSC will evaluate the success of the program based on a statewide review of reported metrics. HHSC may publish more detailed information about specific performance of various participating providers, classes of providers, or service delivery areas.

(2) HHSC will publish interim evaluation findings regarding the degree to which the arrangement advanced the established goal and objectives of each capitation rate component.

(3) HHSC will publish a final evaluation report within 270 days of the conclusion of the program period.

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

Filed with the Office of the Secretary of State on March 7, 2022.

TRD-202200794

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 424-6637



TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 17. MARKETING AND PROMOTION

SUBCHAPTER K. GO TEXAN - MARKETING ENHANCEMENT GRANT ASSISTANCE PROGRAM

4 TAC §§17.700 - 17.706

The Texas Department of Agriculture (Department) proposes new Title 4, Part 1, Chapter 17, Subchapter K, §§17.700 - 17.706 to the Texas Administrative Code, providing rules for the establishment, implementation, and administration of the GO TEXAN - Marketing Enhancement Grant Assistance Program (Program), including eligibility, use of funds, application and reporting requirements.

Section 17.700 outlines the purpose of the Program.

Section 17.701 defines important terms and phrases for the subchapter.

Section 17.702 describes the ability for the Department to create and administer grant programs.

Section 17.703 delineates the applicant eligibility requirements to participate in the Program.

Section 17.704 describes allowable activities for use of funds in the Program.

Sections 17.705 and 17.706 identify requirements related to Program administration, including the application process and reporting requirements.

The Department has determined that the proposal will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

Karen Reichek, the Department's Administrator for Trade and Business Development, has determined that for each year of the first five years the proposed rules are in effect, there will be no fiscal impact to state government as a result of implementing the proposed rules. For each year of the first five years the proposed rules are in effect, Ms. Reichek does not expect any costs to local governments.

Ms. Reichek has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of the proposed rules will be to provide an effective and efficient means for the Department to raise awareness of the Texas agriculture industry through additional grant support of promotional activities of the GO TEXAN program and GO TEXAN participants. There are no anticipated economic costs for persons required to comply with the proposed rules. There will be no adverse economic effect on small businesses or micro-businesses. Ms. Reichek does not anticipate that there will be an adverse fiscal impact on rural communities as a result of the implementation of the proposed rules.

Ms. Reichek has also provided the following information related to the government growth impact statement, as required pursuant to Texas Government Code, §2001.0221. As a result of implementing the proposal, for the first five years the proposed rules are in effect:

1. the proposed rules create a government program;
2. no employee positions will be created or eliminated;
3. implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the Department;
4. the proposed rules do not require an increase or decrease in fees paid to the Department;
5. the proposed rules will create a new regulation;
6. the proposed rules will not repeal an existing regulation;
7. the proposed rules do not increase or decrease the number of individuals subject to the rule's applicability; and
8. the proposed rules do not positively or adversely affect this state's economy.

Written comments on the proposal may be submitted to Ms. Karen Reichek, Administrator for Trade and Business Development, Texas Department of Agriculture at the following address: Karen Reichek, Administrator for Trade and Business

Development, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by email to: Karen.Reichek@TexasAgriculture.gov. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new rules are proposed pursuant to §12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code.

The code affected by the proposal is Texas Agriculture Code, Chapters 12 and 46.

§17.700. Statement of Purpose.

The GO TEXAN-Marketing Enhancement Grant Assistance Program is designed to provide grant funds to GO TEXAN partners to assist with the marketing and promotion of certified Texas agricultural products, including those that have been produced, processed, or otherwise had value added to the product in Texas; certified Texas non-agricultural products; Associate GO TEXAN Registrants; and the GO TEXAN Program.

§17.701. Definitions.

General definitions applicable to Title 4, Part 1, including this subchapter, are located in Chapter 1, Rule 1.1. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Associate GO TEXAN Registrants--Persons who apply and are granted limited use of the mark by the department for assistance in the promotion and implementation of the GO TEXAN Program.

(2) Good standing--Means that an applicant's GO TEXAN registration is in full compliance with all of the provisions of the GO TEXAN Program, including applicant's GO TEXAN registration has been approved by TDA and is not currently suspended or terminated, all registration fees have been paid, and the Registrant's account has no outstanding issues.

(3) GO TEXAN Program--Texas Department of Agriculture's promotion of Texas-made, grown, manufactured or processed products, as well as services and communities.

(4) MEGA Program--GO TEXAN-Marketing Enhancement Grant Assistance Program.

(5) Registrant--A person in good standing with the Department who is authorized to use the GO TEXAN certification mark for the purpose of verifying their product or service is grown, manufactured or provided in Texas.

§17.702. Administration.

(a) The Department shall administer the MEGA Program, subject to the availability of funds.

(b) The Department may create grant programs to benefit products or Associate GO TEXAN Registrants by bringing awareness to the businesses and the GO TEXAN Program as a whole.

(c) The Department shall approve a standard grant application for each MEGA Program grant cycle. The request for grant applications, standard application form, or related guidance materials for each MEGA Program grant cycle shall state the purpose of the grant program, eligibility criteria, required information, selection criteria, due date for submission of applications, and estimated award date.

(d) The Department shall review submitted applications according to the published selection criteria and make funding recommendations to the Commissioner.

§17.703. Eligibility.

(a) Eligibility to participate in the MEGA Program is determined upon the deadline to submit applications for this grant program.

(b) An eligible applicant must be a current GO TEXAN Program Registrant in good standing, as defined in this subchapter. Selected applicants must maintain an appropriate level of the GO TEXAN certification throughout the term of the MEGA Program grant, based on grant eligibility criteria published in the request for grant application for each MEGA Program grant cycle.

(c) An applicant that has a family, employment or business relationship with an executive, officer or employee of the Department is not eligible for a grant and may not participate in the MEGA Program. A family relationship is defined as a relationship within the third degree of consanguinity or second degree of affinity, as established pursuant to Chapter 573 of the Texas Government Code.

§17.704. Use of Grant.

(a) Funds received under this subchapter may only be used for activities related to the purpose of the MEGA Program namely, marketing and promotion of certified GO TEXAN agricultural and non-agricultural products, Associate GO TEXAN Registrants, and the GO TEXAN Program.

(b) Funds shall be distributed to selected applicants on a cost reimbursement basis in accordance with the grant agreement.

§17.705. Filing Requirements; Consideration of Project Requests; Grant Awards.

(a) An applicant must submit an application in accordance with published MEGA Program guidelines outlined in the official request for grant applications.

(b) Eligible applicants shall submit a project request in the format prescribed by the Department as part of the MEGA Program grant application and must describe the project activities to be carried out, propose budget expenditures, reflect an estimated timeline for completion of activities, and include any other information required by the Department.

(c) Maximum grant amounts for individual awards shall be published in the request for grant applications for each MEGA Program grant cycle.

(d) The Department may, in its sole discretion, decline to award any grants during a MEGA Program grant cycle.

§17.706. Reporting Requirements.

Grant recipients shall submit required reports in accordance with Department procedures, and as specified in the grant agreement entered into by the Department and the grant recipient.

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

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Skyler Shafer

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 936-9360



CHAPTER 28. TEXAS AGRICULTURAL
FINANCE AUTHORITY
SUBCHAPTER G. RURAL ECONOMIC
DEVELOPMENT FINANCE PROGRAM

4 TAC §§28.70 - 28.80, 28.83 - 28.87

The Texas Agricultural Finance Authority (Authority), a public authority within the Texas Department of Agriculture (Department) proposes new Title 4, Part 1, Chapter 28, Subchapter G, §§28.70 - 28.80 and 28.83 - 28.87 to the Texas Administrative Code, providing rules for the establishment, implementation, and administration of the Rural Economic Development Finance Program. Under this new program, the Authority is offering two new types of loans, Texas Rural Community Loans; and Agriculture and Community Economic Development Loans, to provide financial assistance to eligible entities, including agricultural businesses and other rural economic development projects. The program delineates specific standards of eligibility, application requirements and procedures, and application evaluation criteria, and addresses loan transactions, including commitments, collateral administration, and default procedures.

Section 28.70 sets out the statutory authority for the Authority and the Department to implement and administer this new program.

Section 28.71 outlines the purpose of the program and policy of the Authority's board.

Section 28.72 defines important terms and phrases for the subchapter.

Sections 28.73 and 28.74 establish and describe the two types of financial assistance under this subchapter: (1) the Texas Rural Community Loans; and (2) the Agriculture and Community Economic Development Loans.

Section 28.75 delineates the applicant and project eligibility requirements.

Section 28.76 describes the application requirements and processes.

Sections 28.77 and 28.78 identify the evaluation criteria and the contents of a qualified application.

Section 28.79 lays out the criteria for approval of a commitment.

Section 28.80 provides the general terms and conditions of a commitment by the Authority.

Section 28.83 describes collateral administration.

Sections 28.84 and 28.85 explain circumstances which result in default and default procedures.

Sections 28.86 and 28.87 define prohibited commitments and ineligible persons under this subchapter.

The Department has determined that the proposal will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

Karen Reichek, the Department's Administrator for Trade and Business Development has determined that for each year of the first five years the proposed rules are in effect, there will be no fiscal impact to state government as a result of implementing the proposed rules. The Authority anticipates that it will be able to recover the costs of the program through fees and debt service

payments associated with financial assistance provided. For each year of the first five years the proposed rules are in effect, Ms. Reichek does not expect any costs to local governments unless the local government directly participates in the program and incurs interest costs and/or fees associated with the direct financial assistance.

Ms. Reichek has also determined that for each year of the first five years the proposed rules are in effect, the anticipated public benefit as a result of administering the proposed rules will be to provide access to needed finance for rural communities and organizations to address the economic development priorities and to support agricultural development throughout the state. Since the program is voluntary, any costs incurred will be voluntary, and will depend on various factors, including the size of the operation. Ms. Reichek does not anticipate that there will be an adverse fiscal impact on small and micro-businesses or rural communities as a result of the implementation of the proposed rules.

Ms. Reichek has also provided the following information related to the government growth impact statement, as required pursuant to Texas Government Code, §2001.0221. As a result of implementing the proposal, for the first five years the proposed rules are in effect:

1. the proposed rules create a government program;
2. one additional full time employee position may be created, and no existing Department employee positions will be eliminated;
3. there will be no increase or decrease in future legislative appropriations to the Department associated with the creation of new employee positions, or the regulation and administration of the Rural Economic Development Finance program;
4. the proposed rules do not require an increase or decrease in fees paid to the Department, although there will be fees associated with voluntary participation in the program;
5. the proposed rules will create a new regulation;
6. the proposed rules will not repeal an existing regulation;
7. the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and
8. the proposed rules will positively affect this state's economy.

Written comments on the proposal may be submitted to Ms. Karen Reichek, Administrator for Trade and Business Development, Texas Department of Agriculture at the following address: Karen Reichek, Administrator for Trade and Business Development, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by email to: Karen.Reichek@TexasAgriculture.gov. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new rules are proposed pursuant to §12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and §§58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce by-laws, rules, and procedures in order to carry out its functions under Chapter 58 of the Code.

The code affected by the proposal is Texas Agriculture Code, Chapters 12 and 58.

§28.70. Authority.

The Texas Agricultural Finance Authority (the Authority) is authorized by §58.021 of the Texas Agriculture Code and by Article III, §49-f(g) of the Texas Constitution to design and implement programs to provide financial assistance to eligible agricultural businesses and other rural economic development projects and to issue general obligation bonds in the maximum principal amount of \$200 million outstanding at any one time for such programs. The proceeds of such bonds are required to be deposited in the Texas Agricultural Fund and may be used for the purposes provided by Article III, §49-i of the Texas Constitution and for other rural economic development programs. Proceeds of the bonds are to be administered in the same manner that proceeds of bonds issued under Article III, §49-i of the Texas Constitution are administered. Section 58.041 of the Texas Agriculture Code grants Texas Public Finance Authority the exclusive authority to act on behalf of the Authority in issuing debt instruments authorized to be issued by the Authority.

§28.71. Purpose.

The purpose of the Rural Economic Development Finance Program (Program) is to provide financial assistance to eligible entities including agricultural businesses and other rural economic development projects. It is the policy of the Board of Directors of the Authority to provide programs for providing financial assistance to eligible entities that the board considers to present a reasonable risk and have a sufficient likelihood of repayment. This subchapter establishes standards of eligibility and the application procedures for the Program.

§28.72. Definitions.

In addition to the definitions set forth in Texas Agriculture Code, §58.002 and §28.2 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--Any entity recognized by state law to conduct business in the state of Texas including for-profit and non-profit entities, political subdivision, or economic development corporation submitting an application with the Authority for a financial assistance under this subchapter.

(2) Commitment--Any form of financial assistance provided to an applicant as approved by the board, including, but not limited to, a guaranty, a direct loan, a participation commitment, an anticipation note, or a conduit issuance for a political subdivision or any other eligible entity as defined by this subchapter.

(3) Economic Development Corporation (EDC)--An entity created pursuant to the Development Corporation Act of 1979, which gives cities the ability to raise funds and finance economic and community development efforts through the creation of economic development corporations (EDCs). Chapters 501, 504 and 505 of the Local Government Code define the scope of EDCs. A Type A EDC is governed by Chapter 504; and a Type B EDC is governed by Chapter 505.

(4) Eligible application--A completed application, including all application fees, documents, and information required by the Authority and submitted by the lender or applicant for a project, that is consistent with the purpose of agricultural and rural economic development and meets the terms and benchmarks defined by the Authority's Credit Policy and Procedures. The Department, the Authority, or the Authority's representative will review the application and issue an approval or denial.

(5) For-profit entity--An organization that is registered in the state of Texas and has a principal place of business in Texas, which operates with the intention of making a profit or whose efforts are made to obtain a profit.

(6) Interest rate--The interest rate approved by the Authority for an approved commitment.

(7) Lender--A lending institution, including a bank, trust company, banking association, savings bank, mortgage company, investment banker, credit union, Community Development Financial Institution, or any affiliate of those entities, and any other financial institution that customarily provides financing for agricultural businesses or rural economic development loans, or any affiliate of such institution.

(8) Non-profit entity--A local, community or regional organization that was formed and conducts its affairs to benefit the public or to assist other individuals, groups or causes, and can demonstrate its non-profit status by providing one of the following:

(A) A copy of the Internal Revenue Service ruling, indicating tax-exempt status;

(B) A copy of the Texas secretary of state charter indicating non-profit status; or

(C) Documentation of its status as an educational institution recognized by the State of Texas.

(9) Political subdivision--A county, municipality, special district, school district, junior college district, housing authority, or other political subdivision of this state as defined by Chapter 172 of the Local Government Code.

(10) Program--Rural Economic Development Finance Program.

(11) Project--An enterprise or project, which would further agricultural business or the economic development of a rural area.

(12) Recipient--An entity approved by the Authority or its designee to receive a commitment outlined in this subchapter.

(13) Rural area--A rural area means an area which is predominately rural in character; an unincorporated area or a city with a population under 50,000; or a county with a population under 200,000.

(14) Special purpose district--A political subdivision of Texas with geographic boundaries that define the subdivision's territorial jurisdiction, as described in Chapter 403, Texas Government Code.

§28.73. Texas Rural Community Loan.

(a) Purpose. The purpose of the Texas Rural Community Loan is to provide financial assistance to political subdivisions and economic development corporations and allow the loans to be secured with sales tax, utility fees, ad valorem taxes, or other revenues or collateral to fund eligible projects.

(b) Eligible Entities. Rural municipalities, counties, special purpose districts, economic development corporations, and political subdivisions supporting agricultural businesses or furthering rural economic development may apply for loan funds under this section.

(c) Use of Funds. Loans may be used for eligible real estate purchases, building construction, site improvements, equipment, water and wastewater systems, municipal infrastructure projects, and any other eligible use that can be identified to further in the economic development of the rural area and/or support agricultural businesses.

(d) Loan Terms. The loan terms will be determined by the board and as defined by this subchapter.

(e) Collateral. The collateral and security requirements will be determined by the board and as defined by this subchapter.

§28.74. Agriculture and Community Economic Development Loan.

(a) Purpose. The purpose of the Agriculture and Community Economic Development Loan is to provide financial assistance to Texas-based private entities via an approved participating lender.

(b) Eligible Entities. A private for-profit or non-profit entity authorized to do business in the state of Texas, significantly impacting the agricultural industry and/or furthering rural economic development in Texas may apply for loan funds under this section.

(c) Use of Funds. Loans may be used for real estate purchases, building construction, site improvements, equipment, and any other uses that can be identified to positively impact the agricultural industry and/or improve or assist in the economic development of the rural area.

(d) Loan Terms. The loan terms will be determined by the lender, the board and as defined by this subchapter.

(e) Collateral. The collateral and security requirements will be determined by the board and the participating lender.

§28.75. Applicant and Minimum Project Eligibility Requirements.

(a) Applicant. An applicant is eligible for a loan from the Authority if it meets the following criteria:

(1) The applicant is a legal entity under the laws of the United States of America and the State of Texas;

(2) The applicant has a principal place of business in the state;

(3) The applicant is an eligible entity pursuant to §§28.73 or 28.74 of this subchapter (relating to Texas Rural Community Loan and Agriculture and Community Economic Development Loan);

(4) The applicant submits an eligible application to the Authority;

(5) If applicable, the lender submits required documentation to the Authority;

(6) The applicant is not considered an ineligible person as defined by §28.87 of this subchapter (relating to Ineligible Persons);

(7) The applicant has complied with state law and Authority rules; and

(8) The applicant meets the criteria and guidelines in the Authority's credit policy.

(b) Project. The project is an eligible project if it provides significant benefits to agricultural development and/or rural economic development and is not considered an ineligible commitment as defined by §28.86 of this subchapter (relating to Prohibited Commitments).

(c) Project costs. Any proceeds provided by the Authority may be used only to finance expenditures incurred in connection with the development of the project as identified in the budget filed with the application and approved by the board.

(d) Ineligible project costs. Any expenditure that is not identified in the approved budget filed with the application, or is otherwise prevented by regulation or statute, is not eligible for financing hereunder, unless the applicant provides evidence accepted by the board that such expenditure is necessary for completion of the project, complies with regulation and statute, and will not increase the commitment approved.

§28.76. Application Filing Requirements and Application Review Processes.

(a) Application forms. An applicant or participating lender seeking a commitment from the Authority must use the application forms provided by the Authority and the Department.

(b) Submission of a qualified application. Applicants are required to submit the application material to Department staff for presentation to the board.

(c) Staff Review. Staff will review all applications per evaluation criteria included in §28.77 of this subchapter (relating to Evaluation Criteria).

(d) Board review. Staff will submit a report and recommendation on each qualified application to the board as defined by the Credit Policy and Procedures. The board may, in its discretion, recommend the imposition of additional conditions and requirements in the approval of an eligible application.

(e) Notification of approval. Upon conditional approval of the qualified application by the board, staff will notify the applicant or lender in writing identifying the terms and conditions of the commitment provided.

(f) Denial of eligible application. If the eligible application is denied by the board, staff will notify the applicant in writing identifying the reasons for denial. Applicants who have been denied may re-apply to the program.

(g) Reporting to the board. Staff shall report to the board at each board meeting the status of all outstanding loans.

§28.77. Evaluation Criteria.

In evaluating applications for financial assistance under this subchapter, the board and staff shall consider at minimum:

- (1) The anticipated benefits arising from the financial assistance to the applicant, including both the potential impact on agricultural development and rural economic development;
- (2) The qualifications and eligibility of the applicant;
- (3) The applicant's ability to repay the financial obligation;
- (4) The demonstrated level of need for the Authority's financial assistance;
- (5) The funding needed for continued development;
- (6) The collateral offered by the applicant; and
- (7) The present involvement and support of local organizations.

§28.78. Contents of Eligible Application.

Required information. The eligible application must set forth the information necessary for the determination to provide a commitment by the Authority or the Authority's designee and will include all that is outlined and required in the application and at minimum:

- (1) Applicant's name, address, email and telephone number;
- (2) Applicant's representative;
- (3) Lender's name, address, email and telephone number, if applicable;
- (4) Applicant's ownership structure and names of key management, principals, board members, principal investors and percentage of ownership, if applicable;
- (5) Detailed statement of project benefit and/or economic impact;
- (6) Articles of incorporation and bylaws, or other founding documents, certificate of good standing with the secretary of state, or other instruments that establish or describe the legal operation or structure of the applicant and/or the benefitting business, if applicable; and

(7) Copies of Internal Revenue Service applications and approvals for non-profit status, if applicable.

§28.79. General Criteria for Approval of Financial Assistance.

(a) Capital contribution. The Authority shall also consider the applicant's equity contribution in the project and whether the applicant has secured additional financial assistance.

(b) Reasonable risk. There must be reasonable assurance, in the judgment of the Authority, that the commitment provided can and will be repaid according to its terms. In making this judgment the Authority may consider the following:

- (1) Evidence of the manner, means, and security of payment by the applicant;
- (2) Projected cash flow of the applicant;
- (3) Firm commitments from other independent and responsible financial sources for all other funds in excess of the Authority's commitment;
- (4) Collateral and other sources of guarantees or insurance securing the Authority's commitment;
- (5) Credit history and financial condition of the applicant;
- (6) Historical financial information of applicant;
- (7) The applicant's management; and
- (8) Eligibility of lender, if applicable. The lender originating an application for the program must have a continuing ability to evaluate, perform and service the loan; and make the necessary reports as identified in the rules of the program. The lender must agree to exercise due diligence in the servicing, maintenance, review and evaluation of performance without regard to the existence of participation by the Authority or any other limitation of risk. The Authority reserves the right to refuse to enter into an agreement with lenders which, in the judgment of the Authority, do not have the ability to appropriately make and service the loan.

(c) Credit Policy. The Credit Policy and Procedures established by the Authority represents the minimum requirements for a commitment made by the Authority.

§28.80. General Terms and Conditions of the Authority's Commitment.

(a) Permissible use of the commitment. The commitment is to be used to finance the project or purpose identified in the approved application.

(b) Interest. The interest rate shall be the rate approved by the Authority and/or lender, if applicable.

(c) Fees. The Authority may approve fees, as it deems appropriate, on a case-by-case basis. An application fee may be required at the time of application.

(d) Security. Loans must be secured by collateral of a type, amount, and value which, when considered with other criteria, ensures the full repayment of the financial assistance and the solvency of the Program.

(e) Maturity. The maturity of the commitment may not exceed thirty years, or the useful life of the collateral, whichever is less. The maturity shall be negotiated between the Authority, applicant, and participating lender, if applicable. For commitments secured by revenues, including sales tax, the amortization period is determined by the Debt Service Coverage Ratio and with consideration given to prior volatility in tax/revenue collections. Financing terms are set forth in the Credit Policy and Procedures.

(f) Reporting requirements to the Authority for a commitment provided by the Authority may include:

(1) Annual financial audit, and annual employment information, when applicable;

(2) Quarterly reports summarizing project status and any anticipated challenges in a format provided by the Authority; and

(3) If necessary, the Authority may request other reports or documentation reasonably necessary for an assessment of the recipient's compliance with the program.

(g) Additional reporting requirements for participation loans provided by the lender to the Authority at minimum include:

(1) Notification if the loan is placed on a watch list;

(2) Quarterly reports indicating loan balance, repayment status and any significant change to the recipient's credit and/or financial position in the format requested by the Authority;

(3) Notification in the event of any breaches or defaults in the terms, conditions, or covenants of the note, loan agreement or other loan documents; and

(4) If necessary, the Authority may request other reports or documentation reasonably necessary for an assessment of the recipient's compliance with the program, or ability to comply with the program in the future.

(h) Lender Agreement. The Lender Agreement supplied by the Authority shall be evidence of the terms agreed upon by the Authority, recipient, and lender, if applicable, including loan administration, loan repayment, and any applicable terms, fees, and interest rate requirements.

§28.83. Collateral Administration.

(a) Except as otherwise provided by state law, by these rules or by resolution of the board, the staff, with approval of the commissioner of agriculture, the deputy commissioner of agriculture, or the official of the department designated by the commissioner of agriculture, shall have the authority to act on behalf of the Authority, without specific board approval, in regard to the collection, settlement and enforcement of each and every commitment under the program. Such authority shall include, without limitation, the actions required to be taken by the Authority under any loan agreement, any participation agreement and any other agreement entered into by the Authority concerning commitments provided by the Authority.

(b) The Authority shall make efforts to perfect and preserve any security interest in collateral or other security pledge, and exercise any and all remedies available in the event of a default including possession, repossession and liquidation as appropriate to recover losses and other costs, including any attorneys' fees and court costs.

(c) Nothing in this section shall prevent the staff or the commissioner of agriculture, the deputy commissioner of agriculture, or the official of the department designated by the commissioner of agriculture from submitting any matter to the board for its consideration and approval.

§28.84. Default by Recipient.

A recipient may be declared in default if one or more of the following conditions exists as determined by the Authority and/or lender, whichever is applicable, and any other reasons that may be identified in the closing documents of the loan:

(1) The recipient does not pay a scheduled principal or interest payment;

(2) The recipient fails to comply with any condition, covenant, obligation, provision, requirement, or term of the note, loan agreement, or instrument securing the loan;

(3) The recipient fails personally to complete the project as described in the application;

(4) The recipient fails to provide the lender with financial statements and any other documents as required by these rules; or

(5) The recipient fails to meet the project goals defined in the application.

§28.85. Default Procedures.

The Authority will define default procedures in the Credit Policy and Procedures.

§28.86. Prohibited Commitments.

Prohibited commitments under the Rural Economic Development Finance Program include the following:

(1) Commitments for lobbying activities, as such activities are defined under state or federal law;

(2) Commitments involving the acquisition or holding of passive investments, such as commercial real estate ownership;

(3) Commitments for the repayment of delinquent federal or state income taxes;

(4) Commitments for the repayment of payroll or sales taxes, or other taxes required to be held in trust or escrow;

(5) Commitments that are, or are made in a manner that is, prohibited by federal or state laws that pertain to the investment of public money; and

(6) Commitments to an entity that a member of the Authority may have an interest in or a commitment to an entity that could present a conflict of interest. A conflict of interest occurs when a person serves or represents two distinct entities and must choose between two conflicting interests or loyalties. Generally, when an individual's official duties clash with the individual's personal interests, a conflict of interest may occur. Examples include nepotism, personal or professional relationships, direct or indirect financial interests, or business or professional activity, including incurring an obligation or receiving a benefit of any nature, that is in substantial conflict with the proper discharge of the officer or employee's duties in the public interest.

§28.87. Ineligible Persons.

The following persons or entities are ineligible to receive financial assistance under the Rural Economic Development Finance Program:

(1) A principal, executive officer, director, shareholder, member, or partner of a recipient, or any subsidiary, parent, affiliate or related entity or person of a recipient;

(2) A member of the immediate family of a principal, executive officer, director, shareholder, member, or partner of a recipient;

(3) A related interest of a principal, executive officer, director, shareholder, member, or partner of recipient;

(4) A person if the investment would result in violation of Chapter 176 of the Texas Local Government Code;

(5) A person (or any principal executive officer, director, shareholder, or member) who has been convicted of a felony;

(6) A person (or any principal, executive officer, director, shareholder, or member) that has demonstrated a pattern or practice of defalcation of accounts or funds;

(7) A person (or any principal executive officer, director, shareholder, or member) who has mis-certified its status as a minority and/or woman owned business enterprise;

(8) A person (or any principal executive officer, director, shareholder, or member) who has been debarred from participating in other federal or state programs;

(9) A person (or any principal executive officer, director, shareholder, or member) that has been convicted of, or subjected to a civil judgment for fraud;

(10) A person (or any principal executive officer, director, shareholder, or member) who has been convicted of, or subjected to a civil judgment for, federal or state antitrust law violations;

(11) A person (or any principal executive officer, director, shareholder, or member) who has been convicted of a criminal offense relating to embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or conspiracy to do the same;

(12) A person (or any principal executive officer, director, shareholder, or member) who has been convicted of a criminal offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same;

(13) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as stock investments, commodities futures, and currency trading;

(14) A business that earns more than half of its annual net revenue from lending activities unless the business is a Community Development Financial Institution;

(15) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants, or a multi-level marketing organization or business;

(16) A business engaged in activities that are prohibited by federal or Texas law; and

(17) A business engaged in gambling enterprises, with the sole exception of a retail grocery or convenience store business that earns less than 33% of its annual net revenue from lottery sales.

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

Filed with the Office of the Secretary of State on March 7, 2022.

TRD-202200791

Skyler Shafer

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 936-9360



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 101. ASSESSMENT

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING IMPLEMENTATION OF THE ACADEMIC CONTENT AREAS TESTING PROGRAM

DIVISION 1. IMPLEMENTATION OF ASSESSMENT INSTRUMENTS

19 TAC §§101.3011, 101.3012, 101.3014

The Texas Education Agency (TEA) proposes amendments to §§101.3011, 101.3012, and 101.3014, concerning implementation of assessment instruments in the academic content areas testing program. The proposed amendments would align the rules with House Bill (HB) 4545, 87th Texas Legislature, Regular Session, 2021, which eliminated requirements associated with the Student Success Initiative (SSI), including the parental notification and reporting requirements, and the postsecondary readiness assessments required in Texas Education Code (TEC), §39.0238.

BACKGROUND INFORMATION AND JUSTIFICATION: With changes to the TEC introduced by HB 4545, 87th Texas Legislature, Regular Session, 2021, TEA determined that conforming amendments to its assessment rules needed to be made.

Section 101.3011, Implementation and Administration of Academic Content Area Assessment Instruments, cites the specific testing requirements for different groups of students. The post-secondary readiness assessments that were required in TEC, §39.0238, were eliminated by HB 4545 and, thus, would be removed from the rule. The language of subsection (a)(4) would be amended to clarify that assessments not required to be administered to a student could not be used to deny a student promotion.

Section 101.3012, Parent Notification, outlines parental notification requirements for graduation and grade advancement assessments. As the SSI grade advancement requirements were eliminated by HB 4545, subsection (b) of the rule would be removed.

Section 101.3014, Scoring and Reporting, indicates the scoring and reporting requirements for certain assessments. Subsection (d) of the rule would be removed, as it states the reporting requirements for SSI grade advancement assessments. Subsection (e), relettered as new subsection (d), would be amended to clarify the start date for the scoring timeline based on the move away from paper assessments under TEC, §39.023.

Finally, technical edits related to statutory references would be made to ensure consistency across administrative rules.

FISCAL IMPACT: Lily Laux, deputy commissioner for school programs, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would limit existing regulations by removing the notice and reporting requirements associated with testing requirements for grade advancement, thereby decreasing the number of individuals subject to the rules' applicability.

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

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Laux has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be alignment of the rules with recent legislation and, potentially, time saved for individuals who are no longer subject to notice and reporting requirements. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins March 18, 2022, and ends April 18, 2022. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 18, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendments are proposed under House Bill (HB) 4545, 87th Texas Legislature, Regular Session, 2021, which repealed Texas Education Code (TEC), §28.0211(d), which required districts to notify the student's parent or guardian of the student's failure to perform satisfactorily on the assessment, the accelerated instruction program to which the student is assigned, and the possibility that the student might be retained at the same grade level for the next school year; TEC, §28.0211(o) and (p), which provide that accelerated students in Grades 5 and 8 are not required to take their grade-level assessment and may not be denied promotion based on their performance on an assessment not required

to be administered to the student; TEC, §39.023(a), (a-2), (b), (c), and (l), which specify the required testing for students in Grades 3-8, accelerated students, students who are significantly cognitively disabled, students enrolled in high school courses, and students whose primary language is Spanish, respectively; TEC, §39.023(c-5), which requires a student's performance on an assessment be included in the student's academic achievement record. Subsection (h) requires the agency to return assessment results to districts within 21 days; TEC, §39.02315, which requires separate reporting of assessment results for out-of-state transfer students; TEC, §39.025(a), (f), and (g), which specify the testing requirements to earn a high school diploma, as well as the required notice of these requirements; TEC, §39.030, which specifies the confidentiality and reporting requirements associated with assessment results; and The Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, §1111(b)(2)(C), which allows states to exempt Grade 8 students from their grade-level assessment and instead take and use a score from the state's end-of-course assessment for accountability purposes as long as a more advanced assessment is taken to fulfill accountability requirements in high school.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§28.0211, as amended by House Bill 4545, 87th Texas Legislature, Regular Session, 2021, 39.023, 39.02315, 39.025, and 39.030; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, §1111(b)(2)(C).

§101.3011. Implementation and Administration of Academic Content Area Assessment Instruments.

(a) The Texas Education Agency (TEA) shall administer each assessment instrument under [the] Texas Education Code (TEC), §39.023(a), (b), (c), and (l), [and §39.0238,] in accordance with the rules governing the assessment program set forth in Chapter 101 of this title (relating to Assessment).

(1) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student shall not be administered a grade-level assessment if the student:

(A) is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under [the] TEC, §39.023(a), that aligns with the curriculum for that course or subject within the same content area; or

(B) is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an end-of-course assessment instrument developed under [the] TEC, §39.023(c), that aligns with the curriculum for that course or subject within the same content area.

(2) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student who is accelerated in mathematics, reading/language arts, or science and on schedule to complete the high school end-of-course assessments in that same content area prior to high school shall be assessed at least once in high school with the ACT® or the SAT®.

(3) A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is on schedule to complete instruction in the entire curriculum for that subject during the semester the assessment is administered.

(4) As specified in [the] TEC, §28.0211(p), a Grade 5 or 8 student described by paragraph (1)(A) or (B) of this subsection may not

be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student [above the student's grade level].

(b) The TEA shall administer alternative assessment instruments under [the] TEC, §39.023(b), that correspond to:

(1) the assessment instruments required under [the] TEC, §39.023(a); and

(2) the following assessment instruments required under [the] TEC, §39.023(c): English I, English II, Algebra I, biology, and U.S. history.

(c) Test administration procedures shall be established by the TEA in the applicable test administration materials. A school district, an open-enrollment charter school, or a private school administering the tests required by [the] TEC, Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials.

(d) In accordance with [the] TEC, §39.023(a)(5) [§39.023(a)(6)], the TEA shall administer to students assessments in any other subject and grade required by federal law.

§101.3012. *Parent Notification.*

[(a)] The superintendent of each school district and chief administrative officer of each charter school shall be responsible for the following in order to provide timely and full notification of graduation requirements:

(1) notifying each student and his or her parent or guardian in writing no later than the beginning of the student's seventh-grade year of the testing requirements for graduation;

(2) notifying each student in Grades 7-12 new to the school district or charter school and his or her parent or guardian in writing of the testing requirements for graduation; and

(3) notifying each student who shall take the tests required for graduation and his or her parent or guardian, as well as out-of-school individuals, of the dates, times, and locations of testing.

[(b) The superintendent of each school district and chief administrative officer of each charter school shall be responsible for the following in order to provide timely and full notification of testing requirements for advancement at certain grades:]

[(1) notifying each student and his or her parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in a public school, of the testing requirements for grade advancement as specified in the Texas Education Code, §28.0211;]

[(2) notifying each student in Grades 1-8 who is new to the school district or charter school and his or her parent or guardian in writing of the testing requirements for grade advancement; and]

[(3) notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.]

§101.3014. *Scoring and Reporting.*

(a) The superintendent of a school district or chief administrative officer of each charter school shall accurately report all test results as required by [the] Texas Education Code (TEC), §39.030, with appropriate interpretations, to the school district board of trustees according to the schedule in the applicable test administration materials.

(b) A school district, charter school, or private school that administers criterion-referenced tests under [the] TEC, Chapter 39, Subchapter B, shall notify each of its students, his or her parent or guardian,

and his or her teacher for that subject of test results, observing confidentiality requirements in [the] TEC, §39.030.

(c) All test results shall be included in each student's academic record and shall be furnished for each student transferring to another school district, charter school, or private school.

[(d) The scoring contractor will provide school districts with the results of the machine-scorable assessments administered as required by the TEC, §28.0211, within a ten-day period following the receipt of the test materials from the school district or charter school.]

(d) [(e)] The scoring contractor will provide school districts with the results of the machine-scorable assessments administered as required by [the] TEC, §39.023, within a 21-day period following the close of the testing window [receipt of the test materials from the school district or charter school]. Upon receipt of the assessment results from the agency's test contractor, a school district or charter school shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year.

(c) [(f)] A school district, charter school, or private school that administers criterion-referenced tests under [the] TEC, Chapter 39, Subchapter B, shall accurately report to the Texas Education Agency (TEA) whether that student transferred into the school or district from out of state during the current school year.

(1) Procedures for the reporting of out-of-state-transfer students to the TEA shall be established by the TEA in the applicable test administration materials. A school district, an open-enrollment charter school, or a private school administering the tests required by [the] TEC, Chapter 39, Subchapter B, shall follow procedures specified in those test administration materials.

(2) The assessment results of the out-of-state transfer students shall be reported separately to school districts from the results of the district's other students in addition to the current reporting of assessment results for all students and other student subsets.

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

Filed with the Office of the Secretary of State on March 7, 2022.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 17, 2022

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



PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION SUBCHAPTER C. ASSESSMENT OF EDUCATORS

19 TAC §230.21

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §230.21, concerning educator assessment. The proposed amendment

would specify the timeline by which a passing score on a certification exam can be used for certification purposes; would update the figure specifying the required pedagogy certification exams for issuance of the probationary or standard certificate; and would remove certificate categories that are no longer operational.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 230 specify the testing requirements for initial certification and for additional certificates based on examination. These requirements ensure educators are qualified and professionally prepared to instruct the schoolchildren of Texas.

At the July 2019 SBEC meeting, the SBEC adopted the edTPA performance assessment pilot as a portfolio-based assessment to gather data from the assessment on Texas candidates. From SBEC discussions in 2018, the goal of moving to a performance assessment was to improve the quality and consistency of newly certified teachers. This proposal provides the SBEC the opportunity to transition carefully from the edTPA pilot to full implementation. Given the feedback and input from the SBEC and stakeholders, the proposed rule text will allow for a three-phased approach over the next three academic years.

At the February 2022 SBEC meeting, Texas Education Agency (TEA) staff shared additional information regarding the edTPA implementation plan and addressed questions posed by members of the SBEC and stakeholders at the December 2021 meeting.

Following is a description of proposed amendments to Chapter 230, Subchapter C, §230.21. The changes also include technical edits to §230.21(a)(3)(A) to update cross references.

Subchapter C, §230.21. Assessment of Educators

Proposed Amendment to §230.21(e)

The proposed amendment to §230.21(e) would specify that for issuance of a probationary or standard certificate in more than one certification category, a candidate must pass the appropriate pedagogy examination under Figure 19 TAC §230.21(e) for any one of the certificates sought. This change would allow for educators to be issued probationary or standard certificates in more than one certification category by passing only one edTPA certification exam. The current rule requires educators to take each edTPA certification exam for the aligned certificate, which means that educators pursuing certification in two certification categories are required to take two edTPA certification exams. This proposed change would align with feedback from educator preparation programs (EPPs) participating in the edTPA pilot, who expressed concern about the expense and duplicative effort caused by the current rule.

The proposed amendment to §230.21(e) would also update the testing requirements for educator certification indicated in Figure: 19 TAC §230.21(e). A summary of the proposed changes is included below.

Update to Figure Titles

The proposed amendment to Figure: 19 TAC §230.21(e) would update the column title from "Pedagogical Requirement(s)" to "Required Pedagogy Test(s)" to align the language of the title to the other test column in the figure, "Required Content Pedagogy Test(s)."

Operationalize edTPA as the Pedagogy Exam Requirement

The proposed amendment to Figure: 19 TAC §230.21(e) would add a last operational date of August 31, 2023 for the 160 Pedagogy and Professional Responsibilities (PPR) EC-12 TExES exam. The addition of the last operational date of August 31, 2023 for the PPR exam would allow for a one-year overlap in 2022-2023 academic year (AY), during which EPPs could choose to approve candidates to take either the PPR or appropriate edTPA exam to fulfill their pedagogy exam requirement. The intent of the one-year overlap would be to support EPPs and candidates in the transition to the new edTPA exams by allowing all EPPs one additional year to pilot edTPA implementation within their programs. The 160 PPR EC-12 exam would retire as of September 1, 2023.

The proposed amendment to Figure: 19 TAC §230.21(e) would also strike "pilot exam" for all edTPA exams to indicate that the exams would no longer be considered pilot exams under §230.1(17) and would be fully operational.

These proposed changes would implement edTPA as the required pedagogy exam beginning in the 2023-2024 AY year.

EPP and Candidate Choice in edTPA Exams

The proposed amendment to §230.21(e) would add the 2151 edTPA: Career and Technical Education edTPA exam as a pedagogy exam option for the following certificates: Technology Education: Grades 6-12; Family and Consumer Sciences, Composite: Grades 6-12; Human Development and Family Studies: Grades 8-12; Hospitality, Nutrition, and Food Sciences: Grades 8-12; Agriculture, Food, and Natural Resources: Grades 6-12; Business and Finance: Grades 6-12; and Marketing: Grades 6-12.

The addition of the edTPA: Career and Technical Education exam for the indicated certification categories would provide flexibility for EPPs and candidates to select the edTPA exam that best aligns with their given instructional context.

The proposed amendment to §230.21(e) would also add the following eight edTPA exams as pedagogy exam options for the Core Subjects with Science of Teaching Reading (STR): EC-6 certificate: 2001 edTPA Elementary Literacy; 2002 edTPA Elementary Mathematics; 2149 edTPA Elementary Education: Mathematics with Literacy Task 4; 2014 edTPA: Early Childhood Education; 2016 edTPA: Middle Childhood Mathematics; 2017 edTPA: Middle Childhood Science; 2018 edTPA: Middle Childhood English Language Arts; and 2019 edTPA: Middle Childhood History/Social Studies.

The addition of the indicated edTPA exams for certification in Core Subjects with STR: EC-6 would provide flexibility for EPPs and candidates to select the edTPA exam that best aligns with their given instructional context. The current required edTPA exam for Core Subjects with STR: EC-6 is the Elementary Education: Literacy with Task 4 Mathematics. The new proposed rule would allow for EPPs and candidates to choose from eight additional exams based on their instructional context. For example, a candidate teaching in a fourth-grade science classroom would have the option to take the edTPA: Middle Childhood Science exam. This change is informed by feedback from EPPs participating in the edTPA pilot, who indicated that in some circumstances the requirements of the edTPA Elementary Education: Literacy with Mathematics Task 4 were challenging to meet given the candidate's classroom setting. This change would allow for flexible options for strong alignment between classroom setting and edTPA exam.

In addition, the options would also allow candidates to complete a 15-rubric exam (e.g., edTPA Elementary Literacy) versus the currently required 18-rubric exam (edTPA Elementary Education: Literacy with Mathematics Task 4). This would reduce overall the number of tasks that elementary candidates would be required to complete in the submission of their edTPA portfolio.

Remove Retired Certificates

The proposed amendment to §230.21(e) would strike the following four retired certificates and their associated exam requirements: Core Subjects: Early Childhood-Grade 6; Core Subjects: Grades 4-8; English Language Arts and Reading: Grades 4-8; and English Language Arts and Reading/Social Studies: Grades 4-8. Striking the four certificates listed would remove them from the testing figure. Each of the four certificates was replaced by the new certificate name including "with the Science of Teaching Reading" and the required examinations in October 2020. The intent of the change would be to streamline the testing figure for readability.

Update the Exam Requirements for Health Science: Grades 6-12 and Junior Reserve Officer Training Corps (JROTC): Grades 6-12

The proposed amendment to §230.21(e) would add the 2151 edTPA: Career and Technical Education exam as a pedagogy exam for the Health Science: Grades 6-12 certificate, which would implement an edTPA exam requirement for the certification category.

The proposed amendment would also update the content pedagogy exam requirement for the Junior Reserve Officer Training Corps (JROTC): Grades 6-12 certificate to include the 370 Pedagogy and Professional Responsibilities (PPR) for Trade and Industrial Education 6-12 TExES exam. The addition of the 370 PPR for Trade and Industrial Education 6-12 exam as a pedagogy exam requirement for the JROTC: 6-12 certificate would allow for the continued administration of an aligned pedagogy exam after the last operational date of the 160 PPR exam. There is no specific edTPA exam for JROTC certification, but the requirements for the certification field align with the requirements for Trade and Industrial Education fields, in that these candidates can attain certification based on a certificate issued by one of the military branches. The 370 PPR for Trade and Industrial Education 6-12 exam would therefore be the most appropriately aligned pedagogy exam for JROTC.

Proposed Amendment to §230.21(f)

The proposed amendment to §230.21(f) would clarify that a passing score on a certification exam could be used for certification recommendation up to one year after the last operational date for the exam. This amendment would provide clarity to the field on the last date that an educator may be recommended for certification used a passing score on an exam that is no longer operational.

Update on edTPA Implementation Plan

At the December 2021 SBEC meeting, TEA staff shared a draft edTPA implementation plan, indicating a start date of September 1, 2022, with a three-year phased-in approach. The draft plan was as follows: 2022-2023 AY of Non-Consequential Implementation: No official cut score but all first-time test taker candidates seeking initial certification would be required to complete the edTPA assessment as the pedagogy exam requirement; 2023-2024 AY of Non-Consequential Implementation: No official cut score but all candidates seeking initial certification

would be required to complete the edTPA assessment as the pedagogy exam requirement; and 2024-2025 AY of Consequential Implementation: An official cut score would be implemented during this period. Candidates would need to meet or exceed the given cut score to pass the exam.

As a result of SBEC member and stakeholder questions and feedback, staff have updated the proposed timeline to implement the edTPA requirement. The updates are specific to the 2022-2023 AY, which are as follows: 1) edTPA would be an option as an assessment in addition to the PPR: EC-12 exam for the demonstration of pedagogical knowledge and skills for the majority of initial educator certification categories; and 2) clarification that EPPs would not be held accountable for candidate performance on the edTPA in the program's Accountability System for Educator Preparation (ASEP) rating. Section 229.4, Determination of Accreditation Status, currently specifies that EPPs are held accountable for candidate performance on PPR and non-PPR exams. Therefore, programs would not be held accountable for edTPA performance. Future rulemaking would be required to implement edTPA in §229.4 as a component of an EPP's ASEP rating. The updated implementation plan reflects that this rulemaking would be effective for the 2023-2024 AY onward.

These updates would allow EPPs the flexibility to implement or scale the edTPA requirement in a manner that works best for the program, including potentially piloting the edTPA requirement with some, but not all, certification categories or routes, in this first year. The updates would also provide time for EPPs to further engage in learning opportunities (e.g., attend targeted trainings and webinars; examine candidate performance data; partner with programs who participated in the previous, three-year edTPA pilot to identify and implement best practices) to inform and support the subsequent phased-in years of edTPA implementation.

The revised draft timeline and implementation plan are reflected in the chart below

Figure: 19 TAC Chapter 230 - Preamble

FISCAL IMPACT: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, has determined there is an anticipated fiscal impact on individuals required to comply with the proposal during the first five years the rule is in effect. When required for certification, the edTPA exam will increase the cost for the pedagogy certification exam by \$195 per examination. The edTPA exam will be optional in Fiscal Year (FY) 2023, so no individuals will be required to comply or to incur increased cost during the first year the rules are in effect. In FY 2024 onward, the proposed rules will require all candidates to take the edTPA exam. Based on 2020-2021 first-attempt testing data, TEA estimates administering 24,466 edTPA exams annually in FY 2024 onward, leading to a total additional cost to candidates of \$4,770,870 annually, and a total cost of \$19,083,480 to candidates over the first five years the rule is in effect. There is no additional fiscal impact on state or local government to comply with the proposal. EPPs may incur costs in implementing the edTPA exam requirement, though those costs would be locally determined, as there are no required costs associated with EPP implementation of the exam.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal does impose a cost on regulated persons, another state agency, a special district, or a local government, and, therefore, is subject to TGC, §2001.0045. However, the proposal is exempt from TGC, §2001.0045, as provided under that statute, because the proposal is necessary to ensure that certified Texas educators are competent to educate Texas students and, therefore, necessary to protect the safety and welfare of the residents of this state.

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

GOVERNMENT GROWTH IMPACT: The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not require a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposal would be the increased teacher knowledge and skill in critical pedagogical competencies, leading to the anticipated growth in teacher readiness to meet the needs of Texas's diverse student population. The TEA staff determined there is an economic cost to persons required to comply with the proposal. Future teacher candidates seeking probationary or standard certification would be required to take the edTPA exam beginning in FY 2024. The edTPA exam requirement will increase the exam cost for the pedagogy certification exam by \$195. Based on 2020-2021 first attempt testing data, TEA staff anticipate administering 24,466 exams annually in FY 2024 onward, leading to a total additional cost of \$4,770,870 annually.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins March 18, 2022, and ends April 18, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the April 29, 2022 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Preparation, Certification, and Enforcement, Texas Education Agency, 1701

North Congress Avenue, Austin, Texas 78701, Attention: Ms. Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 18, 2022.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.041(b)(1), (2), and (4), which require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; specify the classes of educator certificates to be issued, including emergency certificates; and specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.048, which states the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes and that starting January 1, 2021, all candidates teaching prekindergarten through grade six must demonstrate proficiency in the science of teaching reading on a certification examination; TEC, §21.050(a), which states a person who applies for a teaching certificate must possess a bachelor's degree; TEC, §21.050(b), which states the SBEC shall provide for a minimum number of semester credit hours of field-based experience or internship; TEC, §21.050(c), which states a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate; and TEC, §22.082, which requires SBEC to subscribe to the criminal history clearinghouse as provided by Texas Government Code, §411.0845, and may obtain any law enforcement or criminal history records that relate to a specific applicant for or holder of a certificate issued under Chapter 21, Subchapter B; and Texas Occupations Code, §54.003, which states a licensing authority shall provide accommodations and eligibility criteria for examinees diagnosed as having dyslexia.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.041(b)(1), (2), and (4); 21.044(a); 21.048; 21.050; and 22.082; and Texas Occupations Code, §54.003.

§230.21. Educator Assessment.

(a) A candidate seeking certification as an educator must pass the examination(s) required by the Texas Education Code (TEC), §21.048, and the State Board for Educator Certification (SBEC) in §233.1(e) of this title (relating to General Authority) and shall not retake an examination more than four times, unless the limitation is waived for good cause. The burden of proof shall be upon the candidate to demonstrate good cause.

(1) For the purposes of the retake limitation described by the TEC, §21.048, an examination retake is defined as a second or subsequent attempt to pass any examination required for the issuance of a certificate, including an individual core subject examination that is part of the overall examination required for the issuance of a Core Subjects certificate as described in §233.2 of this title (relating to Early Childhood; Core Subjects).

(A) A canceled examination score is not considered an examination retake.

(B) An examination taken by an educator during a pilot period is not considered part of an educator's five-time test attempt limit.

(C) Pursuant to TEC, §21.0491(d), the limit on number of test attempts does not apply to the trade and industrial workforce training certificate examination prescribed by the SBEC.

(D) A candidate who fails a computer- or paper-based examination cannot retake the examination before 30 days have elapsed following the candidate's last attempt to pass the examination.

(2) Good cause is:

(A) the candidate's highest score on an examination is within one conditional standard error of measurement (CSEM) of passing, and the candidate has completed 50 clock-hours of educational activities. CSEMs will be published annually on the Texas Education Agency (TEA) website;

(B) the candidate's highest score on an examination is within two CSEMs of passing, and the candidate has completed 100 clock-hours of educational activities;

(C) the candidate's highest score on an examination is within three CSEMs of passing, and the candidate has completed 150 clock-hours of educational activities;

(D) the candidate's highest score on an examination is not within three CSEMs of passing, and the candidate has completed 200 clock-hours of educational activities;

(E) if the candidate needs a waiver for more than one of the individual core subject examinations that are part of the overall examination required for the issuance of a Core Subjects certificate, the candidate has completed the number of clock-hours of educational activities required for each individual core subject examination as described in subparagraphs (A)-(D) of this paragraph up to a maximum of 300 clock-hours. The number of clock-hours for each examination may be divided equally based on the number of examinations in the waiver request, but the number of clock-hours for an examination shall not be less than 50; or

(F) if a CSEM is not appropriate for an examination, the TEA staff will identify individuals who are familiar and knowledgeable with the examination content to review the candidate's performance on the five most recent examinations, identify the deficit competency or competencies, and determine the number of clock-hours of educational activities required.

(3) Educational activities are defined as:

(A) institutes, workshops, seminars, conferences, interactive distance learning, video conferencing, online activities, undergraduate courses, graduate courses, training programs, in-service, or staff development given by an approved continuing professional education provider or sponsor, pursuant to §232.17 of this title (relating to Pre-Approved Continuing Professional Education Provider or Sponsor) and §232.19 of this title (relating to Approval of Private Companies, Private Entities, and Individuals as Continuing Professional Education Providers), or an approved educator preparation program (EPP), pursuant to §228.10 of this title (relating to Approval Process); and

(B) being directly related to the knowledge and skills included in the certification examination competency or competencies in which the candidate answered less than 70 percent of competency questions correctly. The formula for identifying a deficit competency is the combined total of correct answers for each competency on the five most recent examinations divided by the combined total of questions for each competency on the five most recent examinations.

(4) Documentation of educational activities that a candidate must submit includes:

(A) the provider, sponsor, or program's name, address, telephone number, and email address. The TEA staff may contact the provider, sponsor, or program to verify an educational activity;

(B) the name of the educational activity (e.g., course title, course number);

(C) the competency or competencies addressed by the educational activity as determined by the formula described in paragraph (3)(B) of this subsection;

(D) the provider, sponsor, or program's description of the educational activity (e.g., syllabus, course outline, program of study); and

(E) the provider, sponsor, or program's written verification of the candidate's completion of the educational activity (e.g., transcript, certificate of completion). The written verification must include:

(i) the provider, sponsor, or program's name;

(ii) the candidate's name;

(iii) the name of the educational activity;

(iv) the date(s) of the educational activity; and

(v) the number of clock-hours completed for the educational activity. Clock-hours completed before the most recent examination attempt or after a request for a waiver is submitted shall not be included. One semester credit hour earned at an accredited institution of higher education is equivalent to 15 clock-hours.

(5) To request a waiver of the limitation, a candidate must meet the following conditions:

(A) the candidate is otherwise eligible to take an examination. A candidate seeking a certificate based on completion of an EPP must have the approval of an EPP to request a waiver;

(B) beginning September 1, 2016, the candidate pays the non-refundable waiver request fee of \$160;

(C) the candidate requests the waiver of the limitation in writing on forms developed by the TEA staff; and

(D) the request for the waiver is postmarked not earlier than:

(i) 45 calendar days after an unsuccessful attempt at the fourth retake of an examination as defined in the TEC, §21.048; or

(ii) 90 calendar days after the date of the most recent denied waiver of the limitation request; or

(iii) 180 calendar days after the date of the most recent unsuccessful examination attempt that was the result of the most recently approved request for waiver of the limitation.

(6) The TEA staff shall administratively approve each application that meets the criteria specified in paragraphs (2)-(5) of this subsection.

(7) An applicant who does not meet the criteria in paragraphs (2)-(5) of this subsection may appeal to the SBEC for a final determination of good cause. A determination by the SBEC is final and may not be appealed.

(b) A candidate seeking a standard certificate as an educator based on completion of an approved EPP may take the appropriate certification examination(s) required by subsection (a) of this section only

at such time as the EPP determines the candidate's readiness to take the examinations, or upon successful completion of the EPP, whichever comes first.

(c) The holder of a lifetime Texas certificate effective before February 1, 1986, must pass examinations prescribed by the SBEC to be eligible for continued certification, unless the individual has passed the Texas Examination of Current Administrators and Teachers (TECAT).

(d) The commissioner of education approves the satisfactory level of performance required for certification examinations, and the SBEC approves a schedule of examination fees and a plan for administering the examinations.

(e) The appropriate examination(s) required for certification are specified in the figure provided in this subsection. For issuance of a probationary or standard certificate in more than one certification category, a candidate must pass the appropriate pedagogy examination specified in the figure provided in this subsection for any one of the certificates sought.

Figure: 19 TAC §230.21(e)
[Figure: 19 TAC §230.21(e)]

(f) Scores from examinations required under this title must be made available to the examinee, the TEA staff, and, if appropriate, the EPP from which the examinee will seek a recommendation for certification. Passing scores on an examination required under this section may be utilized for certification if the candidate is recommended for certification up to one year after the last operational date for the examination as prescribed in Figure: 19 TAC §230.21(e).

(g) The following provisions concern ethical obligations relating to examinations.

(1) An educator or candidate who participates in the development, design, construction, review, field testing, scoring, or validation of an examination shall not reveal or cause to be revealed the contents of the examination to any other person.

(2) An educator or candidate who administers an examination shall not:

(A) allow or cause an unauthorized person to view any part of the examination;

(B) copy, reproduce, or cause to be copied or reproduced any part of the examination;

(C) reveal or cause to be revealed the contents of the examination;

(D) correct, alter, or cause to be corrected or altered any response to a test item contained in the examination;

(E) provide assistance with any response to a test item contained in the examination or cause assistance to be provided; or

(F) deviate from the rules governing administration of the examination.

(3) An educator or candidate who is an examinee shall not:

(A) copy, reproduce, or cause to be copied or reproduced any test item contained in the examination;

(B) provide assistance with any response to a test item contained in the examination, or cause assistance to be provided;

(C) solicit or accept assistance with any response to a test item contained in the examination;

(D) deviate from the rules governing administration of the examination; or

(E) otherwise engage in conduct that amounts to cheating, deception, or fraud.

(4) An educator, candidate, or other test taker shall not:

(A) solicit information about the contents of test items on an examination that the educator, candidate, or other test taker has not already taken from an individual who has had access to those items, or offer information about the contents of specific test items on an examination to individuals who have not yet taken the examination;

(B) fail to pay all test costs and fees as required by this chapter or the testing vendor; or

(C) otherwise engage in conduct that amounts to violations of test security or confidentiality integrity, including cheating, deception, or fraud.

(5) A person who violates this subsection is subject to:

(A) sanction, including, but not limited to, disallowance and exclusion from future examinations either in perpetuity or for a period of time that serves the best interests of the education profession, in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases); and/or

(B) denial of certification in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title; and/or

(C) voiding of a score from an examination in which a violation specified in this subsection occurred as well as a loss of a test attempt for purposes of the retake limit in subsection (a) of this section.

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

Filed with the Office of the Secretary of State on March 7, 2022.

TRD-202200801

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: April 17, 2022

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



CHAPTER 231. REQUIREMENTS FOR PUBLIC SCHOOL PERSONNEL ASSIGNMENTS

The State Board for Educator Certification (SBEC) proposes amendments to 19 Texas Administrative Code (TAC) §§231.3, 231.9, 231.11, 231.13, 231.15, 231.17, 231.19, 231.21, 231.23, 231.25, 231.27, 231.41, 231.43, 231.45, 231.49, 231.51, 231.57, 231.59, 231.61, 231.63, 231.65, 231.67, 231.69, 231.71, 231.73, 231.79, 231.131, 231.135, 231.153, 231.173, 231.271, 231.281, 231.289, 231.291, 231.301, 231.303, 231.305, 231.307, 231.309, 231.311, 231.313, 231.333, 231.335, 231.337, 231.339, 231.341, 231.381, 231.401, 231.403, 231.405, 231.421, 231.423, 231.425, 231.427, 231.441, 231.443, 231.469, 231.481, 231.483, 231.485, 231.487, 231.489, 231.501, 231.503, 231.521, 231.523, 231.525, 231.543, 231.561, 231.563, 231.565, 231.567, 231.569, 231.571, 231.573, 231.575, 231.577, 231.579, 231.581, 231.583, 231.587, 231.589, 231.591, 231.593,

231.631, 231.633, and 231.651 and new §§231.31, 231.293, and 231.429, concerning requirements for public school personnel assignments. The proposed revisions would incorporate courses approved by the State Board of Education (SBOE), would add certificate areas to the list of credentials appropriate for placement into an assignment, and would incorporate technical edits where needed to improve readability and align citations.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 231 establish the personnel assignments that correlate with appropriate certifications and are organized as follows: Subchapter A, Criteria for Assignment of Public School Personnel; Subchapter B, Prekindergarten-Grade 6 Assignments; Subchapter C, Grades 6-8 Assignments; Subchapter D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6-12 Assignments; Subchapter E, Grades 9-12 Assignments, Subchapter F, Special Education-Related Services Personnel Assignments, and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments. These subchapters offer guidance to school districts and educators by providing the list of courses by grade level and subject area and identifying the corresponding certificates and other requirements for placement of individuals into classroom and/or campus assignments.

Proposed revisions to 19 TAC Chapter 231, Subchapters B, C, and E, are described below.

Subchapter B. Prekindergarten-Grade 6 Assignments

Science of Teaching Reading Personnel Assignments

To align with statutory requirements in House Bill (HB) 3, 86th Texas Legislature, Regular Session, 2019, the proposed revisions would add certificates that reflect the requirement that educators demonstrate proficiency in the science of teaching reading to teach certain courses. Changes to §§231.3, 231.9, 231.21, 231.23, and 231.27 would add "Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6" and "Early Childhood: Prekindergarten-Grade 3" certificates. Changes to §231.15 and §231.17 would add "Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6," "Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only)," and "Core Subjects with Science of Teaching Reading: Grades 4-8 (Grades 4-6 only) certificates. Changes to §231.25 and new §231.31 would add the "Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only)" certificate.

Titles, Assignments, and Technical Changes

The proposed amendment to §231.11 would update the title to "Bilingual, Prekindergarten-Grade 6" to reflect the appropriate course title with the assignment and would provide technical edits to align the appropriate certificates with the course.

The proposed amendment to §231.13 would update the title to "English as a Second Language, Prekindergarten-Grade 6" to reflect the appropriate course title with the assignment.

The proposed amendment to §231.15 would update the title to "Elementary, Prekindergarten-Grade 6" to reflect the appropriate course title with the assignment, and would provide technical edits to align the appropriate certificates with the course.

The proposed amendment to §231.17 would update the title to "Reading, Prekindergarten-Grade 6" to reflect the appropriate

course title with the assignment and would provide technical edits to align the appropriate certificates with the course.

The proposed amendment to §231.19 would update the title to "Languages Other Than English, Prekindergarten-Grade 6," would add American Sign Language to the list of courses and would provide technical edits to align the appropriate certificates with the course.

Proposed new §231.31, "Health, Prekindergarten-Grade 6," would add to the course offerings with existing certificates appropriate for the assignment and update content previously inadvertently left out of the rules.

Subchapter C. Grades 6-8 Assignments

Science of Teaching Reading Personnel Assignments:

To align with statutory requirements in HB 3, 86th Texas Legislature, Regular Session, 2019, the proposed revisions would add certificates that reflect the requirement that educators demonstrate proficiency in the science of teaching reading to teach certain courses. Changes to §§231.41, 231.43, 231.45, 231.49, 231.51, 231.57, 231.61, and 231.63 would add "Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6" and "Core Subjects with Science of Teaching Reading: Grades 4-8" certificates. Changes to §§231.67, 231.69, 231.71, and 231.73 would add the "Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6" certificate. Changes to §231.59 and §231.65 would add the "Core Subjects with Science of Teaching Reading: Grades 4-8" certificate. Changes to §§231.45, 231.49, and 231.51 would add the "English Language Arts and Reading with Science of Teaching Reading: Grades 4-8," and "English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8" certificates. Changes to §231.57 and new §231.59 would add the "English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8" certificate.

Titles, Assignments, and Technical Changes

The proposed amendment to §231.67, Health, Grades 6-8, would delete outdated certificate references in paragraphs (11) and (23) and provide further clarity around appropriate qualifications for the assignment. The remaining rules would be renumbered accordingly.

The proposed amendment to §231.69, Physical Education, Grades 6-8, would delete outdated certificate references in paragraphs (8) and (16) and provide further clarity around appropriate qualifications for the assignment. The remaining rules would be renumbered accordingly.

The proposed amendment to §231.79, Career Development, Grades 6-8, would add Technology Applications: Early Childhood-Grade 12 and Technology Applications: Grades 8-12 to the list of certificates appropriate to teach this course.

Subchapter E. Grades 9-12 Assignments

Titles, Assignments, and Technical Changes

Division 1. English Language Arts and Reading, Grades 9-12 Assignments.

The proposed amendments to §231.131, Writing, Grades 9-12, and §231.135, Journalism, Grades 9-12, would incorporate minor technical edits for both courses to remove nonexistent courses, correct course name titles, and delete outdated certificate and semester credit hour references. The remaining

information in these sections would be renumbered accordingly, as applicable.

Division 2. Languages Other Than English, Grades 9-12 Assignments.

The proposed amendment to §231.153, American Sign Language, Grades 9-12, subsection (a), would add "or American Sign Language, Advanced Independent Study" to reflect a complete listing of courses for assignments to teach this subject at this grade level. All other information remains unchanged as presented in rule.

Division 3. Social Studies, Grades 9-12 Assignments.

The proposed amendment to §231.173, Economics with Emphasis on the Free Enterprise System and Its Benefits, Grades 9-12, would add "or Economics Advanced Studies" to reflect a complete listing of courses for assignments to teach this subject at this grade level. All other information remains unchanged as presented in rule.

Division 9. Career Development, Grades 9-12 Assignments.

The proposed amendment to §231.271, Career Development, Grades 9-12, subsections (a) and (c), would add Technology Applications: Early Childhood-Grade 12 and Technology Applications: Grades 8-12 to the list of certificates appropriate for the specified assignments.

Division 10. Agriculture, Food, and Natural Resources, Grades 9-12 Assignments.

The proposed amendment to §231.281, Agriculture, Food, and Natural Resources, Grades 9-12, would remove Energy and Natural Resource Technology from the list of courses to create proposed new §231.293, Energy and Natural Resource Technology, Grades 9-12, and list the certificates appropriate for placement into the assignment. The proposed change would clarify that individuals already teaching courses in the Renewable Energy Program of Study would also be eligible to teach this course.

Division 12. Arts, Audio Video Technology, and Communications, Grades 9-12 Assignments.

The proposed amendments would incorporate a minor technical edit to the division title to read, "Arts, Audio/Video Technology, and Communications, Grades 9-12 Assignments." The technical edit would align the division title reference with all other course listings in rule.

Division 19. Human Services, Grades 9-12 Assignments.

The proposed amendment to §231.469, Cosmetology, Grades 9-12, would remove the reference to "a valid license as a cosmetology instructor issued by the Texas Department of Licensing and Regulation (TDLR)," eliminated during the 2021 legislative session, and would replace the reference to a required credential with "a valid Cosmetology Operator license or Class A Barber Operator license."

Proposed amendments as specified by divisions and sections would add Trade and Industrial Workforce Training: Grades 6-12 to the list of certificates appropriate for placement into the following assignments: Division 10: §231.289 and §231.291; Division 11: §§231.301, 231.303, 231.305, 231.307, 231.309, 231.311, and 231.313; Division 12: §§231.333, 231.335, 231.337, 231.339, and 231.341; Division 16: §§231.401, 231.403, and 231.405; Division 18: §231.441 and §231.443; Division 20: §§231.481, 231.483, 231.485, 231.487, and 231.489;

Division 21: §231.501 and §231.503; Division 22: §§231.521, 231.523, and 231.525; Division 23: §231.543; and Division 25: §231.631 and §231.633.

Aligning with SBOE and Necessary Updates

To reflect courses approved by the SBOE and to make other necessary updates, the changes proposed in the specified divisions below would identify the appropriate certificates and/or training requirements for placement into various assignments.

Division 14. Education and Training, Grades 9-12 Assignments.

The proposed amendment to §231.381, Education and Training, Grades 9-12, would add two new SBOE-approved courses: Practicum in Early Learning, Grades 9-12, and Extended Practicum in Early Learning, Grades 9-12. The proposed changes to subsections (b) and (c) would confirm that certificates and training requirements already established in rule are appropriate for assignment to teach the two new courses.

Division 17. Health Science, Grades 9-12 Assignments.

The proposed amendment to §231.421(a) would add the new SBOE-approved course, Pharmacy II, to the list of course offerings. The certificates already established in rule are applicable for placement into this new course assignment.

The proposed amendment to §231.421(b) would add the new SBOE-approved course, Medical Assistant, to the list of course offerings. The certificates already established in rule are applicable for placement into this new course assignment.

The proposed amendment to §231.423, Anatomy and Physiology, Medical Microbiology, and Pathophysiology, Grades 9-12, would add the new SBOE-approved course, Respiratory Therapy I, to the list of course offerings. The certificates already established in rule are applicable for placement into this new course assignment.

The proposed amendment to §231.425, Mathematics for Medical Professionals, Grades 9-12, would add the new SBOE-approved course, Medical Coding and Billing, to the list of course offerings. The certificates already established in rule are applicable for placement into this new course assignment.

The proposed amendment to §231.427, Health Informatics, Grades 9-12, would delete business, office education, and marketing certificates specified in paragraphs (5) through (9). These proposed changes align with SBOE changes to content prerequisites to teach this course.

Proposed new §231.429, Healthcare Administration and Management; Leadership and Management in Nursing, Grades 9-12, would add two new SBOE-approved courses and the certificates appropriate for placement into these course assignments.

Division 24. Science, Technology, Engineering, and Mathematics, Grades 9-12 Assignments.

The proposed amendments to this division would delete references to Science, Technology, Engineering, and Mathematics: Grades 6-12 certificate from 12 sections: §§231.561, 231.563, 231.565, 231.567, 231.569, 231.571, 231.573, 231.575, 231.577, 231.579, 231.581, and 231.583. A Science, Technology, Engineering, and Mathematics (STEM) certificate does not exist, nor are there any plans to create an SBEC-issued certificate for this subject area. The proposed deletion of references to this non-existent certificate will reduce confusion in the

field regarding STEM certification. The remaining information in these sections would be renumbered accordingly, as applicable.

The proposed amendments would also add Trade and Industrial Education: Grades 6-12, Trade and Industrial Education: Grades 8-12, and Trade and Industrial Workforce Training: Grades 6-12 certificates, as applicable, to the list of credentials appropriate for placement into assignments specified in 16 sections: §§231.561, 231.563, 231.565, 231.567, 231.569, 231.571, 231.573, 231.575, 231.577, 231.579, 231.581, 231.583, 231.587, 231.589, 231.591, and 231.593. The remaining information in these sections would be renumbered accordingly, as applicable.

Division 26. Energy, Grades 9-12 Assignments.

The proposed amendment to §231.651, Energy and Natural Resources, Grades 9-12, would change the heading to "Energy" for this series of course listings and add the Trade and Industrial Workforce Training: Grades 6-12 certificate to the list of credentials appropriate to teach the specified courses. The remaining information in these sections would be renumbered accordingly, and as applicable.

FISCAL IMPACT: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, has determined that there is no additional fiscal impact on state and local governments and that there are no additional costs to entities required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposal would be clear guidance for districts on appropriate credentials for placement of individuals into classroom, administrative, and support personnel assignments. The TEA staff has determined there is no anticipated cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins March 18, 2022, and ends April 18, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the April 29, 2022 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Preparation, Certification, and Enforcement, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Ms. Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 18, 2022.

SUBCHAPTER B. PREKINDERGARTEN- GRADE 6 ASSIGNMENTS

19 TAC §§231.3, 231.9, 231.11, 231.13, 231.15, 231.17, 231.19, 231.21, 231.23, 231.25, 231.27, 231.31

STATUTORY AUTHORITY. The amendments and new section are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments and new section implement Texas Education Code §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.3. General Education, Prekindergarten.

(a) All-level certification in art, health education, music, physical education, speech communication and theatre arts, or theatre may be assigned to teach in the certified area(s) in Prekindergarten-Grade 12.

(b) An assignment for General Education, Prekindergarten, is allowed with one of the following certificates.

- (1) Bilingual Generalist: Early Childhood-Grade 4.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Core Subjects: Early Childhood-Grade 6.

(4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(5) Early Childhood: Prekindergarten-Grade 3.

(6) [(4)] Early Childhood Education (Prekindergarten and Kindergarten).

(7) [(5)] Elementary--General.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(8) [(6)] Elementary--General (Grades 1-6).

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(9) [(7)] Elementary--General (Grades 1-8).

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(10) [(8)] Elementary Early Childhood Education (Prekindergarten-Grade 6).

(11) [(9)] Elementary Self-Contained (Grades 1-8).

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(12) [(10)] English as a Second Language Generalist: Early Childhood-Grade 4.

(13) [(11)] English as a Second Language Generalist: Early Childhood-Grade 6.

(14) [(12)] Generalist: Early Childhood-Grade 4.

(15) [(13)] Generalist: Early Childhood-Grade 6.

(16) [(14)] Kindergarten.

(17) [(15)] Legacy Master Mathematics Teacher (Early Childhood-Grade 4) (Mathematics only).

(18) [(16)] Legacy Master Reading Teacher (Early Childhood-Grade 12) (Reading only).

(19) [(17)] Legacy Master Science Teacher (Early Childhood-Grade 4) (Science only).

(20) [(18)] Prekindergarten-Grade 5.

(21) [(19)] Prekindergarten-Grade 6.

(22) [(20)] Teacher of Young Children--General.

§231.9. *General Education, Kindergarten.*

(a) All-level certification in art, health education, music, physical education, speech communication and theatre arts, or theatre may be assigned to teach in the certified area(s) in Prekindergarten-Grade 12.

(b) An assignment for General Education, Kindergarten, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Core Subjects: Early Childhood-Grade 6.

(4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(5) Early Childhood: Prekindergarten-Grade 3.

(6) [(4)] Early Childhood Education (Prekindergarten and Kindergarten).

(7) [(5)] Elementary Early Childhood Education (Prekindergarten-Grade 6).

(8) [(6)] English as a Second Language Generalist: Early Childhood-Grade 4.

(9) [(7)] English as a Second Language Generalist: Early Childhood-Grade 6.

(10) [(8)] Generalist: Early Childhood-Grade 4.

(11) [(9)] Generalist: Early Childhood-Grade 6.

(12) [(10)] Kindergarten.

(13) [(11)] Legacy Master Mathematics Teacher (Early Childhood-Grade 4) (Mathematics only).

(14) [(12)] Legacy Master Reading Teacher (Early Childhood-Grade 12) (Reading only).

(15) [(13)] Legacy Master Science Teacher (Early Childhood-Grade 4) (Science only).

(16) [(14)] Prekindergarten-Grade 5--General.

(17) [(15)] Prekindergarten-Grade 6--General.

(18) [(16)] Teacher of Young Children--General.

§231.11. *Bilingual, Prekindergarten-Grade 6. [Kindergarten-Grade 6.]*

(a) An assignment for Bilingual, Prekindergarten-Grade 6, [Kindergarten-Grade 6,] is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4 (Kindergarten-Grade 4 only).

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(4) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus any bilingual education certificate or endorsement.

(5) Prekindergarten-Grade 5--Bilingual/English as a Second Language (Prekindergarten-Grade 5 only).

(6) Prekindergarten-Grade 6--Bilingual/English as a Second Language.

(7) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

(b) An assignment for the English component only of a dual language immersion/one-way or two-way bilingual education program model for Prekindergarten-Grade 6 [~~Kindergarten-Grade 6~~] is allowed with a valid classroom teaching certificate appropriate for the grade level and subject areas taught plus a bilingual education certificate or endorsement or an English as a Second Language certificate or endorsement.

§231.13. *English as a Second Language, Prekindergarten-Grade 6.* [~~Kindergarten-Grade 6.~~]

An assignment for English as a Second Language, Prekindergarten-Grade 6, [~~Kindergarten-Grade 6.~~] is allowed with one of the following certificates.

(1) An elementary certified teacher with a valid English as a Second Language supplemental certificate or endorsement or bilingual education supplemental certificate or endorsement may be assigned to teach English as a Second Language at the kindergarten level.

(2) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following.

(A) Bilingual Education Supplemental.

(B) Bilingual Education Supplemental (Early Childhood-Grade 4).

(C) Bilingual Education Supplemental (Grades 4-8).

(D) Bilingual Endorsement.

(E) Bilingual/English as a Second Language Endorsement.

(F) English as a Second Language Endorsement.

(G) English as a Second Language Supplemental.

(3) Bilingual Generalist: Early Childhood-Grade 4 (Kindergarten-Grade 4 only).

(4) Bilingual Generalist: Early Childhood-Grade 6.

(5) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(6) English as a Second Language Generalist: Early Childhood-Grade 4 (Kindergarten-Grade 4 only).

(7) English as a Second Language Generalist: Early Childhood-Grade 6.

(8) English as a Second Language Generalist: Grades 4-8 (Grades 4-6 only).

(9) Prekindergarten-Grade 5--Bilingual/English as a Second Language (Prekindergarten-Grade 5 only).

(10) Prekindergarten-Grade 6--Bilingual/English as a Second Language.

(11) Prekindergarten-Grade 12--English as a Second Language.

(12) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

(13) Teacher certificate appropriate for grade level of assignment and assigned to teach English as a Second Language in an approved English as a Second Language program during the 1981-1982 school year in the same school district.

§231.15. *Elementary, Prekindergarten-Grade 6.* [~~Grades 1-6.~~]

An assignment for Elementary, Prekindergarten-Grade 6, [~~Grades 1-6.~~] is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(4) Core Subjects: Early Childhood-Grade 6.

(5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(6) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(7) [(5)] Core Subjects: Grades 4-8 (Grades 4-6 only).

(8) Core Subjects with Science of Teaching Reading: Grades 4-8 (Grades 4-6 only).

(9) [(6)] Elementary--General.

(10) [(7)] Elementary--General (Grades 1-6).

(11) [(8)] Elementary--General (Grades 1-8).

(12) [(9)] Elementary Early Childhood Education (Prekindergarten-Grade 6).

(13) [(10)] Elementary Self-Contained (Grades 1-8).

(14) [(11)] English as a Second Language Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(15) [(12)] English as a Second Language Generalist: Early Childhood-Grade 6.

(16) [(13)] English as a Second Language Generalist: Grades 4-8 (Grades 4-6 only).

(17) [(14)] Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(18) [(15)] Generalist: Early Childhood-Grade 6.

(19) [(16)] Generalist: Grades 4-8 (Grades 4-6 only).

(20) [(17)] Legacy Master Mathematics Teacher (Early Childhood-Grade 4) (Mathematics in Grades 1-4 only).

(21) [(18)] Legacy Master Mathematics Teacher (Grades 4-8) (Mathematics in Grades 4-6 only).

(22) [(19)] Legacy Master Reading Teacher (Early Childhood-Grade 12) (Reading in Grades 1-6 only).

(23) [~~(20)~~] Legacy Master Science Teacher (Early Childhood-Grade 4) (Science in Grades 1-4 only).

(24) [~~(21)~~] Legacy Master Science Teacher (Grades 4-8) (Science in Grades 4-6 only).

(25) [~~(22)~~] Prekindergarten-Grade 5--General (Grades 1-5 only).

(26) [~~(23)~~] Prekindergarten-Grade 6--General.

(27) [~~(24)~~] Teacher of Young Children--General (Grades 1-3 only).

§231.17. *Reading, Prekindergarten-Grade 6. [Grades 1-6.]*

An assignment for Reading, Prekindergarten-Grade 6, [Grades 1-6,] is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) An elementary teacher certificate appropriate for Grades 1-6 assignment.

(3) Bilingual Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(4) Bilingual Generalist: Early Childhood-Grade 6.

(5) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(6) Core Subjects: Early Childhood-Grade 6.

(7) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(8) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(9) [~~(7)~~] Core Subjects: Grades 4-8 (Grades 4-6 only).

(10) Core Subjects with Science of Teaching Reading: Grades 4-8 (Grades 4-6 only).

(11) [~~(8)~~] English as a Second Language Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(12) [~~(9)~~] English as a Second Language Generalist: Early Childhood-Grade 6.

(13) [~~(10)~~] English as a Second Language Generalist: Grades 4-8 (Grades 4-6 only).

(14) [~~(11)~~] English Language Arts and Reading: Grades 4-8 (Grades 4-6 only).

(15) [~~(12)~~] English Language Arts and Reading/Social Studies: Grades 4-8 (Grades 4-6 only).

(16) [~~(13)~~] Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(17) [~~(14)~~] Generalist: Early Childhood-Grade 6.

(18) [~~(15)~~] Generalist: Grades 4-8 (Grades 4-6 only).

(19) [~~(16)~~] Legacy Master Reading Teacher (Early Childhood-Grade-12).

(20) [~~(17)~~] Reading Specialist.

(21) [~~(18)~~] Reading Specialist (Early Childhood-Grade 12).

§231.19. *Languages Other Than English, Prekindergarten-Grade 6. [Grades 1-6.]*

An assignment for Languages Other Than English, Classical Languages, American Sign Language, or Discovering Languages and

Cultures, Prekindergarten-Grade 6, [Grades 1-6,] is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment Prekindergarten-Grade 6. [Grades 1-6.]

(2) A Languages Other Than English certificate in the appropriate language (Early Childhood-Grade 12).

(3) A secondary teacher certificate with a teaching field in the language of assignment plus six semester credit hours of elementary education.

§231.21. *Art, Prekindergarten-Grade 6.*

An assignment for Art, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Art.

(3) All-Level Art (Prekindergarten-Grade 12).

(4) Art: Early Childhood-Grade 12.

(5) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(6) Bilingual Generalist: Early Childhood-Grade 6.

(7) Core Subjects: Early Childhood-Grade 6.

(8) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(9) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(10) [~~(8)~~] Early Childhood Education (Prekindergarten and Kindergarten only).

(11) [~~(9)~~] English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(12) [~~(10)~~] English as a Second Language Generalist: Early Childhood-Grade 6.

(13) [~~(11)~~] Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(14) [~~(12)~~] Generalist: Early Childhood-Grade 6.

§231.23. *Music, Prekindergarten-Grade 6.*

An assignment for Music, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Music.

(3) All-Level Music (Prekindergarten-Grade 12).

(4) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(5) Bilingual Generalist: Early Childhood-Grade 6.

(6) Core Subjects: Early Childhood-Grade 6.

(7) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(8) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(9) [(7)] Early Childhood Education (Prekindergarten and Kindergarten only).

(10) [(8)] English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(11) [(9)] English as a Second Language Generalist: Early Childhood-Grade 6.

(12) [(10)] Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(13) [(11)] Generalist: Early Childhood-Grade 6.

(14) [(12)] Music: Early Childhood-Grade 12.

§231.25. *Theatre, Prekindergarten-Grade 6.*

An assignment for Theatre, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) All-Level Speech and Drama.

(2) All-Level Speech Communications/Theatre Arts.

(3) All-Level Theatre Arts.

(4) An elementary teacher certificate appropriate for Prekindergarten-Grade 6 assignment.

(5) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(6) [(5)] Early Childhood Education (Prekindergarten and Kindergarten only).

(7) [(6)] Theatre: Early Childhood-Grade 12.

§231.27. *Physical Education, Prekindergarten-Grade 6.*

An assignment for Physical Education, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Physical Education.

(3) All-Level Health and Physical Education.

(4) An elementary teacher certificate appropriate for Prekindergarten-Grade 6 assignment.

(5) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(6) Bilingual Generalist: Early Childhood-Grade 6.

(7) Core Subjects: Early Childhood-Grade 6.

(8) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(9) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(10) [(8)] Early Childhood Education (Prekindergarten and Kindergarten only).

(11) [(9)] English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(12) [(10)] English as a Second Language Generalist: Early Childhood-Grade 6.

(13) [(11)] Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(14) [(12)] Generalist: Early Childhood-Grade 6.

(15) [(13)] Physical Education: Early Childhood-Grade 12.

§231.31. *Health Education, Prekindergarten-Grade 6.*

An assignment for Health Education, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Physical Education.

(3) All-Level Health and Physical Education.

(4) An elementary teacher certificate appropriate for Prekindergarten-Grade 6 assignment.

(5) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(6) Bilingual Generalist: Early Childhood-Grade 6.

(7) Core Subjects: Early Childhood-Grade 6.

(8) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(9) Early Childhood: Prekindergarten-Grade 3 (Prekindergarten-Grade 3 only).

(10) Early Childhood Education (Prekindergarten and Kindergarten only).

(11) English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(12) English as a Second Language Generalist: Early Childhood-Grade 6.

(13) Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(14) Generalist: Early Childhood-Grade 6.

(15) Physical Education: Early Childhood-Grade 12.

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

Filed with the Office of the Secretary of State on March 7, 2022.

TRD-202200804

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: April 17, 2022

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



SUBCHAPTER C. GRADES 6-8 ASSIGNMENTS

19 TAC §§231.41, 231.43, 231.45, 231.49, 231.51, 231.57, 231.59, 231.61, 231.63, 231.65, 231.67, 231.69, 231.71, 231.73, 231.79

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school

district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.41. *Self-Contained, Grades 6-8.*

(a) Self-contained is defined as a class in which one teacher teaches all or most subjects to one class of students.

(b) An assignment in a self-contained classroom for All General Subjects, Grades 6-8, is allowed with one of the following certificates.

- (1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (2) Bilingual Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (3) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).
- (4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).
- (5) [(4)] Core Subjects: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (6) Core Subjects with Science of Teaching Reading: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (7) [(5)] Elementary--General.
- (8) [(6)] Elementary--General (Grades 1-6) (Grade 6 only).
- (9) [(7)] Elementary--General (Grades 1-8).
- (10) [(8)] Elementary Early Childhood Education (Prekindergarten-Grade 6) (Grade 6 only).
- (11) [(9)] Elementary Self-Contained (Grades 1-8).
- (12) [(10)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (13) [(11)] English as a Second Language Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (14) [(12)] Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (15) [(13)] Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (16) [(14)] Prekindergarten-Grade 6--General (Grade 6 only).

§231.43. *All General Subjects, Grade 6.*

(a) An assignment in a departmentalized classroom for All General Subjects, Grade 6, for a holder of a valid elementary level certificate is allowed with one of the following certificates.

- (1) Any elementary teacher certificate appropriate for Grade 6.
- (2) Bilingual Generalist: Early Childhood-Grade 6.
- (3) Bilingual Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (4) Core Subjects: Early Childhood-Grade 6.
- (5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.
- (6) [(5)] Core Subjects: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (7) Core Subjects with Science of Teaching Reading: Grades 4-8 (English language arts, mathematics, science, and social studies only).
- (8) [(6)] English as a Second Language Generalist: Early Childhood-Grade 6.
- (9) [(7)] English as a Second Language Generalist: Grades 4-8 (English, language arts, mathematics, science, and social studies only).
- (10) [(8)] Generalist: Early Childhood-Grade 6.
- (11) [(9)] Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).

(b) Requirements for a holder of a secondary or all-level certificate in a departmentalized Grades 6-8 assignment are specified for each subject area in this subchapter.

§231.45. *English Language Arts, Grades 6-8.*

An assignment in a departmentalized classroom for English Language Arts, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

- (1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (2) Bilingual Generalist: Grades 4-8.
- (3) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).
- (4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).
- (5) [(4)] Core Subjects: Grades 4-8.
- (6) Core Subjects with Science of Teaching Reading: Grades 4-8.
- (7) [(5)] Elementary English (Grades 1-8).
- (8) [(6)] Elementary teacher certificate plus 18 semester credit hours in English.
- (9) [(7)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (10) [(8)] English as a Second Language Generalist: Grades 4-8.
- (11) [(9)] English Language Arts and Reading: Grades 4-8.
- (12) English Language Arts and Reading with Science of Teaching Reading: Grades 4-8.

(13) [(40)] English Language Arts and Reading/Social Studies: Grades 4-8.

(14) English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

(15) [(41)] English Language Arts and Reading: Grades 7-12 (Grades 7 and 8 only).

(16) [(42)] English Language Arts and Reading: Grades 8-12 (Grade 8 only).

(17) [(43)] Generalist: Early Childhood-Grade 6 (Grade 6 only).

(18) [(44)] Generalist: Grades 4-8.

(19) [(45)] Grades 6-12 or Grades 6-8--English.

(20) [(46)] Grades 6-12 or Grades 6-8--English Language Arts, Composite.

(21) [(47)] Junior High School or High School--English.

(22) [(48)] Junior High School or High School--English Language Arts, Composite.

(23) [(49)] Secondary English (Grades 6-12).

(24) [(20)] Secondary English Language Arts, Composite (Grades 6-12).

(25) [(21)] Secondary or all-level teacher certificate plus 18 semester credit hours in English.

§231.49. *Reading (At or Above Grade Level), Grades 6-8.*

An assignment in a departmentalized classroom for Reading (at or above grade level), Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(5) [(4)] Core Subjects: Grades 4-8.

(6) Core Subjects with Science of Teaching Reading: Grades 4-8.

(7) [(5)] Elementary English (Grades 1-8). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(8) [(6)] Elementary Reading (Grades 1-8).

(9) [(7)] Elementary teacher certificate plus 18 semester credit hours in English and nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(10) [(8)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(11) [(9)] English as a Second Language Generalist: Grades 4-8.

(12) [(40)] English Language Arts and Reading: Grades 4-8.

(13) English Language Arts and Reading with Science of Teaching Reading: Grades 4-8.

(14) [(41)] English Language Arts and Reading: Grades 7-12 (Grades 7 and 8 only).

(15) [(42)] English Language Arts and Reading: Grades 8-12 (Grade 8 only).

(16) [(43)] English Language Arts and Reading/Social Studies: Grades 4-8.

(17) English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

(18) [(44)] Generalist: Early Childhood-Grade 6 (Grade 6 only).

(19) [(45)] Generalist: Grades 4-8.

(20) [(46)] Junior High School or High School--English.

(21) [(47)] Junior High School or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(22) [(48)] Junior High School or High School--Reading.

(23) [(49)] Legacy Master Reading Teacher (Early Childhood-Grade 12).

(24) [(20)] Reading Specialist.

(25) [(21)] Reading Specialist (Early Childhood-Grade 12).

(26) [(22)] Secondary English (Grades 6-8). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(27) [(23)] Secondary English Language Arts, Composite (Grades 6-8). This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(28) [(24)] Secondary Reading (Grades 6-8).

(29) [(25)] Secondary English (Grades 6-12). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(30) [(26)] Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(31) [(27)] Secondary Reading (Grades 6-12).

(32) [(28)] Secondary or all-level teacher certificate plus 18 semester credit hours in English and nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

§231.51. *Reading Improvement (One Year or More Below Grade Level), Grades 6-8.*

An assignment in a departmentalized classroom for Reading Improvement (one year or more below grade level), Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(5) [(4)] Core Subjects: Grades 4-8.

(6) Core Subjects with Science of Teaching Reading: Grades 4-8.

(7) [(5)] Elementary English (Grades 1-8). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(8) [(6)] Elementary Reading (Grades 1-8).

(9) [(7)] Elementary teacher certificate plus 18 semester credit hours in English and nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(10) [(8)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(11) [(9)] English as a Second Language Generalist: Grades 4-8.

(12) [(10)] English Language Arts and Reading: Grades 4-8.

(13) English Language Arts and Reading with Science of Teaching Reading: Grades 4-8.

(14) [(11)] English Language Arts and Reading: Grades 7-12 (Grades 7 and 8 only).

(15) [(12)] English Language Arts and Reading: Grades 8-12 (Grade 8 only).

(16) [(13)] English Language Arts and Reading/Social Studies: Grades 4-8.

(17) English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

(18) [(14)] Generalist: Early Childhood-Grade 6 (Grade 6 only).

(19) [(15)] Generalist: Grades 4-8.

(20) [(16)] Grades 6-12 or Grades 6-8--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit

hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(21) [(17)] Grades 6-12 or Grades 6-8--English Language Arts, Composite. This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(22) [(18)] Grades 6-12 or Grades 6-8--Reading.

(23) [(19)] Junior High School or High School--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(24) [(20)] Junior High School or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(25) [(21)] Junior High School or High School--Reading.

(26) [(22)] Legacy Master Reading Teacher (Early Childhood-Grade 12).

(27) [(23)] Reading Specialist.

(28) [(24)] Reading Specialist (Early Childhood-Grade 12).

(29) [(25)] Secondary English (Grades 6-12). This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(30) [(26)] Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

(31) [(27)] Secondary Reading (Grades 6-12).

(32) [(28)] Teacher certificate plus 9 semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques.

§231.57. *Social Studies, Grade 6.*

An assignment in a departmentalized classroom for Social Studies, Grade 6, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Any elementary teacher certificate appropriate for Grade 6.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8.

(4) Core Subjects: Early Childhood-Grade 6.

(5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(6) [(5)] Core Subjects: Grades 4-8.

(7) Core Subjects with Science of Teaching Reading: Grades 4-8.

(8) [(6)] English as a Second Language Generalist: Early Childhood-Grade 6.

(9) [(7)] English as a Second Language Generalist: Grades 4-8.

(10) [(8)] English Language Arts and Reading/Social Studies: Grades 4-8.

(11) English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

(12) [(9)] Generalist: Early Childhood-Grade 6.

(13) [(10)] Generalist: Grades 4-8.

(14) [(11)] Grades 6-12 or Grades 6-8--Economics.

(15) [(12)] Grades 6-12 or Grades 6-8--Geography.

(16) [(13)] Grades 6-12 or Grades 6-8--Government.

(17) [(14)] Grades 6-12 or Grades 6-8--History.

(18) [(15)] Grades 6-12 or Grades 6-8--Psychology.

(19) [(16)] Grades 6-12 or Grades 6-8--Sociology.

(20) [(17)] Grades 6-12 or Grades 6-8--Social Studies.

(21) [(18)] Grades 6-12 or Grades 6-8--Social Studies, Composite.

(22) [(19)] Junior High School or High School--Anthropology.

(23) [(20)] Junior High School or High School--Economics.

(24) [(21)] Junior High School or High School--Geography.

(25) [(22)] Junior High School or High School--Government-Political Science.

(26) [(23)] Junior High School or High School--History.

(27) [(24)] Junior High School or High School--Psychology.

(28) [(25)] Junior High School or High School--Sociology.

(29) [(26)] Junior High School or High School--Social Science, Composite.

(30) [(27)] Secondary Economics (Grades 6-12).

(31) [(28)] Secondary Geography (Grades 6-12).

(32) [(29)] Secondary Government (Grades 6-12).

(33) [(30)] Secondary History (Grades 6-12).

(34) [(31)] Secondary Psychology (Grades 6-12).

(35) [(32)] Secondary Sociology (Grades 6-12).

(36) [(33)] Secondary Social Studies (Grades 6-12).

(37) [(34)] Secondary Social Studies, Composite (Grades 6-12).

(38) [(35)] Secondary or all-level teacher certificate plus 18 semester credit hours in social studies.

(39) [(36)] Social Studies: Grades 4-8.

§231.59. *Social Studies, Grades 7 and 8.*

An assignment in a departmentalized classroom for Social Studies, Grades 7 and 8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Grades 4-8.

(2) Core Subjects: Grades 4-8.

(3) Core Subjects with Science of Teaching Reading: Grades 4-8.

(4) [(3)] Elementary History.

(5) [(4)] Elementary History (Grades 1-8).

(6) [(5)] Elementary Social Studies (Grades 1-8).

(7) [(6)] Elementary teacher certificate plus 18 semester credit hours in social studies.

(8) [(7)] English as a Second Language Generalist: Grades 4-8.

(9) [(8)] English Language Arts and Reading/Social Studies: Grades 4-8.

(10) English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

(11) [(9)] Generalist: Grades 4-8.

(12) [(10)] Grades 6-12 or Grades 6-8--History.

(13) [(11)] Grades 6-12 or Grades 6-8--Social Studies.

(14) [(12)] Grades 6-12 or Grades 6-8--Social Studies, Composite.

(15) [(13)] High School--History.

(16) [(14)] High School--Social Science, Composite.

(17) [(15)] History: Grades 7-12.

(18) [(16)] History: Grades 8-12 (Grade 8 only).

(19) [(17)] Junior High School or High School--History.

(20) [(18)] Junior High School or High School--Social Science, Composite.

(21) [(19)] Secondary History (Grades 6-12).

(22) [(20)] Secondary Social Studies (Grades 6-12).

(23) [(21)] Secondary Social Studies, Composite (Grades 6-12).

(24) [(22)] Secondary or all-level teacher certificate plus 18 semester credit hours in social studies.

(25) [(23)] Social Studies: Grades 4-8.

(26) [(24)] Social Studies: Grades 7-12.

(27) [(25)] Social Studies: Grades 8-12 (Grade 8 only).

§231.61. *Mathematics, Grades 6-8.*

An assignment in a departmentalized classroom for Mathematics, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(5) [(4)] Core Subjects: Grades 4-8.

(6) Core Subjects with Science of Teaching Reading: Grades 4-8.

(7) [(5)] Elementary Mathematics (Grades 1-8). A teacher holding an Elementary Mathematics (Grades 1-8) certificate may teach Algebra I at the middle school level for high school graduation credit.

(8) [(6)] Elementary teacher certificate plus 18 semester credit hours in mathematics.

(9) [(7)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(10) [(8)] English as a Second Language Generalist: Grades 4-8.

(11) [(9)] Generalist: Early Childhood-Grade 6 (Grade 6 only).

(12) [(10)] Generalist: Grades 4-8.

(13) [(11)] Grades 6-12 or Grades 6-8--Mathematics.

(14) [(12)] Junior High School or High School--Mathematics.

(15) [(13)] Junior High School or High School--Mathematical Science, Composite.

(16) [(14)] Legacy Master Mathematics Teacher (Grades 4-8).

(17) [(15)] Legacy Master Mathematics Teacher (Grades 8-12) (Grade 8 only).

(18) [(16)] Mathematics: Grades 4-8. A teacher holding a Mathematics: Grades 4-8 certificate may teach Algebra I at the middle school level for high school graduation credit.

(19) [(17)] Mathematics: Grades 7-12 (Grades 7 and 8 only).

(20) [(18)] Mathematics: Grades 8-12 (Grade 8 only).

(21) [(19)] Mathematics/Physical Science/Engineering: Grades 6-12.

(22) [(20)] Mathematics/Physical Science/Engineering: Grades 8-12 (Grade 8 only).

(23) [(21)] Mathematics/Science: Grades 4-8.

(24) [(22)] Physics/Mathematics: Grades 7-12 (Grades 7 and 8 only).

(25) [(23)] Physics/Mathematics: Grades 8-12 (Grade 8 only).

(26) [(24)] Secondary Mathematics (Grades 6-12).

(27) [(25)] Secondary or all-level teacher certificate plus 18 semester credit hours in mathematics.

§231.63. *Science, Grade 6.*

An assignment in a departmentalized classroom for Science, Grade 6, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Any elementary teacher certificate appropriate for Grade 6.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8.

(4) Core Subjects: Early Childhood-Grade 6.

(5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6.

(6) [(5)] Core Subjects: Grades 4-8.

(7) Core Subjects with Science of Teaching Reading: Grades 4-8.

(8) [(6)] English as a Second Language Generalist: Early Childhood-Grade 6.

(9) [(7)] English as a Second Language Generalist: Grades 4-8.

(10) [(8)] Generalist: Early Childhood-Grade 6.

(11) [(9)] Generalist: Grades 4-8.

(12) [(10)] Grades 6-12 or Grades 6-8--Biology.

(13) [(11)] Grades 6-12 or Grades 6-8--Chemistry.

(14) [(12)] Grades 6-12 or Grades 6-8--Earth Science.

(15) [(13)] Grades 6-12 or Grades 6-8--Life/Earth Science.

(16) [(14)] Grades 6-12 or Grades 6-8--Physical Science.

(17) [(15)] Grades 6-12 or Grades 6-8--Physics.

(18) [(16)] Grades 6-12 or Grades 6-8--Science.

(19) [(17)] Grades 6-12 or Grades 6-8--Science, Composite.

(20) [(18)] Junior High School or High School--Biology.

(21) [(19)] Junior High School or High School--Chemistry.

(22) [(20)] Junior High School or High School--Earth Science.

(23) [(21)] Junior High School or High School--Life/Earth Science.

(24) [(22)] Junior High School or High School--Life/Earth Middle-School Science.

(25) [(23)] Junior High School or High School--Physical Science.

(26) [(24)] Junior High School or High School--Physics.

(27) [(25)] Junior High School or High School--Science.

(28) [(26)] Junior High School or High School--Science, Composite.

(29) [(27)] Legacy Master Science Teacher (Grades 4-8).

(30) [(28)] Mathematics/Science: Grades 4-8.

(31) [(29)] Science: Grades 4-8.

(32) [(30)] Secondary Biology (Grades 6-12).

(33) [(31)] Secondary Chemistry (Grades 6-12).

(34) [(32)] Secondary Earth Science (Grades 6-12).

(35) [(33)] Secondary Life/Earth Science (Grades 6-12).

(36) [(34)] Secondary Physical Science (Grades 6-12).

(37) [(35)] Secondary Physics (Grades 6-12).

(38) [(36)] Secondary Science (Grades 6-12).

(39) [(37)] Secondary Science, Composite (Grades 6-12).

(40) [(38)] Secondary or all-level teacher certificate plus 18 semester credit hours in any combination of sciences.

§231.65. *Science, Grades 7 and 8.*

An assignment in a departmentalized classroom for Science, Grades 7 and 8, is allowed with one of the following certificates.

(1) Bilingual Generalist: Grades 4-8.

(2) Chemistry: Grades 7-12.

(3) Chemistry: Grades 8-12 (Grade 8 only).

(4) Core Subjects: Grades 4-8.

(5) Core Subjects with Science of Teaching Reading: Grades 4-8.

(6) [(5)] Elementary Biology.

(7) [(6)] Elementary Chemistry.

(8) [(7)] Elementary Earth Science.

(9) [(8)] Elementary Life/Earth Middle-School Science.

(10) [(9)] Elementary Physical Science.

(11) [(10)] Elementary Physics.

(12) [(11)] Elementary Biology (Grades 1-8).

(13) [(12)] Elementary Chemistry (Grades 1-8).

(14) [(13)] Elementary Earth Science (Grades 1-8).

(15) [(14)] Elementary Life/Earth Middle-School Science (Grades 1-8).

(16) [(15)] Elementary Physical Science (Grades 1-8).

(17) [(16)] Elementary Physics (Grades 1-8).

(18) [(17)] Elementary teacher certificate plus 18 semester credit hours in any combination of sciences.

(19) [(18)] English as a Second Language Generalist: Grades 4-8.

(20) [(19)] Generalist: Grades 4-8.

(21) [(20)] Grades 6-12 or Grades 6-8--Biology.

(22) [(21)] Grades 6-12 or Grades 6-8--Chemistry.

(23) [(22)] Grades 6-12 or Grades 6-8--Earth Science.

(24) [(23)] Grades 6-12 or Grades 6-8--Life/Earth Middle-School Science.

(25) [(24)] Grades 6-12 or Grades 6-8--Physical Science.

(26) [(25)] Grades 6-12 or Grades 6-8--Physics.

(27) [(26)] Grades 6-12 or Grades 6-8--Science.

(28) [(27)] Grades 6-12 or Grades 6-8--Science, Composite.

(29) [(28)] Junior High School or High School--Biology.

(30) [(29)] Junior High School or High School--Chemistry.

(31) [(30)] Junior High School or High School--Earth Science.

(32) [(31)] Junior High School or High School--Life/Earth Middle-School Science.

(33) [(32)] Junior High School or High School--Physical Science.

(34) [(33)] Junior High School or High School--Physics.

(35) [(34)] Junior High School or High School--Science.

(36) [(35)] Junior High School or High School--Science, Composite.

(37) [(36)] Life Science: Grades 7-12.

(38) [(37)] Life Science: Grades 8-12 (Grade 8 only).

(39) [(38)] Legacy Master Science Teacher (Grades 4-8).

(40) [(39)] Legacy Master Science Teacher (Grades 8-12) (Grade 8 only).

(41) [(40)] Mathematics/Physical Science/Engineering: Grades 6-12.

(42) [(41)] Mathematics/Physical Science/Engineering: Grades 8-12 (Grade 8 only).

(43) [(42)] Mathematics/Science: Grades 4-8.

(44) [(43)] Physical Science: Grades 6-12.

(45) [(44)] Physical Science: Grades 8-12 (Grade 8 only).

(46) [(45)] Physics/Mathematics: Grades 7-12.

(47) [(46)] Physics/Mathematics: Grades 8-12 (Grade 8 only).

(48) [(47)] Science: Grades 4-8.

(49) [(48)] Science: Grades 7-12.

(50) [(49)] Science: Grades 8-12 (Grade 8 only).

(51) [(50)] Secondary Biology (Grades 6-12).

(52) [(51)] Secondary Chemistry (Grades 6-12).

(53) [(52)] Secondary Earth Science (Grades 6-12).

(54) [(53)] Secondary Life/Earth Science (Grades 6-12).

(55) [(54)] Secondary Physical Science (Grades 6-12).

(56) [(55)] Secondary Physics (Grades 6-12).

(57) [(56)] Secondary Science (Grades 6-12).

(58) [(57)] Secondary Science, Composite (Grades 6-12).
(59) [(58)] Secondary or all-level teacher certificate plus 18 semester credit hours in any combination of sciences.

§231.67. *Health, Grades 6-8.*

An assignment in a departmentalized classroom for Health, Grades 6-8, is allowed with one of the following certificates.

(1) All-Level Health and Physical Education.

(2) All-Level Physical Education.

(3) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(6) [(5)] Elementary Health.

(7) [(6)] Elementary Health and Physical Education.

- (8) [(7)] Elementary Physical Education.
- (9) [(8)] Elementary Health (Grades 1-8).
- (10) [(9)] Elementary Health and Physical Education (Grades 1-8).

(11) [(10)] Elementary Physical Education (Grades 1-8).

[(11) Elementary teacher certificate plus 12 semester credit hours in health, mental health, consumer health, public health, biology, microbiology, anatomy, physiology, kinesiology, foods, nutrition, family relations, disease control and prevention, safety, drug abuse prevention, or coordinated health programs.]

(12) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(13) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(14) Grades 6-12 or Grades 6-8--Health.

(15) Grades 6-12 or Grades 6-8--Physical Education.

(16) Health: Early Childhood-Grade 12.

(17) Junior High School or High School--Health.

(18) Junior High School or High School--Health and Physical Education.

(19) Junior High School or High School--Physical Education.

(20) Physical Education: Early Childhood-Grade 12.

(21) Secondary Health (Grades 6-12).

(22) Secondary Physical Education (Grades 6-12).

[(23) Secondary or all-level teacher certificate plus 12 semester credit hours in health, mental health, consumer health, public health, biology, microbiology, anatomy, physiology, kinesiology, foods, nutrition, family relations, disease control and prevention, safety, drug abuse prevention, or coordinated health programs.]

§231.69. *Physical Education, Grades 6-8.*

An assignment in a departmentalized classroom for Physical Education, Grades 6-8, is allowed with one of the following certificates.

(1) All-Level Health and Physical Education.

(2) All-Level Physical Education.

(3) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(6) [(5)] Elementary Health and Physical Education.

(7) [(6)] Elementary Physical Education.

(8) [(7)] Elementary Physical Education (Grades 1-8).

[(8) Elementary teacher certificate plus 12 semester credit hours in physical education, including safety and coordinated school health programs.]

(9) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(10) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(11) Grades 6-12 or Grades 6-8--Physical Education.

(12) Junior High School or High School--Health and Physical Education.

(13) Junior High School or High School--Physical Education.

(14) Physical Education: Early Childhood-Grade 12.

(15) Secondary Physical Education (Grades 6-12).

[(16) Secondary or all-level teacher certificate plus 12 semester credit hours in physical education, including safety and coordinated school health programs.]

§231.71. *Art, Middle School 1-3.*

An assignment in a departmentalized classroom for Art, Middle School 1-3, is allowed with one of the following certificates.

(1) All-Level Art.

(2) Art: Early Childhood-Grade 12.

(3) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(5) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(6) [(5)] Elementary Art (Grades 1-8).

(7) [(6)] Elementary teacher certificate plus 18 semester credit hours in art.

(8) [(7)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(9) [(8)] Generalist: Early Childhood-Grade 6 (Grade 6 only).

(10) [(9)] Grades 6-12 or Grades 6-8--Art.

(11) [(10)] Junior High School or High School--Art.

(12) [(11)] Secondary Art (Grades 6-12).

(13) [(12)] Secondary or all-level teacher certificate plus 18 semester credit hours in art.

§231.73. *Music, Middle School 1-3.*

An assignment in a departmentalized classroom for Music, Middle School 1-3, is allowed with one of the following certificates.

(1) All-Level Music.

(2) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(3) Core Subjects: Early Childhood-Grade 6 (Grade 6 only).

(4) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 (Grade 6 only).

(5) [(4)] Elementary Music.

(6) [(5)] Elementary Music (Grades 1-8).

(7) [(6)] Elementary teacher certificate plus 18 semester credit hours in music.

(8) [(7)] English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(9) [(8)] Generalist: Early Childhood-Grade 6 (Grade 6 only).

- (10) [(9)] Grades 6-12 or Grades 6-8--Music.
- (11) [(10)] Junior High School or High School--Music.
- (12) [(11)] Music: Early Childhood-Grade 12.
- (13) [(12)] Secondary Music (Grades 6-12).
- (14) [(13)] Secondary or all-level teacher certificate plus 18 semester credit hours in music.

§231.79. *Career Development, Grades 6-8.*

An assignment in a departmentalized classroom for Career Development, College and Career Readiness, or Investigating Careers, Grades 6-8, for a holder of a valid secondary or all-level certificate is allowed with a Technology Applications: Early Childhood-Grade 12 certificate, a Technology Applications: Grades 8-12 certificate, and any vocational or career and technical education classroom teaching certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).

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

Filed with the Office of the Secretary of State on March 7, 2022.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: April 17, 2022

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



SUBCHAPTER E. GRADES 9 - 12

ASSIGNMENTS

DIVISION 1. ENGLISH LANGUAGE ARTS AND READING, GRADES 9-12 ASSIGNMENTS

19 TAC §231.131, §231.135

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.131. *Writing, Grades 9-12.*

An assignment for [~~Writing~~], Research and Technical Writing, Creative Writing, or Practical Writing Skills; Literary Genres; Humanities; Independent Study in English; Visual Media Analysis and Production; or Contemporary Media, Grades 9-12, is allowed with one of the following certificates.

- (1) English Language Arts and Reading: Grades 7-12.
- (2) English Language Arts and Reading: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--English.
- (4) Grades 6-12 or Grades 9-12--English Language Arts, Composite.
- (5) Junior High School (Grades 9-10 only) or High School--English.
- (6) Junior High School (Grades 9-10 only) or High School--English Language Arts, Composite.
- (7) Secondary English (Grades 6-12).
- (8) Secondary English Language Arts, Composite (Grades 6-12).

§231.135. *Journalism, Grades 9-12.*

An assignment for Journalism, Advanced Journalism, Yearbook I-III, Literary Magazine, Newspaper [~~Production~~] I-III, Photojournalism, Advanced Broadcast Journalism I-III, or Independent Study in Journalism, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Journalism.
- (2) Grades 6-12 or Grades 9-12--English Language Arts, Composite. This assignment includes at least six semester credit hours in Journalism.
- (3) Journalism: Grades 7-12.
- (4) Journalism: Grades 8-12.
- (5) Junior High School (Grades 9-10 only) or High School--Journalism.
- (6) Junior High School (Grades 9-10 only) or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours in Journalism.
- (7) Secondary Journalism (Grades 6-12).
- (8) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours in Journalism.

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

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DIVISION 2. LANGUAGES OTHER THAN ENGLISH, GRADES 9-12 ASSIGNMENTS

19 TAC §231.153

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.153. *American Sign Language, Grades 9-12.*

(a) An assignment for American Sign Language, Levels I-IV, Grades 9-12, or American Sign Language, Advanced Independent Study is allowed with one of the following certificates.

- (1) American Sign Language.
- (2) American Sign Language: Early Childhood-Grade 12.

(b) The Texas Assessment of Sign Communication-American Sign Language (TASC-ASL) is required for an American Sign Language assignment.

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

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DIVISION 3. SOCIAL STUDIES, GRADES 9-12 ASSIGNMENTS

19 TAC §231.173

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school

district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.173. *Economics with Emphasis on the Free Enterprise System and Its Benefits, Grades 9-12.*

An assignment for Economics with Emphasis on the Free Enterprise System and Its Benefits or Economics Advanced Studies, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business certificate.
- (2) Grades 6-12 or Grades 9-12--Economics.
- (3) Grades 6-12 or Grades 9-12--Social Studies.
- (4) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (5) Junior High School (Grades 9-10 only) or High School--Economics.
- (6) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (7) Secondary Economics (Grades 6-12).
- (8) Secondary Social Studies (Grades 6-12).
- (9) Secondary Social Studies, Composite (Grades 6-12).
- (10) Social Studies: Grades 7-12.
- (11) Social Studies: Grades 8-12.

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DIVISION 9. CAREER DEVELOPMENT, GRADES 9-12 ASSIGNMENTS

19 TAC §231.271

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.271. *Career Development, Grades 9-12.*

(a) Subject to the requirements in subsection (e) of this section, an assignment for Career Preparation I, Career Preparation II, or Extended Career Preparation, Grades 9-12, is allowed with one of the following certificates.

(1) Any vocational or career and technical education (CTE) classroom teaching certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).

(2) Any special education certificate so long as, beginning with the 2020-2021 school year, the special education-certified teacher assigned to teach this course shall complete Texas Education Agency-approved training found at tea.texas.gov/cte prior to teaching this course.

(3) Technology Applications: Early Childhood-Grade 12.

(4) Technology Applications: Grades 8-12.

(b) An assignment for Project-Based Research, Grades 9-12, is allowed with one of the following certificates.

(1) Any vocational or CTE classroom teaching certificate specified in §233.13 of this title or §233.14 of this title.

(2) Technology Applications: Early Childhood-Grade 12.

(3) Technology Applications: Grades 8-12.

(c) An assignment for Applied Mathematics for Technical Professionals, Grades 9-12, is allowed with one of the following certificates.

(1) Any vocational or CTE classroom teaching certificate specified in §233.13 of this title or §233.14 of this title. This assignment requires a bachelor's degree.

(2) Grades 6-12 or Grades 9-12 Mathematics.

(3) Legacy Master Mathematics Teacher (Grades 8-12).

(4) Mathematics: Grades 7-12.

- (5) Mathematics: Grades 8-12.
- (6) Mathematics/Physical Science/Engineering: Grades 6-12.
- (7) Mathematics/Physical Science/Engineering: Grades 8-12.
- (8) Physics/Mathematics: Grades 7-12.
- (9) Physics/Mathematics: Grades 8-12.
- (10) Secondary Mathematics (Grades 6-12).
- (11) Computer Science: Grades 8-12.
- (12) Grades 6-12 or Grades 9-12--Computer Information Systems.
- (13) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.
- (14) Secondary Computer Information Systems (Grades 6-12).
- (15) Technology Applications: Early Childhood-Grade 12.
- (16) Technology Applications: Grades 8-12.

(d) All teachers assigned to Applied Mathematics for Technical Professionals shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

(e) The school district is responsible for ensuring that each teacher assigned to Career Preparation I, Career Preparation II, or Extended Career Preparation, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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

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DIVISION 10. AGRICULTURE, FOOD, AND NATURAL RESOURCES, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.281, 231.289, 231.291, 231.293

STATUTORY AUTHORITY. The amendments and new section are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators;

TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments and new section implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.281. Agriculture, Food, and Natural Resources, Grades 9-12.

(a) An assignment for Advanced Energy and Natural Resource Technology; Agriculture Laboratory and Field Experience; ~~Energy and Natural Resource Technology;~~ Equine Science; Food Processing; Food Technology and Safety; Forestry and Woodland Ecosystems; Greenhouse Operation and Production; Horticultural Science; Landscape Design and Management; Livestock Production; Principles of Agriculture, Food, and Natural Resources; Professional Standards in Agribusiness; Range Ecology and Management; Small Animal Management; Turf Grass Management; Veterinary Medical Applications; or Wildlife, Fisheries, and Ecology Management, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Agriculture, Food, and Natural Resources or Extended Practicum in Agriculture, Food, and Natural Resources, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Agriculture, Food, and Natural Resources or Extended Practicum in Agriculture, Food, and Natural Resources, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.289. Agricultural Equipment Design and Fabrication; Agricultural Structures Design and Fabrication; Agricultural Mechanics and Metal Technologies; Agricultural Power Systems; Grades 9-12.

An assignment for Agricultural Equipment Design and Fabrication, Agricultural Structures Design and Fabrication, Agricultural Mechanics and Metal Technologies, or Agricultural Power Systems, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) ~~[(6)]~~ Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.291. Floral Design, Grades 9-12.

An assignment for Floral Design, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) ~~[(6)]~~ Vocational Trades and Industry. This assignment requires appropriate work approval.

(8) ~~[(7)]~~ All-Level Art.

(9) ~~[(8)]~~ Art: Early Childhood-Grade 12.

(10) ~~[(9)]~~ Grades 6-12 or Grades 9-12--Art.

(11) ~~[(10)]~~ Junior High School (Grades 9-10 only) or High School--Art.

(12) ~~[(11)]~~ Secondary Art (Grades 6-12).

§231.293. Energy and Natural Resource Technology, Grades 9-12.

An assignment for Energy and Natural Resource Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Life Science: Grades 7-12.

(5) Life Science: Grades 8-12.

(6) Mathematics/Physical Science/Engineering: Grades 6-12.

(7) Mathematics/Physical Science/Engineering: Grades 8-12.

(8) Secondary Industrial Arts (Grades 6-12).

(9) Secondary Industrial Technology (Grades 6-12).

(10) Technology Education: Grades 6-12.

(11) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(13) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

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DIVISION 11. ARCHITECTURE AND CONSTRUCTION, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.301, 231.303, 231.305, 231.307, 231.309, 231.311, 231.313

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.301. *Principles of Architecture; Principles of Construction, Grades 9-12.*

An assignment for Principles of Architecture or Principles of Construction, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any home economics or homemaking certificate.
- (4) Family and Consumer Sciences, Composite: Grades 6-12.
- (5) Mathematics/Physical Science/Engineering: Grades 6-12.
- (6) Mathematics/Physical Science/Engineering: Grades 8-12.

(7) Secondary Industrial Arts (Grades 6-12).

(8) Secondary Industrial Technology (Grades 6-12).

(9) Technology Education: Grades 6-12.

(10) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(13) [(42)] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.303. *Interior Design, Grades 9-12.*

(a) An assignment for Interior Design I or Interior Design II, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(3) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(4) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(6) [(5)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Interior Design or Extended Practicum in Interior Design, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(3) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(4) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(6) [(5)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Interior Design or Extended Practicum in Interior Design, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.305. *Architectural Design, Grades 9-12.*

(a) An assignment for Architectural Design I or Architectural Design II, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

(3) Secondary Industrial Arts (Grades 6-12).

(4) Secondary Industrial Technology (Grades 6-12).

(5) Technology Education: Grades 6-12.

(6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) [(8)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Architectural Design or Extended Practicum in Architectural Design, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

(3) Secondary Industrial Arts (Grades 6-12).

(4) Secondary Industrial Technology (Grades 6-12).

(5) Technology Education: Grades 6-12.

(6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) [(8)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(10) [(9)] Any home economics or homemaking certificate.

(11) [(10)] Family and Consumer Sciences, Composite: Grades 6-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Architectural Design or Extended Practicum in Architectural Design, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.307. Construction Management; Construction Technology, Grades 9-12.

(a) An assignment for Construction Management I, Construction Management II, Construction Technology I, or Construction Technology II, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Mathematics/Physical Science/Engineering: Grades 6-12.

(5) Mathematics/Physical Science/Engineering: Grades 8-12.

(6) Secondary Industrial Arts (Grades 6-12).

(7) Secondary Industrial Technology (Grades 6-12).

(8) Technology Education: Grades 6-12.

(9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(12) [(11)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Construction Management, Practicum in Construction Technology, Extended Practicum in Construction Management, or Extended Practicum in Construction Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Mathematics/Physical Science/Engineering: Grades 6-12.

(5) Mathematics/Physical Science/Engineering: Grades 8-12.

(6) Secondary Industrial Arts (Grades 6-12).

(7) Secondary Industrial Technology (Grades 6-12).

(8) Technology Education: Grades 6-12.

(9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(12) [(11)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Construction Management, Practicum in Construction Technology, Extended Practicum in Construction Management, or Extended Practicum in Construction Technology, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.309. Building Maintenance Technology, Grades 9-12.

An assignment for Building Maintenance Technology I or Building Maintenance Technology II, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(10) [(9)] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.311. *Mill and Cabinetmaking Technology, Grades 9-12.*

An assignment for Mill and Cabinetmaking Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Education: Grades 6-12.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) [(6)] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.313. *Electrical Technology; Heating, Ventilation, and Air Conditioning (HVAC) and Refrigeration Technology; Masonry Technology; and Plumbing Technology, Grades 9-12.*

(a) An assignment for Electrical Technology I; Electrical Technology II; Heating, Ventilation, and Air Conditioning (HVAC) and Refrigeration I; Heating, Ventilation, and Air Conditioning (HVAC) and Refrigeration II; Masonry Technology I; Masonry Technology II; Plumbing Technology I; or Plumbing Technology II, Grades 9-12, is allowed with one of the following certificates.

- (1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [(3)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Masonry Technology or Extended Practicum in Masonry Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [(3)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Masonry Technology or Extended Practicum in Masonry Technology, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

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



DIVISION 12. ARTS, AUDIO/VIDEO TECHNOLOGY, AND COMMUNICATIONS, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.333, 231.335, 231.337, 231.339, 231.341

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.333. *Principles of Arts, Audio/Video Technology, and Communications, Grades 9-12.*

An assignment for Principles of Arts, Audio/Video Technology, and Communications, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).

- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 8-12.
- (8) Technology Education: Grades 6-12.
- (9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

~~(12) [(44)] Vocational Trades and Industry.~~ This assignment requires appropriate work approval.

~~(13) [(42)] Any home economics or homemaking certificate.~~

~~(14) [(43)] Family and Consumer Sciences, Composite: Grades 6-12.~~

§231.335. Animation, Grades 9-12.

(a) An assignment for Animation I, Animation I Lab, Animation II, or Animation II Lab, Digital Art and Animation, 3-D Modeling and Animation, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 8-12.
- (8) Technology Education: Grades 6-12.
- (9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

~~(12) [(44)] Vocational Trades and Industry.~~ This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Animation or Extended Practicum in Animation, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 8-12.
- (8) Technology Education: Grades 6-12.

(9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

~~(12) [(44)] Vocational Trades and Industry.~~ This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Animation or Extended Practicum in Animation, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.337. Audio/Video Production; Graphic Design and Illustration, Grades 9-12.

(a) An assignment for Audio/Video Production I; Audio/Video Production I Lab; Audio/Video Production II; Audio/Video Production II Lab; Digital Audio Technology I; Digital Audio Technology II; Graphic Design and Illustration I; Graphic Design and Illustration I Lab; Graphic Design and Illustration II; Graphic Design and Illustration II Lab; Video Game Design; Web Game Development; Digital Design and Media Production; or Digital Communications in the 21st Century, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Applications: Early Childhood-Grade 12.
- (4) Technology Applications: Grades 8-12.
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

~~(9) [(8)] Vocational Trades and Industry.~~ This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Audio/Video Production, Practicum in Graphic Design and Illustration, Extended Practicum in Audio/Video Production, or Extended Practicum in Graphic Design and Illustration, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Applications: Early Childhood-Grade 12.
- (4) Technology Applications: Grades 8-12.
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) [(8)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Audio/Video Production, Practicum in Graphic Design and Illustration, Extended Practicum in Audio/Video Production, or Extended Practicum in Graphic Design and Illustration, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.339. *Photography, Grades 9-12.*

(a) An assignment for Commercial Photography I, Commercial Photography I Lab, Commercial Photography II, or Commercial Photography II Lab, Grades 9-12, is allowed with one of the following certificates.

- (1) Art (Early Childhood-Grade 12).
- (2) Art: Junior High School (Grades 9-10 only), High School, Secondary.
- (3) Art (Grades 6-12, Grades 9-12, or All-Level).
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Technology Applications: Early Childhood-Grade 12.
- (8) Technology Applications: Grades 8-12.

(9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(12) [(11)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Commercial Photography or Extended Practicum in Commercial Photography, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Education: Grades 6-12.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) [(6)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(8) [(7)] Technology Applications: Early Childhood-Grade 12.

(9) [(8)] Technology Applications: Grades 8-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Commercial Photography or Extended

Practicum in Commercial Photography, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.341. *Printing and Imaging Technology, Grades 9-12.*

(a) An assignment for Printing and Imaging Technology I, Printing and Imaging Technology I Lab, Printing and Imaging Technology II, or Printing and Imaging Technology II Lab, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [(3)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(5) [(4)] Technology Applications: Early Childhood-Grade 12.

(6) [(5)] Technology Applications: Grades 8-12.

(7) [(6)] Technology Education: Grades 6-12.

(8) [(7)] Secondary Industrial Arts: Grades 8-12.

(9) [(8)] Secondary Industrial Technology: Grades 6-12.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Printing and Imaging Technology or Extended Practicum in Printing and Imaging Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [(3)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(5) [(4)] Technology Applications: Early Childhood-Grade 12.

(6) [(5)] Technology Applications: Grades 8-12.

(7) [(6)] Technology Education: Grades 6-12.

(8) [(7)] Secondary Industrial Arts: Grades 8-12.

(9) [(8)] Secondary Industrial Technology: Grades 6-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Printing and Imaging Technology or Extended Practicum in Printing and Imaging Technology, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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

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DIVISION 14. EDUCATION AND TRAINING, GRADES 9-12 ASSIGNMENTS

19 TAC §231.381

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.381. *Education and Training, Grades 9-12.*

(a) An assignment for Instructional Practices or Principles of Education and Training, Grades 9-12, is allowed with any valid classroom teacher or administrator certificate.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Education and Training, Practicum in Education and Training, Practicum in Early Learning, or Extended Practicum in Early Learning, Grades 9-12, is allowed with any valid classroom teacher or administrator certificate.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Education and Training, Practicum in Education and Training, Practicum in Early Learning, or Extended Practicum in Early Learning, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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

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DIVISION 16. GOVERNMENT AND PUBLIC ADMINISTRATION, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.401, 231.403, 231.405

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.401. *Government and Public Administration, Grades 9-12.*

(a) An assignment for Foreign Service and Diplomacy, Planning and Governance, Political Science I and II, Principles of Government and Public Administration, or Public Management and Administration, Grades 9-12, is allowed with one of the following.

- (1) Grades 6-12 or Grades 9-12--Government.
- (2) Grades 6-12 or Grades 9-12--Social Studies.
- (3) Junior High School (Grades 9-10 only) or High School--Government-Political Science.
- (4) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (5) Secondary Government (Grades 6-12).
- (6) Secondary Political Science (Grades 6-12).
- (7) Secondary Social Science, Composite (Grades 6-12).
- (8) Secondary Social Studies, Composite (Grades 6-12).
- (9) Social Studies: Grades 7-12.
- (10) Social Studies: Grades 8-12.
- (11) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(13) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(14) [(13)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Local, State, and Federal Government or Extended Practicum in Local, State, and Federal Government, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Government.
- (2) Grades 6-12 or Grades 9-12--Social Studies.
- (3) Junior High School (Grades 9-10 only) or High School--Government-Political Science.
- (4) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (5) Secondary Government (Grades 6-12).
- (6) Secondary Political Science (Grades 6-12).
- (7) Secondary Social Science, Composite (Grades 6-12).
- (8) Secondary Social Studies, Composite (Grades 6-12).
- (9) Social Studies: Grades 7-12.
- (10) Social Studies: Grades 8-12.

(11) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(13) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(14) [(13)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Local, State, and Federal Government or Extended Practicum in Local, State, and Federal Government, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.403. *Revenue, Taxation, and Regulation, Grades 9-12.*

An assignment for Revenue, Taxation, and Regulation, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Grades 6-12 or Grades 9-12--Social Studies.
- (5) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (6) Secondary Social Science, Composite (Grades 6-12).
- (7) Secondary Social Studies, Composite (Grades 6-12).
- (8) Social Studies: Grades 7-12.
- (9) Social Studies: Grades 8-12.
- (10) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(13) [(12)] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.405. *National Security, Grades 9-12.*

An assignment for National Security, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [(3)] Vocational Trades and Industry. This assignment requires appropriate work approval.

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

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DIVISION 17. HEALTH SCIENCE, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.421, 231.423, 231.425, 231.427, 231.429

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.421. *Health Science, Grades 9-12.*

(a) An assignment for Health Science Theory, Health Science Clinical, Pharmacology, Pharmacy II, Principles of Health Science, or World Health Research, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12.
- (2) Health Science Technology Education: Grades 8-12.
- (3) Vocational Health Occupations.
- (4) Vocational Health Science Technology.

(b) An assignment for Medical Terminology or Medical Assistant, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Biology (Grades 6-12).
- (2) Secondary Science (Grades 6-12).
- (3) Secondary Science, Composite (Grades 6-12).
- (4) Health Science: Grades 6-12.
- (5) Health Science Technology Education: Grades 8-12.
- (6) Life Science: Grades 7-12.
- (7) Life Science: Grades 8-12.
- (8) Legacy Master Science Teacher (Grades 8-12).
- (9) Science: Grades 7-12.
- (10) Science: Grades 8-12.
- (11) Vocational Health Occupations.
- (12) Vocational Health Science Technology.

(c) Subject to the requirements in subsection (d) of this section, an assignment for Practicum in Health Science or Extended Practicum in Health Science, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12.
- (2) Health Science Technology Education: Grades 8-12.
- (3) Vocational Health Occupations.
- (4) Vocational Health Science Technology.

(d) The school district is responsible for ensuring that each teacher assigned to Practicum in Health Science or Extended Practicum in Health Science, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.423. *Anatomy and Physiology, Medical Microbiology, ~~and~~ Pathophysiology, and Respiratory Therapy I, Grades 9-12.*

(a) An assignment for Anatomy and Physiology, Medical Microbiology, ~~and~~ Pathophysiology, or Respiratory Therapy I, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Biology (Grades 6-12).
- (2) Secondary Science (Grades 6-12).
- (3) Secondary Science, Composite (Grades 6-12).
- (4) Health Science: Grades 6-12. This assignment requires a bachelor's degree.
- (5) Health Science Technology Education: Grades 8-12. This assignment requires a bachelor's degree.
- (6) Life Science: Grades 7-12.

- (7) Life Science: Grades 8-12.
- (8) Legacy Master Science Teacher (Grades 8-12).
- (9) Science: Grades 7-12.
- (10) Science: Grades 8-12.
- (11) Vocational Health Occupations. This assignment requires a bachelor's degree.
- (12) Vocational Health Science Technology. This assignment requires a bachelor's degree.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.425. *Mathematics for Medical Professionals; Medical Coding and Billing, Grades 9-12.*

(a) An assignment for Mathematics for Medical Professionals or Medical Coding and Billing, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12. This assignment requires a bachelor's degree.
- (2) Health Science Technology Education: Grades 8-12. This assignment requires a bachelor's degree.
- (3) Vocational Health Occupations. This assignment requires a bachelor's degree.
- (4) Vocational Health Science Technology. This assignment requires a bachelor's degree.
- (5) Legacy Master Mathematics Teacher (Grades 8-12).
- (6) Mathematics: Grades 7-12.
- (7) Mathematics: Grades 8-12.
- (8) Mathematics/Physical Science/Engineering: Grades 6-12.
- (9) Mathematics/Physical Science/Engineering: Grades 8-12.
- (10) Physics/Mathematics: Grades 7-12.
- (11) Physics/Mathematics: Grades 8-12.
- (12) Secondary Mathematics.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.427. *Health Informatics, Grades 9-12.*

An assignment for Health Informatics, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12.
- (2) Health Science Technology Education: Grades 8-12.
- (3) Vocational Health Occupations.
- (4) Vocational Health Science Technology.
- ~~(5) Any business or office education certificate.~~
- ~~(6) Business and Finance: Grades 6-12.~~
- ~~(7) Business Education: Grades 6-12.~~
- ~~(8) Marketing: Grades 6-12.~~

~~[(9) Marketing Education: Grades 8-12.]~~

§231.429. Healthcare Administration and Management; Leadership and Management in Nursing, Grades 9-12.

An assignment for Healthcare Administration and Management or Leadership and Management in Nursing, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12.
- (2) Health Science Technology Education: Grades 8-12.
- (3) Vocational Health Occupations.
- (4) Vocational Health Science Technology.

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

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DIVISION 18. HOSPITALITY AND TOURISM, GRADES 9-12 ASSIGNMENTS

19 TAC §231.441, §231.443

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.441. Hospitality and Tourism, Grades 9-12.

(a) An assignment for Hospitality Services, Hotel Management, Principles of Hospitality and Tourism, or Travel and Tourism Management, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.

- (2) Any marketing or distributive education certificate.
- (3) Family and Consumer Sciences, Composite: Grades 6-12.
- (4) Hospitality, Nutrition, and Food Sciences: Grades 8-12.
- (5) Marketing: Grades 6-12.
- (6) Marketing Education: Grades 8-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(10) [(9)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Hospitality Services or Extended Practicum in Hospitality Services, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Any marketing or distributive education certificate.
- (3) Family and Consumer Sciences, Composite: Grades 6-12.
- (4) Hospitality, Nutrition, and Food Sciences: Grades 8-12.
- (5) Marketing: Grades 6-12.
- (6) Marketing Education: Grades 8-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(10) [(9)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Hospitality Services or Extended Practicum in Hospitality Services, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.443. Culinary Arts, Grades 9-12.

(a) An assignment for Introduction to Culinary Arts, Culinary Arts, or Advanced Culinary Arts, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Family and Consumer Sciences, Composite: Grades 6-12.
- (3) Hospitality, Nutrition, and Food Sciences: Grades 8-12.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) [(6)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Culinary Arts or Extended Practicum in Culinary Arts, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(3) Hospitality, Nutrition, and Food Sciences: Grades 8-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) [(6)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Culinary Arts or Extended Practicum in Culinary Arts, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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

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DIVISION 19. HUMAN SERVICES, GRADES 9-12 ASSIGNMENTS

19 TAC §231.469

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules

that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.469. *Cosmetology, Grades 9-12.*

An assignment for Introduction to Cosmetology, Cosmetology I, Cosmetology II, or Principles of Cosmetology Design and Color Theory, Grades 9-12, is allowed with one of the following certificates plus a valid Cosmetology Operator license or Class A Barber Operator license. [a valid license as a cosmetology instructor issued by the Texas Department of Licensing and Regulation.]

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [(3)] Vocational Trades and Industry. This assignment requires appropriate work approval.

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

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DIVISION 20. INFORMATION TECHNOLOGY, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.481, 231.483, 231.485, 231.487, 231.489

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B;

TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.481. *Information Technology, Grades 9-12.*

An assignment for Principles of Information Technology, Networking, or Networking Lab, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 8-12.
- (8) Technology Education: Grades 6-12.
- (9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.
- (12) [(H)] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.483. *Digital Media, Grades 9-12.*

An assignment for Digital Media, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Technology Applications: Early Childhood-Grade 12.
- (8) Technology Applications: Grades 8-12.
- (9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (11) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.
- (12) [(H)] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.485. *Web Communications, Web Design, Grades 9-12.*

An assignment for Web Communications or Web Design, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Applications: Early Childhood-Grade 12.
- (4) Technology Applications: Grades 8-12.
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.
- (9) [(8)] Vocational Trades and Industry. This assignment requires appropriate work approval.
- (10) [(9)] Any business or office education certificate.
- (11) [(10)] Business and Finance: Grades 6-12.
- (12) [(11)] Business Education: Grades 6-12.

§231.487. *Computer Maintenance, Grades 9-12.*

An assignment for Computer Maintenance or Computer Maintenance Lab, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Education: Grades 6-12.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.
- (7) [(6)] Vocational Trades and Industry. This assignment requires appropriate work approval.
- (8) [(7)] Technology Applications: Early Childhood-Grade 12.
- (9) [(8)] Technology Applications: Grades 8-12.

§231.489. *Computer Technician; Information Technology, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Computer Technician Practicum, Extended Computer Technician Practicum, Practicum in Information Technology, or Extended Practicum in Information Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Education: Grades 6-12.
- (4) Technology Applications: Early Childhood-Grade 12.
- (5) Technology Applications: Grades 8-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) [~~8~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) The school district is responsible for ensuring that each teacher assigned to Computer Technician Practicum, Extended Computer Technician Practicum, Practicum in Information Technology, or Extended Practicum in Information Technology, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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

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DIVISION 21. LAW, PUBLIC SAFETY, CORRECTIONS, AND SECURITY, GRADES 9-12 ASSIGNMENTS

19 TAC §231.501, §231.503

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.501. *Law, Public Safety, Corrections, and Security, Grades 9-12.*

(a) An assignment for Correctional Services; Court Systems and Practices; Criminal Investigations; Federal Law Enforcement and

Protective Services; Firefighter I and II; Law Enforcement I and II; or Principles of Law, Public Safety, Corrections, and Security, Grades 9-12, is allowed with a valid license appropriate for the assignment plus one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [~~3~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Law, Public Safety, Corrections, and Security or Extended Practicum in Law, Public Safety, Corrections, and Security, Grades 9-12, is allowed with a current license appropriate for the assignment plus one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [~~3~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Law, Public Safety, Corrections, and Security or Extended Practicum in Law, Public Safety, Corrections, and Security, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.503. *Forensic Science, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Forensic Science, Grades 9-12, is allowed with one of the following certificates.

(1) Chemistry: Grades 7-12.

(2) Chemistry: Grades 8-12.

(3) Health Science: Grades 6-12. This assignment requires a bachelor's degree.

(4) Health Science Technology Education: Grades 8-12. This assignment requires a bachelor's degree.

(5) Life Science: Grades 7-12.

(6) Life Science: Grades 8-12.

(7) Legacy Master Science Teacher (Grades 8-12).

(8) Science: Grades 7-12.

(9) Science: Grades 8-12.

(10) Secondary Biology (Grades 6-12).

(11) Secondary Chemistry (Grades 6-12).

(12) Secondary Science (Grades 6-12).

(13) Secondary Science, Composite (Grades 6-12).

(14) Trade and Industrial Education: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.

(15) Trade and Industrial Education: Grades 8-12. This assignment requires a bachelor's degree and appropriate work approval.

(16) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(17) [(46)] Vocational Health Occupations. This assignment requires a bachelor's degree.

(18) [(47)] Vocational Health Science Technology. This assignment requires a bachelor's degree.

(19) [(48)] Vocational Trades and Industry. This assignment requires a bachelor's degree and appropriate work approval.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

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

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DIVISION 22. MANUFACTURING, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.521, 231.523, 231.525

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.521. *Manufacturing, Grades 9-12.*

(a) An assignment for Diversified Manufacturing I, Diversified Manufacturing II, Manufacturing Engineering Technology I, Metal

Fabrication and Machining I, Metal Fabrication and Machining II, Precision Metal Manufacturing I, Precision Metal Manufacturing II, Precision Metal Manufacturing II Lab, Principles of Manufacturing, Grades 9-12, is allowed using one of the following certificates.

6-12. (1) Mathematics/Physical Science/Engineering: Grades

8-12. (2) Mathematics/Physical Science/Engineering: Grades

(3) Secondary Industrial Arts (Grades 6-12).

(4) Secondary Industrial Technology (Grades 6-12).

(5) Technology Education: Grades 6-12.

(6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) [(8)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Manufacturing or Extended Practicum in Manufacturing, Grades 9-12, is allowed with one of the following certificates.

6-12. (1) Mathematics/Physical Science/Engineering: Grades

8-12. (2) Mathematics/Physical Science/Engineering: Grades

(3) Secondary Industrial Arts (Grades 6-12).

(4) Secondary Industrial Technology (Grades 6-12).

(5) Technology Education: Grades 6-12.

(6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) [(8)] Vocational Trades and Industry. This assignment requires appropriate work approval.

(10) [(9)] Agriculture, Food, and Natural Resources: Grades 6-12.

6-12. (11) [(40)] Agricultural Science and Technology: Grades

(12) [(44)] Any vocational agriculture certificate.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Manufacturing or Extended Practicum in Manufacturing, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.523. *Welding, Grades 9-12.*

An assignment for Introduction to Welding, Welding I, Welding II, or Welding II Lab, Grades 9-12, is allowed with one of the following certificates.

- 6-12.
- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
 - (2) Agricultural Science and Technology: Grades 6-12.
 - (3) Any vocational agriculture certificate.
 - (4) Secondary Industrial Arts (Grades 6-12).
 - (5) Secondary Industrial Technology (Grades 6-12).
 - (6) Technology Education: Grades 6-12.
 - (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
 - (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
 - (9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(10) [~~9~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.525. *Manufacturing Engineering Technology II, Grades 9-12.*

(a) An assignment for Manufacturing Engineering Technology II, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12 Mathematics.
- (2) Legacy Master Mathematics Teacher (Grades 8-12).
- (3) Mathematics: Grades 7-12.
- (4) Mathematics: Grades 8-12.
- 6-12. (5) Mathematics/Physical Science/Engineering: Grades 6-12.
- 8-12. (6) Mathematics/Physical Science/Engineering: Grades 8-12.
- (7) Physics/Mathematics: Grades 7-12.
- (8) Physics/Mathematics: Grades 8-12.
- (9) Secondary Industrial Arts (Grades 6-12).
- (10) Secondary Industrial Arts Technology (Grades 6-12).
- (11) Secondary Mathematics.
- (12) Technology Education: Grades 6-12.
- (13) Trade and Industrial Education: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.
- (14) Trade and Industrial Education: Grades 8-12. This assignment requires a bachelor's degree and appropriate work approval.
- (15) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(16) [~~15~~] Vocational Trades and Industry. This assignment requires a bachelor's degree and appropriate work approval.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching the course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

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

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DIVISION 23. MARKETING, GRADES 9-12 ASSIGNMENTS

19 TAC §231.543

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.543. *Advertising, Grades 9-12.*

An assignment for Advertising, Grades 9-12, is allowed with one of the following certificates.

- (1) Any marketing or distributive education certificate.
- (2) Marketing: Grades 6-12.
- (3) Marketing Education: Grades 8-12.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(7) [~~6~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

(8) [~~7~~] Any business or office education certificate.

(9) [~~8~~] Business and Finance: Grades 6-12.

(10) [~~9~~] Business Education: Grades 6-12.

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

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DIVISION 24. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS, GRADES 9-12 ASSIGNMENTS

**19 TAC §§231.561, 231.563, 231.565, 231.567, 231.569,
231.571, 231.573, 231.575, 231.577, 231.579, 231.581,
231.583, 231.587, 231.589, 231.591, 231.593**

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.561. *Principles of Applied Engineering, Grades 9-12.*

An assignment for Principles of Applied Engineering, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Health Science: Grades 6-12.
- (5) Health Science Technology Education: Grades 8-12.
- (6) Mathematics/Physical Science/Engineering: Grades 6-12.
- (7) Mathematics/Physical Science/Engineering: Grades 8-12.
- ~~[(8) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~
- (8) [(9)] Secondary Industrial Arts (Grades 6-12).

(9) [(10)] Secondary Industrial Technology (Grades 6-12).

(10) [(11)] Technology Education: Grades 6-12.

(11) [(12)] Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(12) [(13)] Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(13) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(14) Vocational Health Occupations.

(15) Vocational Health Science Technology.

(16) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.563. *Principles of Biosciences, Grades 9-12.*

An assignment for Principles of Biosciences, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Health Science: Grades 6-12.
- (5) Health Science Technology Education: Grades 8-12.
- (6) Mathematics/Physical Science/Engineering: Grades 6-12.
- (7) Mathematics/Physical Science/Engineering: Grades 8-12.
- ~~[(8) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(8) [(9)] Secondary Industrial Technology (Grades 6-12).

(9) [(10)] Secondary Industrial Arts (Grades 6-12).

(10) [(11)] Technology Education: Grades 6-12.

(11) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(13) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(14) [(12)] Vocational Health Occupations.

(15) [(13)] Vocational Health Science Technology.

§231.565. *Biotechnology I; Biotechnology II, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Biotechnology I or Biotechnology II, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Health Science: Grades 6-12. This assignment requires a bachelor's degree.

(5) Health Science Technology Education: Grades 8-12. This assignment requires a bachelor's degree.

(6) Life Science: Grades 7-12.

(7) Life Science: Grades 8-12.

(8) Legacy Master Science Teacher (Grades 8-12).

(9) Science: Grades 7-12.

(10) Science: Grades 8-12.

~~[(11) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(11) ~~[(12)]~~ Secondary Biology (Grades 6-12).

(12) ~~[(13)]~~ Secondary Science (Grades 6-12).

(13) ~~[(14)]~~ Secondary Science, Composite (Grades 6-12).

(14) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(15) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(16) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(17) ~~[(15)]~~ Vocational Health Occupations. This assignment requires a bachelor's degree.

(18) ~~[(16)]~~ Vocational Health Science Technology. This assignment requires a bachelor's degree.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.567. Engineering Design and Presentation, Grades 9-12.

(a) An assignment for Engineering Design and Presentation I or Engineering Design and Presentation II, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

~~[(3) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(3) ~~[(4)]~~ Secondary Industrial Arts (Grades 6-12).

(4) ~~[(5)]~~ Secondary Industrial Technology (Grades 6-12).

(5) ~~[(6)]~~ Technology Education: Grades 6-12.

(6) ~~[(7)]~~ Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(7) ~~[(8)]~~ Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Science, Technology, Engineering, and Mathematics or Extended Practicum in Science, Technology,

Engineering, and Mathematics, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Health Science: Grades 6-12. This assignment requires a bachelor's degree.

(5) Health Science Technology Education: Grades 8-12. This assignment requires a bachelor's degree.

(6) Life Science: Grades 7-12.

(7) Life Science: Grades 8-12.

(8) Mathematics/Physical Science/Engineering: Grades 6-12.

(9) Mathematics/Physical Science/Engineering: Grades 8-12.

~~[(10) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(10) ~~[(11)]~~ Secondary Industrial Arts (Grades 6-12).

(11) ~~[(12)]~~ Secondary Industrial Technology (Grades 6-12).

(12) ~~[(13)]~~ Technology Education: Grades 6-12.

(13) ~~[(14)]~~ Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(14) ~~[(15)]~~ Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(15) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(16) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Science, Technology, Engineering, and Mathematics or Extended Practicum in Science, Technology, Engineering, and Mathematics, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.569. Engineering Mathematics; Robotics II, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Engineering Mathematics or Robotics II, Grades 9-12, is allowed with one of the following certificates.

(1) Legacy Master Mathematics Teacher (Grades 8-12).

(2) Mathematics: Grades 7-12.

(3) Mathematics: Grades 8-12.

(4) Mathematics/Physical Science/Engineering: Grades 6-12.

(5) Mathematics/Physical Science/Engineering: Grades 8-12.

(6) Physics/Mathematics: Grades 7-12.

(7) Physics/Mathematics: Grades 8-12.

~~[(8) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

- (8) ~~[(9)]~~ Secondary Mathematics (Grades 6-12).
- (9) ~~[(10)]~~ Secondary Industrial Arts (Grades 6-12).
- (10) ~~[(11)]~~ Secondary Industrial Technology (Grades 6-12).
- (11) ~~[(12)]~~ Technology Education: Grades 6-12.
- (12) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (13) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (14) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.571. *AC/DC Electronics; Solid State Electronics, Grades 9-12.*

An assignment for Electronics, AC/DC Electronics, or Solid State Electronics, Grades 9-12, is allowed with one of the following certificates.

- (1) Mathematics/Physical Science/Engineering: Grades 6-12.
- (2) Mathematics/Physical Science/Engineering: Grades 8-12.
- ~~[(3) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~
- (3) ~~[(4)]~~ Secondary Industrial Arts (Grades 6-12).
- (4) ~~[(5)]~~ Secondary Industrial Technology (Grades 6-12).
- (5) ~~[(6)]~~ Technology Education: Grades 6-12.
- (6) ~~[(7)]~~ Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (7) ~~[(8)]~~ Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.573. *Principles of Technology, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Principles of Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Legacy Master Science Teacher (Grades 8-12).
- (2) Mathematics/Physical Science/Engineering: Grades 6-12.
- (3) Mathematics/Physical Science/Engineering: Grades 8-12.
- (4) Physical Science: Grades 6-12.
- (5) Physical Science: Grades 8-12.
- (6) Physics/Mathematics: Grades 7-12.
- (7) Physics/Mathematics: Grades 8-12.
- (8) Science: Grades 7-12.

- (9) Science: Grades 8-12.
- ~~[(10) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~
- (10) ~~[(11)]~~ Secondary Industrial Arts (Grades 6-12).
- (11) ~~[(12)]~~ Secondary Industrial Technology (Grades 6-12).
- (12) ~~[(13)]~~ Secondary Physics (Grades 6-12).
- (13) ~~[(14)]~~ Secondary Science, Composite (Grades 6-12).
- (14) ~~[(15)]~~ Technology Education: Grades 6-12.
- (15) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(16) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(17) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(b) An assignment for Principles of Technology, Grades 9-12, may also be taught with a vocational agriculture certificate or a trades and industry certificate with verifiable physics applications experience in business and industry, if assigned prior to the 1998-1999 school year. Six semester credit hours of college physics, chemistry, or electricity/electronics may be substituted for the business and industry experience. All teachers assigned to these courses shall participate in Texas Education Agency-approved training prior to teaching these courses effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.575. *Engineering Design and Problem Solving, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Engineering Design and Problem Solving, Grades 9-12, is allowed with one of the following certificates.

- (1) Legacy Master Science Teacher (Grades 8-12).
- (2) Mathematics/Physical Science/Engineering: Grades 6-12.
- (3) Mathematics/Physical Science/Engineering: Grades 8-12.
- (4) Physical Science: Grades 6-12.
- (5) Physical Science: Grades 8-12.
- (6) Physics/Mathematics: Grades 7-12.
- (7) Physics/Mathematics: Grades 8-12.
- (8) Science: Grades 7-12.
- (9) Science: Grades 8-12.

- ~~[(10) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~
- (10) ~~[(11)]~~ Secondary Industrial Arts (Grades 6-12).
- (11) ~~[(12)]~~ Secondary Industrial Technology (Grades 6-12).
- (12) ~~[(13)]~~ Secondary Physics (Grades 6-12).
- (13) ~~[(14)]~~ Secondary Science (Grades 6-12).
- (14) ~~[(15)]~~ Secondary Science, Composite (Grades 6-12).
- (15) ~~[(16)]~~ Technology Education: Grades 6-12.
- (16) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(17) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(18) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.577. *Scientific Research and Design, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Scientific Research and Design, Grades 9-12, is allowed with one of the following certificates.

(1) Any vocational or career and technical education classroom teaching certificate with a bachelor's degree and 18 semester credit hours in any combination of sciences.

(2) Any science certificate valid for the grade level of the assignment.

(3) Legacy Master Science Teacher (Grades 8-12).

~~[(4) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(b) All teachers assigned to this course shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.579. *Engineering Science, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Engineering Science, Grades 9-12, is allowed with one of the following certificates.

(1) Legacy Master Science Teacher (Grades 8-12).

(2) Mathematics/Physical Science/Engineering: Grades 6-12.

(3) Mathematics/Physical Science/Engineering: Grades 8-12.

(4) Physical Science: Grades 6-12.

(5) Physical Science: Grades 8-12.

(6) Physics/Mathematics: Grades 7-12.

(7) Physics/Mathematics: Grades 8-12.

(8) Science: Grades 7-12.

(9) Science: Grades 8-12.

~~[(10) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(10) [(11)] Secondary Industrial Arts (Grades 6-12).

(11) [(12)] Secondary Industrial Technology (Grades 6-12).

(12) [(13)] Secondary Physics (Grades 6-12).

(13) [(14)] Secondary Science (Grades 6-12).

(14) [(15)] Secondary Science, Composite (Grades 6-12).

(15) [(16)] Technology Education: Grades 6-12.

(16) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(17) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(18) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(b) All teachers assigned to Engineering Science shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.581. *Digital Electronics, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Digital Electronics, Grades 9-12, is allowed with one of the following certificates.

(1) Legacy Master Mathematics Teacher (Grades 8-12).

(2) Mathematics/Physical Science/Engineering: Grades 6-12.

(3) Mathematics/Physical Science/Engineering: Grades 8-12.

(4) Physics/Mathematics: Grades 7-12.

(5) Physics/Mathematics: Grades 8-12.

~~[(6) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(6) [(7)] Secondary Industrial Arts (Grades 6-12).

(7) [(8)] Secondary Industrial Technology (Grades 6-12).

(8) [(9)] Secondary Mathematics (Grades 6-12).

(9) [(10)] Technology Education: Grades 6-12.

(10) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(b) All teachers assigned to Digital Electronics shall participate in Texas Education Agency-approved training prior to teaching this course effective with the 2019-2020 school year. Specific details about the required training can be found at tea.texas.gov/cte.

§231.583. *Robotics I, Grades 9-12.*

An assignment for Robotics I, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

(3) Physics/Mathematics: Grades 7-12.

(4) Physics/Mathematics: Grades 8-12.

~~[(5) Science, Technology, Engineering, and Mathematics: Grades 6-12.]~~

(5) [(6)] Secondary Industrial Arts (Grades 6-12).

(6) [(7)] Secondary Industrial Technology (Grades 6-12).

(7) [(8)] Technology Applications: Early Childhood-Grade 12.

(8) [(9)] Technology Applications: Grades 8-12.

(9) ~~[(10)]~~ Technology Education: Grades 6-12.

(10) ~~[(11)]~~ Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(11) ~~[(12)]~~ Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(13) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.587. *Fundamentals of Computer Science, Advanced Placement Computer Science Principles, Grades 9-12.*

An assignment for Fundamentals of Computer Science or Advanced Placement Computer Science Principles, Grades 9-12, is allowed with one of the following certificates.

(1) Computer Science: Grades 8-12.

(2) Grades 6-12 or Grades 9-12--Computer Information Systems.

(3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.

(4) Secondary Computer Information Systems (Grades 6-12).

(5) Technology Applications: Early Childhood-Grade 12.

(6) Technology Applications: Grades 8-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires a bachelor's degree and appropriate work approval.

(9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.

§231.589. *Game Programming and Design, Grades 9-12.*

An assignment for Game Programming and Design, Grades 9-12, is allowed with one of the following certificates.

(1) Computer Science: Grades 8-12.

(2) Grades 6-12 or Grades 9-12--Computer Information Systems.

(3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.

(4) Secondary Computer Information Systems (Grades 6-12).

(5) Secondary Industrial Arts (Grades 6-12).

(6) Secondary Industrial Technology (Grades 6-12).

(7) Technology Applications: Early Childhood-Grade 12.

(8) Technology Applications: Grades 8-12.

(9) Technology Education: Grades 6-12.

(10) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(11) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(12) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(13) ~~[(12)]~~ Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.591. *Mobile Applications Development, Grades 9-12.*

An assignment for Mobile Applications Development, Grades 9-12, is allowed with one of the following certificates.

(1) Computer Science: Grades 8-12.

(2) Grades 6-12 or Grades 9-12--Computer Information Systems.

(3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.

(4) Secondary Computer Information Systems (Grades 6-12).

(5) Technology Applications: Early Childhood-Grade 12.

(6) Technology Applications: Grades 8-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires a bachelor's degree and appropriate work approval.

(9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.

(10) ~~[(9)]~~ Any business or office education certificate.

(11) ~~[(10)]~~ Business and Finance: Grades 6-12.

(12) ~~[(11)]~~ Business Education: Grades 6-12.

(13) ~~[(12)]~~ Marketing: Grades 6-12.

(14) ~~[(13)]~~ Marketing Education: Grades 8-12.

§231.593. *Cybersecurity, Grades 9-12.*

An assignment for Foundations of Cybersecurity, Grades 9-12, and Cybersecurity Capstone is allowed with one of the following certificates.

(1) Computer Science: Grades 8-12.

(2) Grades 6-12 or Grades 9-12--Computer Information Systems.

(3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.

(4) Secondary Computer Information Systems (Grades 6-12).

(5) Technology Applications: Early Childhood-Grade 12.

(6) Technology Applications: Grades 8-12.

(7) Technology Education: Grades 6-12.

(8) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(9) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(10) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(11) ~~[(10)]~~ Vocational Trades and Industry. This assignment requires appropriate work approval.

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

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



DIVISION 25. TRANSPORTATION, DISTRIBUTION, AND LOGISTICS, GRADES 9-12 ASSIGNMENTS

19 TAC §231.631, §231.633

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.631. *Transportation, Distribution, and Logistics, Grades 9-12.*

(a) An assignment for Energy and Power of Transportation Systems; Aircraft Airframe Technology; Aircraft Powerplant Technology; Automotive Basics; Automotive Technology I: Maintenance and Light Repair; Automotive Technology II: Automotive Service; Advanced Transportation Systems Laboratory; Basic Collision Repair and Refinishing; Collision Repair; Paint and Refinishing; Diesel Equipment Technology I; Diesel Equipment Technology II; Distribution and Logistics; Introduction to Aircraft Technology; Principles of Distribution and Logistics; Principles of Transportation Systems; Introduction to Transportation Technology; or Management of Transportation Systems, Grades 9-12, is allowed with one of the following certificates.

- (1) Technology Education: Grades 6-12.
- (2) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (3) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (4) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(5) [~~4~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Transportation Systems, Extended Practicum in Transportation Systems, Practicum in Distribution and Logistics, or Extended Practicum in Distribution and Logistics, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.

(4) [~~3~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Transportation Systems, Extended Practicum in Transportation Systems, Practicum in Distribution and Logistics, or Extended Practicum in Distribution and Logistics, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.633. *Small Engine Technology, Grades 9-12.*

An assignment for Small Engine Technology I or Small Engine Technology II, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.
- (10) [~~9~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

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DIVISION 26. ENERGY, GRADES 9-12
ASSIGNMENTS

19 TAC §231.651

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.651. *Energy [and Natural Resources], Grades 9-12.*

An assignment for Oil and Gas Production I; Oil and Gas Production II; Oil and Gas Production III; Oil and Gas Production IV; Introduction to Process Technology; Foundations of Energy; or Petrochemical Safety, Health, and Environment, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (6) Trade and Industrial Workforce Training: Grades 6-12. This assignment requires appropriate work approval.
- (7) [~~6~~] Vocational Trades and Industry. This assignment requires appropriate work approval.

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CHAPTER 250. ADMINISTRATION
SUBCHAPTER B. RULEMAKING
PROCEDURES

19 TAC §250.20

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §250.20, concerning petition for adoption of rules or rule changes. The proposed amendment would update the SBEC's petition procedures to allow for increased ease in submitting a petition for rule-making for the SBEC's consideration.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Government Code (TGC), §2001.021, requires that procedures to petition for the adoption of rule changes be adopted by rule. To comply with statute, the SBEC rules in 19 TAC Chapter 250, Subchapter B, establish procedures for SBEC petition for rulemaking in §250.20, Petition for Adoption of Rules or Rule Changes.

The proposed amendment to §250.20(a) would update the SBEC's petition procedures, including the petition form included as Figure: 19 TAC §250.20(a), to improve efficiency by ensuring that an interested person can submit the petition electronically. In addition, the proposed amendment to the Figure: 19 TAC §250.20(a) would specify one TEA division as the collection point for all petitions submitted to the SBEC and would allow the petitioner to provide an email address on the petition form. This would ensure timely acknowledgement, communication, review, status, and final decision of a petition by TEA staff for consideration by the SBEC at a future meeting.

The proposed new §250.20(d)(5) would allow the SBEC the opportunity to deny a petition for any other reason the SBEC determines is grounds for denial. This would clarify that SBEC has the authority to deny for any reasons not specified in the enumerated list in subsection (d).

The proposed amendment to §250.20 would also include technical edits to improve readability.

FISCAL IMPACT: The TEA staff has determined that there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, the proposed amendment would expand an existing regulation by allowing for a petition for rulemaking to be submitted via electronic means.

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

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposal would be providing another means by which an interested person can file a petition for rulemaking, create a more efficient process, and reflect current procedures. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins March 18, 2022, and ends April 18, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the April 29, 2022 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Preparation, Certification, and Enforcement, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Ms. Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 18, 2022.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.035(b), requires the Texas Education Agency (TEA) to provide the SBEC's administrative functions and services; TEC, §21.041(a), which authorizes the SBEC to adopt rules as necessary to implement its procedures; and TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and Texas Government Code, §2001.021, which authorizes a state agency to prescribe by rule the form for a petition and the procedure for the submission, consideration, and disposition.

CROSS REFERENCE TO STATUTE. The proposed amendments implement Texas Education Code (TEC), §21.035(b) and §21.041(a) and (b)(1), and Texas Government Code (TGC), §2001.021.

§250.20. Petition for Adoption of Rules or Rule Changes.

(a) Any interested person, as defined in Texas Government Code (TGC), §2001.021, may petition for the adoption, amendment, or repeal of a rule of the State Board for Educator Certification (SBEC) by filing a petition on the [a] form provided in this subsection. The petition shall be signed and submitted to the designated Texas Education Agency (TEA) office. The TEA staff shall evaluate the merits of the petition [proposal] to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.

Figure: 19 TAC §250.20(a)
[Figure: 19 TAC §250.20(a)]

(b) In accordance with TGC [the Texas Government Code], §2001.021, the TEA staff must respond to the petitioner within 60 calendar days of receipt of the petition.

(1) Where possible, the recommendation concerning the petition shall be placed on the next SBEC agenda, and the SBEC shall act on the petition within 60 calendar days [the 60-calendar-day time limit].

(2) Where the time required to review the petition or the scheduling of SBEC meetings will not permit the SBEC to act on the petition within the required 60 calendar days, the TEA staff shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBEC meeting at which the recommendation will be presented to the SBEC for action.

(c) The SBEC will review the petition and the recommendation and will either deny the petition, giving reasons for the denial, or direct the TEA staff to begin the rulemaking process [or deny the petition, giving reasons for the denial]. The TEA staff will notify the petitioner of the SBEC's action related to the petition.

(d) Without limitation to the reasons for denial in this subsection, the SBEC may deny a petition on the following grounds:

(1) the SBEC does not have jurisdiction or authority to propose or to adopt the petitioned rule;

(2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBEC, or other law;

(3) the SBEC determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding; [or]

(4) the petitioner files [is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing] a petition:

(A) before the fourth anniversary of the SBEC's having previously considered and rejected a similar rule on the same subject matter; or

(B) to amend a rule proposed or adopted by the SBEC that has not yet become effective; or[-]

(5) any other reason the SBEC determines is grounds for denial.

(e) If the SBEC initiates rulemaking procedures in response to a petition, the rule text which the SBEC proposes may differ from the rule text proposed by the petitioner.

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

Filed with the Office of the Secretary of State on March 7, 2022.
TRD-202200799



TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 173. PHYSICIAN PROFILES

22 TAC §173.3

The Texas Medical Board (Board) proposes amendments to 22 TAC §173.3, concerning Physician-Initiated Updates.

The proposed amendments to §173.3, relating to Physician-Initiated Updates specify events that must be reported by a licensed physician to the Board within 30 days after the event. Specifically, the proposed amendments add events required to be contained in the physician's profile in accordance with §154.006 of the Act.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that, for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing these proposed amendments will be to increase transparency and public access to information required to be on a physician's profile under the Medical Practice Act.

Mr. Freshour has also determined that for the first five-year period these proposed amendments are in effect, there will be no fiscal impact or effect on government growth as a result of enforcing the proposed amendments.

Mr. Freshour has also determined that for the first five-year period these proposed amendments are in effect there will be no probable economic cost to individuals required to comply with these proposed amendments.

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

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that this proposal has been reviewed and the agency has determined that for each year of the first five years these proposed amendments are in effect:

- (1) there is no additional estimated cost to the state or to local governments expected as a result of enforcing or administering these proposed amendments;
- (2) there are no estimated reductions in costs to the state or to local governments as a result of enforcing or administering these proposed amendments;
- (3) there is no estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering these proposed amendments; and

(4) there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering these proposed amendments.

Pursuant to Texas Government Code §2001.024(a)(6) and §2001.022, the agency has determined that for each year of the first five years these proposed amendments will be in effect, there will be no effect on local economy and local employment.

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

- (1) These proposed amendments do not create or eliminate a government program.
- (2) Implementation of these proposed amendments do not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of these proposed amendments do not require an increase or decrease in future legislative appropriations to the agency.
- (4) These proposed amendments do not require an increase or decrease in fees paid to the agency.
- (5) These proposed amendments do not create new regulations.
- (6) These proposed amendments do not repeal existing regulations as described above. These proposed amendments do not expand or limit an existing regulation.
- (7) These proposed amendments do not increase the number of individuals subject to the rules' applicability.
- (8) These proposed amendments do not positively or adversely affect this state's economy.

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

These proposed amendments are proposed under the authority of Texas Occupations Code §153.001 and 205.101, which provides authority for the Board to adopt rules necessary to administer and enforce the Medical Practice Act and to adopt rules necessary to regulate and license physicians. These proposed amendments are also proposed pursuant to Texas Occupations Code §154.006, which provides authority for the Board to adopt rules necessary to ensure required information is placed on the physician's profile.

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

§173.3. *Physician-Initiated Updates.*

- (a) Physicians are required to attest as to whether or not the physician's profile information is correct at the time of the physician's registration and to initiate correction of any incorrect information.
- (b) Physicians should maintain current profile information by submitting updates and corrections as changes occur.
- (c) The physician shall make necessary corrections and updates by submitting a profile update and correction form or by submitting it online if completing the registration via the internet.
- (d) A physician shall report the following to the Board within 30 days after the event:

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES
SUBCHAPTER C. DISCIPLINARY GUIDELINES

22 TAC §281.66

The Texas State Board of Pharmacy proposes amendments to §281.66, concerning Application for Reissuance or Removal of Restrictions of a License or Registration. The amendments, if adopted, specify the number of continuing education and internship hours required for reinstatement of a license to practice pharmacy.

Timothy L. Tucker, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Tucker has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide clear and consistent requirements for reinstatement of a license to practice pharmacy. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

Written comments on the amendments may be submitted to Eamon D. Briggs, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 25, 2022.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing

- (1) Any change of mailing or practice address;
- (2) Incarceration in a state or federal penitentiary;
- (3) A description of any conviction for a felony, a Class A or Class B misdemeanor, or a Class C misdemeanor involving moral turpitude; [An initial conviction, final conviction, or placement on deferred adjudication, community supervision, or deferred disposition for:]

~~[(A) a felony;]~~

~~[(B) a misdemeanor that directly relates to the duties and responsibilities of a physician licensed by the board;]~~

~~[(C) a misdemeanor involving moral turpitude;]~~

~~[(D) a misdemeanor under Chapter 22, Penal Code (relating to assaultive offenses), other than a misdemeanor punishable by fine only;]~~

~~[(E) a misdemeanor on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure;]~~

~~[(F) a misdemeanor under §25.07, Penal Code (relating to the violation of a protective order or a magistrate's order); or]~~

~~[(G) a misdemeanor under §25.071, Penal Code (relating to the violation of a protective order preventing offenses caused by bias or prejudice); or]~~

(4) A description of any charges reported to the board to which the physician has pleaded no contest, for which the physician is the subject of deferred adjudication or pretrial diversion, or in which sufficient facts of guilt were found and the matter was continued by a court;

(5) [(4)] An initial finding by the trier of fact of guilt of a felony under:

(A) Chapter 481 or 483, Health and Safety Code (relating to offenses involving controlled substances and dangerous drugs);

(B) Section 485.033, Health and Safety Code (relating to offenses involving inhalant paraphernalia); or

(C) the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §801 et seq.);[;]

(6) Any disciplinary action issued by another state, territory, or nation against the physician's medical license; or

(7) Any medical malpractice claim against the physician, not including any offers by the physician to settle the claim, for which the physician was found liable, a jury awarded monetary damages to the claimant, and the award has been determined to be final and not subject to further appeal.

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

Filed with the Office of the Secretary of State on March 7, 2022.

TRD-202200798

Scott Freshour

General Counsel

Texas Medical Board

Earliest possible date of adoption: April 17, 2022

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



the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

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

§281.66. *Application for Reissuance or Removal of Restrictions of a License or Registration.*

(a) A person whose pharmacy license, pharmacy technician registration, or license or registration to practice pharmacy has been canceled, revoked, or restricted, whether voluntary or by action of the board, may, after 12 months from the effective date of such cancellation, revocation, or restriction, apply to the board for reinstatement or removal of the restriction of the license or registration.

(1) The application shall be given under oath and on the form prescribed by the board.

(2) A person applying for reinstatement or removal of restrictions may be required to meet all requirements necessary in order for the board to access the criminal history record information, including submitting fingerprint information and being responsible for all associated costs.

(3) A person applying for reinstatement or removal of restrictions has the burden of proof.

(4) On investigation and hearing, the board may in its discretion grant or deny the application or it may modify its original finding to reflect any circumstances that have changed sufficiently to warrant the modification.

(5) If such application is denied by the board, a subsequent application may not be considered by the board until 12 months from the date of denial of the previous application.

(6) The board in its discretion may require a person to pass an examination or examinations to reenter the practice of pharmacy.

(7) The fee for reinstatement of a license or registration shall be \$100 which is to be paid to the Texas State Board of Pharmacy and includes the processing of the reinstatement application.

(b) In reinstatement cases not involving criminal offenses, the board may consider the following items in determining the reinstatement of an applicant's previously revoked or canceled license or registration:

- (1) moral character in the community;
- (2) employment history;
- (3) financial support to his/her family;
- (4) participation in continuing education programs or other methods of maintaining currency with the practice of pharmacy;
- (5) criminal history record;
- (6) offers of employment in pharmacy;
- (7) involvement in public service activities in the community;
- (8) failure to comply with the provisions of the board order revoking or canceling the applicant's license or registration;
- (9) action by other state or federal regulatory agencies;
- (10) any physical, chemical, emotional, or mental impairment;

(11) the gravity of the offense for which the applicant's license or registration was canceled, revoked, or restricted and the impact the offense had upon the public health, safety and welfare;

(12) the length of time since the applicant's license or registration was canceled, revoked or restricted, as a factor in determining whether the time period has been sufficient for the applicant to have rehabilitated himself/herself to be able to practice pharmacy in a manner consistent with the public health, safety and welfare;

(13) competency to engage in the practice of pharmacy; or

(14) other rehabilitation actions taken by the applicant.

(c) If a reinstatement case involves criminal offenses, the sanctions specified in §281.64 of this chapter (relating to Sanctions for Criminal Offenses) apply.

(d) If an application for reinstatement of a license to practice pharmacy is granted by the board, the applicant, in addition to any sanctions or other requirements imposed by the board, shall complete approved continuing education and board-approved internship requirements according to the following schedule:

(1) if the license has been revoked or canceled for at least one year but less than two years, complete 15 contact hours of approved continuing education;

(2) if the license has been revoked or canceled for at least two years but less than three years, complete 30 contact hours of approved continuing education and 100 hours of internship in a board-approved internship program;

(3) if the license has been revoked or canceled for at least three years but less than four years, complete 45 contact hours of approved continuing education and 300 hours of internship in a board-approved internship program;

(4) if the license has been revoked or canceled for at least four years but less than five years, complete 45 contact hours of approved continuing education and 500 hours of internship in a board-approved internship program;

(5) if the license has been revoked or canceled for at least five years but less than six years, complete 45 contact hours of approved continuing education and 700 hours of internship in a board-approved internship program;

(6) if the license has been revoked or canceled for at least six years but less than seven years, complete 45 contact hours of approved continuing education and 900 hours of internship in a board-approved internship program;

(7) if the license has been revoked or canceled for at least seven years but less than eight years, complete 45 contact hours of approved continuing education and 1,100 hours of internship in a board-approved internship program;

(8) if the license has been revoked or canceled for at least eight years but less than nine years, complete 45 contact hours of approved continuing education and 1,300 hours of internship in a board-approved internship program;

(9) if the license has been revoked or canceled for at least nine years but less than ten years, complete 45 contact hours of approved continuing education and 1,500 hours of internship in a board-approved internship program; and

(10) if the license has been revoked or canceled for ten years or more, complete 45 contact hours of approved continuing education and the number of internship hours required by the Accreditation

Council for Pharmacy Education (ACPE) for licensure in a board-approved internship program.

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

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

TRD-202200763

Timothy L. Tucker, Pharm.D.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 305-8097



CHAPTER 291. PHARMACIES

SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

22 TAC §291.121

The Texas State Board of Pharmacy proposes amendments to §291.121, concerning Remote Pharmacy Services. The amendments, if adopted, remove a prohibition against duplicating drugs stored in emergency medication kits.

Timothy L. Tucker, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Tucker has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to improve patient care by allowing pharmacies to more efficiently provide drugs stored in emergency medication kits. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

- (1) The proposed amendments do not create or eliminate a government program;
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed amendments do not require an increase or decrease in fees paid to the agency;
- (5) The proposed amendments do not create a new regulation;
- (6) The proposed amendments do limit an existing regulation by removing a restriction on how pharmacies may provide emergency medication kits;
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

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

Written comments on the amendments may be submitted to Eamon D. Briggs, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 25, 2022.

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

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

§291.121. *Remote Pharmacy Services.*

(a) Remote pharmacy services using automated pharmacy systems.

(1) Purpose. The purpose of this section is to provide standards for the provision of pharmacy services by a Class A or Class C pharmacy in a facility that is not at the same location as the Class A or Class C pharmacy through an automated pharmacy system as outlined in §562.109 of the Texas Pharmacy Act.

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

(A) Automated pharmacy system--A mechanical system that dispenses prescription drugs and maintains related transaction information.

(B) Repackaging--The act of repackaging and relabeling quantities of drug products from a manufacturer's original commercial container, or quantities of unit dosed drugs, into another cartridge or container for dispensing by a pharmacist using an automated pharmacy system.

(C) Provider pharmacy--The community pharmacy (Class A) or the institutional pharmacy (Class C) providing remote pharmacy services.

(D) Remote pharmacy service--The provision of pharmacy services, including the storage and dispensing of prescription drugs, in remote sites.

(E) Remote site--A facility not located at the same location as a Class A or Class C pharmacy, at which remote pharmacy services are provided using an automated pharmacy dispensing system.

(F) Unit dose--An amount of a drug packaged in a dosage form ready for administration to a particular patient, by the prescribed route at the prescribed time, and properly labeled with name, strength, and expiration date of the drug.

(3) General requirements.

(A) A provider pharmacy may provide remote pharmacy services using an automated pharmacy system to a jail or prison operated by or for the State of Texas, a jail or prison operated by local government or a healthcare facility regulated under Chapter 142, 241, 242, 247, or 252, Health and Safety Code, provided drugs are administered by a licensed healthcare professional working in the jail, prison, or healthcare facility.

(B) A provider pharmacy may provide remote pharmacy services at more than one remote site.

(C) Before providing remote pharmacy services, the automated pharmacy system at the remote site must be tested by the provider pharmacy and found to dispense accurately. The provider pharmacy shall make the results of such testing available to the board upon request.

(D) A provider pharmacy which is licensed as an institutional (Class C) pharmacy is required to comply with the provisions of §§291.31 - 291.34 of this title (relating to Definitions, Personnel, Operational Standards, and Records, respectively) and this section.

(E) The pharmacist-in-charge of the provider pharmacy is responsible for all pharmacy operations involving the automated pharmacy system located at the remote site including supervision of the automated pharmacy system and compliance with this section.

(F) A pharmacist from the provider pharmacy shall be accessible at all times to respond to patients' or other health professionals' questions and needs pertaining to drugs dispensed through the use of the automated pharmacy system. Such access may be through a 24 hour pager service or telephone which is answered 24 hours a day.

(4) Operational standards.

(A) Application for permission to provide pharmacy services using an automated pharmacy system.

(i) A Class A or Class C Pharmacy shall file a completed application containing all information required by the board to provide remote pharmacy services using an automated pharmacy system.

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

(iii) Upon approval of the application, the provider pharmacy will be sent a certificate which must be displayed at the remote site.

(B) Notification requirements.

(i) A provider pharmacy shall notify the board in writing within ten days of a discontinuance of service, or closure of:

(I) a remote site where an automated pharmacy system is operated by the pharmacy; or

(II) a remote pharmacy service at a remote site.

(ii) A provider pharmacy shall comply with appropriate federal and state controlled substance registrations for each remote site if controlled substances are maintained within an automated pharmacy system at the facility.

(iii) A provider pharmacy shall file a change of location and/or name of a remote site as specified in §291.3 of this title (relating to Notifications).

(C) Environment/Security.

(i) A provider pharmacy shall only store drugs at a remote site within an automated pharmacy system which is locked by key, combination or other mechanical or electronic means so as to prohibit access by unauthorized personnel.

(ii) An automated pharmacy system shall be under the continuous supervision of a provider pharmacy pharmacist. To qualify as continuous supervision, the pharmacist is not required to be

physically present at the site of the automated pharmacy system if the system is supervised electronically by a pharmacist.

(iii) Automated pharmacy systems shall have adequate security and procedures to:

(I) comply with federal and state laws and regulations; and

(II) maintain patient confidentiality.

(iv) Access to the automated pharmacy system shall be limited to pharmacists or personnel who:

(I) are designated in writing by the pharmacist-in-charge; and

(II) have completed documented training concerning their duties associated with the automated pharmacy system.

(v) Drugs shall be stored in compliance with the provisions of §291.15 of this title (relating to Storage of Drugs) and §291.33(f)(2) of this title including the requirements for temperature and handling of outdated drugs.

(D) Prescription dispensing and delivery.

(i) Drugs shall only be dispensed at a remote site through an automated pharmacy system after receipt of an original prescription drug order by a pharmacist at the provider pharmacy in a manner authorized by §291.34(b) of this title.

(ii) A pharmacist at the provider pharmacy shall control all operations of the automated pharmacy system and approve the release of the initial dose of a prescription drug order. Subsequent doses from an approved prescription drug order may be removed from the automated medication system after this initial approval. Any change made in the prescription drug order shall require a new approval by a pharmacist to release the drug.

(iii) A pharmacist at the provider pharmacy shall conduct a drug regimen review as specified in §291.33(c) of this title prior to releasing a prescription drug order to the automated pharmacy system.

(iv) Drugs dispensed by the provider pharmacy through an automated pharmacy system shall comply with the labeling or labeling alternatives specified in §291.33(c) of this title.

(v) An automated pharmacy system used to meet the emergency medication needs for residents of a remote site must comply with the requirements for emergency medication kits in subsection (b) of this section.

(E) Drugs.

(i) Drugs for use in an automated pharmacy system shall be packaged in the original manufacturer's container or be prepackaged in the provider pharmacy and labeled in compliance with the board's prepackaging requirements for the class of pharmacy.

(ii) Drugs dispensed from the automated pharmacy system may be returned to the pharmacy for reuse provided the drugs are in sealed, tamper evident packaging which has not been opened.

(F) Stocking an automated pharmacy system.

(i) Stocking of drugs in an automated pharmacy system shall be completed by a pharmacist, pharmacy technician, or pharmacy technician trainee under the direct supervision of a pharmacist, except as provided in clause (ii) of this subparagraph.

(ii) If the automated pharmacy system uses removable cartridges or containers to hold drugs, the prepackaging of the car-

tridges or containers shall occur at the provider pharmacy unless provided by an FDA approved repackager. The prepackaged cartridges or containers may be sent to the remote site to be loaded into the machine by personnel designated by the pharmacist-in-charge provided:

(I) a pharmacist verifies the cartridge or container has been properly filled and labeled;

(II) the individual cartridges or containers are transported to the remote site in a secure, tamper-evident container; and

(III) the automated pharmacy system uses bar-coding, microchip, or other technologies to ensure that the containers are accurately loaded in the automated pharmacy system.

(iii) All drugs to be stocked in the automated pharmacy system shall be delivered to the remote site by the provider pharmacy.

(G) Quality assurance program. A pharmacy that provides pharmacy services through an automated pharmacy system at a remote site shall operate according to a written program for quality assurance of the automated pharmacy system which:

(i) requires continuous supervision of the automated pharmacy system; and

(ii) establishes mechanisms and procedures to routinely test the accuracy of the automated pharmacy system at a minimum of every six months and whenever any upgrade or change is made to the system and documents each such activity.

(H) Policies and procedures of operation.

(i) A pharmacy that provides pharmacy services through an automated pharmacy system at a remote site shall operate according to written policies and procedures. The policy and procedure manual shall include, but not be limited to, the following:

(I) a current list of the name and address of the pharmacist-in-charge and personnel designated by the pharmacist-in-charge to have access to the drugs stored in the automated pharmacy system;

(II) duties which may only be performed by a pharmacist;

(III) a copy of the portion of the written contract or agreement between the pharmacy and the facility which outlines the services to be provided and the responsibilities and accountabilities of each party relating to the operation of the automated pharmacy system in fulfilling the terms of the contract in compliance with federal and state laws and regulations;

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

(V) policies and procedures for:
(-a-) security;
(-b-) operation of the automated pharmacy system;

(-c-) preventative maintenance of the automated pharmacy system;

(-d-) sanitation;

(-e-) storage of drugs;

(-f-) dispensing;

(-g-) supervision;

(-h-) drug procurement;

(-i-) receiving of drugs;

(-j-) delivery of drugs; and

(-k-) recordkeeping.

(ii) A pharmacy that provides pharmacy services through an automated pharmacy system at a remote site shall, at least annually, review its written policies and procedures, revise them if necessary, and document the review.

(iii) A pharmacy providing remote pharmacy services using an automated pharmacy system shall maintain a written plan for recovery from an event which interrupts the ability of the automated pharmacy system to dispense prescription drugs. The written plan for recovery shall include:

(I) planning and preparation for maintaining pharmacy services when an automated pharmacy system is experiencing downtime;

(II) procedures for response when an automated pharmacy system is experiencing downtime; and

(III) procedures for the maintenance and testing of the written plan for recovery.

(5) Records.

(A) Maintenance of records.

(i) Every record required under this section must be:

(I) kept by the provider pharmacy and be available, for at least two years for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(II) supplied by the provider pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(ii) The provider pharmacy shall maintain original prescription drug orders for drugs dispensed from an automated pharmacy system in compliance with §291.34(b) of this title.

(iii) if prescription drug records are maintained in a data processing system, the system shall have a workable (electronic) data retention system which can produce a separate audit trail of drug usage by the provider pharmacy and each remote site for the preceding two years as specified in §291.34(e) of this title.

(B) Prescriptions. Prescription drug orders shall meet the requirements of §291.34(b) of this title.

(C) Records of dispensing. Dispensing records for a prescription drug order shall be maintained by the provider pharmacy in the manner required by §291.34(d) or (e) of this title.

(D) Transaction information.

(i) The automated pharmacy system shall electronically record all transactions involving drugs stored in, removed, or dispensed from the system.

(ii) Records of dispensing from an automated pharmacy system for a patient shall be maintained by the providing pharmacy and include the:

(I) identity of the system accessed;

(II) identification of the individual accessing the system;

(III) date of transaction;
(IV) name, strength, dosage form, and quantity of drug accessed; and
(V) name of the patient for whom the drug was accessed.

(iii) Records of stocking or removal from an automated pharmacy system shall be maintained by the pharmacy and include the:

(I) date;
(II) name, strength, dosage form, and quantity of drug stocked or removed;
(III) name, initials, or identification code of the person stocking or removing drugs from the system; and
(IV) name, initials, or identification code of the pharmacist who checks and verifies that the system has been accurately filled.

(E) Patient medication records. Patient medication records shall be created and maintained by the provider pharmacy in the manner required by §291.34(c) of this title.

(F) Inventory.

(i) A provider pharmacy shall:

(I) keep a record of all drugs sent to and returned from a remote site separate from the records of the provider pharmacy and from any other remote site's records; and

(II) keep a perpetual inventory of controlled substances and other drugs required to be inventoried under §291.17 of this title (relating to Inventory Requirements) that are received and dispensed or distributed from each remote site.

(ii) As specified in §291.17 of this title, a provider pharmacy shall conduct an inventory at each remote site. The following is applicable to this inventory.

(I) The inventory of each remote site and the provider pharmacy shall be taken on the same day.

(II) The inventory of each remote site shall be included with, but listed separately from, the drugs of other remote sites and separately from the drugs of the provider pharmacy.

(b) Remote pharmacy services using emergency medication kits.

(1) Purpose. The purpose of this section is to provide standards for the provision of pharmacy services by a Class A or Class C pharmacy in a facility that is not at the same location as the Class A or Class C pharmacy through an emergency medication kit as outlined in §562.108 of the Texas Pharmacy Act.

(2) Definitions. The following words and terms, when used in this subsection, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings defined in the Act or §291.31 of this title.

(A) Automated pharmacy system--A mechanical system that dispenses prescription drugs and maintains related transaction information.

(B) Emergency medication kits--Controlled substances and dangerous drugs maintained by a provider pharmacy to meet the emergency medication needs of a resident:

(i) at an institution licensed under Chapter 242 or 252, Health and Safety Code; or

(ii) at an institution licensed under Chapter 242, Health and Safety Code and that is a veterans home as defined by the §164.002, Natural Resources Code, if the provider pharmacy is a United States Department of Veterans Affairs pharmacy or another federally operated pharmacy.

(C) Repackaging--The act of repackaging and relabeling quantities of drug products from a manufacturer's original commercial container, or quantities of unit dosed drugs, into another cartridge or container for dispensing by a pharmacist using an emergency medication kit.

(D) Provider pharmacy--The community pharmacy (Class A), the institutional pharmacy (Class C), the non-resident pharmacy (Class E) located not more than 20 miles from an institution licensed under Chapter 242 or 252, Health and Safety Code, or the United States Department of Veterans Affairs pharmacy or another federally operated pharmacy providing remote pharmacy services.

(E) Remote pharmacy service--The provision of pharmacy services, including the storage and dispensing of prescription drugs, in remote sites.

(F) Remote site--A facility not located at the same location as a Class A, Class C, Class E pharmacy or a United States Department of Veterans Affairs pharmacy or another federally operated pharmacy, at which remote pharmacy services are provided using an emergency medication kit.

(3) General requirements.

(A) A provider pharmacy may provide remote pharmacy services using an emergency medication kit to an institution regulated under Chapter 242, or 252, Health and Safety Code.

(B) A provider pharmacy may provide remote pharmacy services at more than one remote site.

(C) A provider pharmacy shall not place an emergency medication kit in a remote site which already has a kit from another provider pharmacy except as provided by paragraph (4)(B)(iii) of this subsection.

(D) A provider pharmacy which is licensed as an institutional (Class C) or a non-resident (Class E) pharmacy is required to comply with the provisions of §§291.31 - 291.34 of this title and this section.

(E) The pharmacist-in-charge of the provider pharmacy is responsible for all pharmacy operations involving the emergency medication kit located at the remote site including supervision of the emergency medication kit and compliance with this section.

(4) Operational standards.

(A) Application for permission to provide pharmacy services using an emergency medication kit.

(i) A Class A, Class C, or Class E pharmacy shall file a completed application containing all information required by the board to provide remote pharmacy services using an emergency medication kit.

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

(iii) Upon approval of the application, the provider pharmacy will be sent a certificate which must be displayed at the remote site.

(B) Notification requirements.

(i) A provider pharmacy shall notify the board in writing within ten days of a discontinuance of service, or closure of:

(I) a remote site where an emergency medication kit is operated by the pharmacy; or

(II) a remote pharmacy service at a remote site.

(ii) A provider pharmacy shall comply with appropriate federal and state controlled substance registrations for each remote site if controlled substances are maintained within an emergency medication kit at the facility.

(iii) If more than one provider pharmacy provides an emergency kit to a remote site, the provider pharmacies must enter into a written agreement as to the emergency medications supplied by each pharmacy. ~~[The provider pharmacies shall not duplicate drugs stored in the emergency medication kits.]~~ The written agreement shall include reasons why an additional pharmacy is required to meet the emergency medication needs of the residents of the institution.

(iv) A provider pharmacy shall file a change of location and/or name of a remote site as specified in §291.3 of this title.

(C) Environment/Security.

(i) Emergency medication kits shall have adequate security and procedures to:

(I) prohibit unauthorized access;

(II) comply with federal and state laws and regulations; and

(III) maintain patient confidentiality.

(ii) Access to the emergency medication kit shall be limited to pharmacists and licensed healthcare personnel employed by the facility.

(iii) Drugs shall be stored in compliance with the provisions of §291.15 and §291.33(f)(2) of this title including the requirements for temperature and handling outdated drugs.

(D) Prescription dispensing and delivery.

(i) Drugs in the emergency medication kit shall be accessed for administration to meet the emergency medication needs of a resident of the remote site pursuant to an order from a practitioner. The prescription drug order for the drugs used from the emergency medication kit shall be forwarded to the provider pharmacy in a manner authorized by §291.34(b) of this title.

(ii) The remote site shall notify the provider pharmacy of each entry into an emergency medication kit. Such notification shall meet the requirements of paragraph (5)(D)(ii) of this subsection.

(E) Drugs.

(i) The contents of an emergency medication kit:

(I) may consist of dangerous drugs and controlled substances; and

(II) shall be determined by the consultant pharmacist, pharmacist-in-charge of the provider pharmacy, medical director, and the director of nurses and limited to those drugs necessary to meet the resident's emergency medication needs. For the purpose of

this subsection, this shall mean a situation in which a drug cannot be supplied by a pharmacy within a reasonable time period.

(ii) When deciding on the drugs to be placed in the emergency medication kit, the consultant pharmacist, pharmacist-in-charge of the provider pharmacy, medical director, and the director of nurses must determine, select, and record a prudent number of drugs for potential emergency incidents based on:

(I) clinical criteria applicable to each facility's demographics;

(II) the facility's census; and

(III) the facility's healthcare environment.

(iii) A current list of the drugs stored in each remote site's emergency medication kit shall be maintained by the provider pharmacy and a copy kept with the emergency medication kit.

(iv) An automated pharmacy system may be used as an emergency medication kit provided the system limits emergency access to only those drugs approved for the emergency medication kit.

(v) Drugs for use in an emergency medication kit shall be packaged in the original manufacturer's container or prepackaged in the provider pharmacy and labeled in compliance with the board's prepackaging requirements for the class of pharmacy.

(F) Stocking emergency medication kits.

(i) Stocking of drugs in an emergency medication kit shall be completed at the provider pharmacy or remote site by a pharmacist, pharmacy technician, or pharmacy technician trainee under the direct supervision of a pharmacist, except as provided in clause (ii) of this subparagraph.

(ii) If the emergency medication kit is an automated pharmacy system which uses bar-coding, microchip, or other technologies to ensure that the containers or unit dose drugs are accurately loaded, the prepackaging of the containers or unit dose drugs shall occur at the provider pharmacy unless provided by an FDA approved repackager. The prepackaged containers or unit dose drugs may be sent to the remote site to be loaded into the machine by personnel designated by the pharmacist-in-charge provided:

(I) a pharmacist verifies the container or unit dose drug has been properly filled and labeled;

(II) the individual containers or unit dose drugs are transported to the remote site in a secure, tamper-evident container; and

(III) the automated pharmacy system uses bar-coding, microchip, or other technologies to ensure that the containers or unit dose drugs are accurately loaded in the automated pharmacy system.

(iii) All drugs to be stocked in the emergency medication kit shall be delivered to the remote site by the provider pharmacy.

(G) Policies and procedures of operation.

(i) A provider pharmacy that provides pharmacy services through an emergency medication kit at a remote site shall operate according to written policies and procedures. The policy and procedure manual shall include, but not be limited to, the following:

(I) duties which may only be performed by a pharmacist;

(II) a copy of the written contract or agreement between the pharmacy and the facility which outlines the services to

be provided and the responsibilities and accountabilities of each party in fulfilling the terms of the contract in compliance with federal and state laws and regulations;

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

(IV) policies and procedures for:

- (-a-) security;
- (-b-) operation of the emergency medication

kit;

(-c-) preventative maintenance of the automated pharmacy system if the emergency medication kit is an automated pharmacy system;

- (-d-) sanitation;
- (-e-) storage of drugs;
- (-f-) dispensing;
- (-g-) supervision;
- (-h-) drug procurement;
- (-i-) receiving of drugs;
- (-j-) delivery of drugs; and
- (-k-) recordkeeping.

(ii) A pharmacy that provides pharmacy services through an emergency medication kit at a remote site shall, at least annually, review its written policies and procedures, revise them if necessary, and document the review.

(iii) A pharmacy providing remote pharmacy services using an emergency medication kit which is an automated pharmacy system shall maintain a written plan for recovery from an event which interrupts the ability of the automated pharmacy system to provide emergency medications. The written plan for recovery shall include:

(I) planning and preparation for maintaining pharmacy services when an automated pharmacy system is experiencing downtime;

(II) procedures for response when an automated pharmacy system is experiencing downtime; and

(III) procedures for the maintenance and testing of the written plan for recovery.

(5) Records.

(A) Maintenance of records.

(i) Every record required under this section must be:

(I) kept by the provider pharmacy and be available, for at least two years, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(II) supplied by the provider pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(ii) The provider pharmacy shall maintain original prescription drug orders for drugs dispensed from an emergency medication kit in compliance with §291.34(b) of this title.

(B) Prescriptions. Prescription drug orders shall meet the requirements of §291.34(b) of this title.

(C) Records of dispensing. Dispensing records for a prescription drug order shall be maintained by the provider pharmacy in the manner required by §291.34(d) or (e) of this title.

(D) Transaction information.

(i) A prescription drug order shall be maintained by the provider pharmacy as the record of removal of a drug from an emergency medication kit for administration to a patient.

(ii) The remote site shall notify the provider pharmacy electronically or in writing of each entry into an emergency medication kit. Such notification may be included on the prescription drug order or a separate document and shall include the name, strength, and quantity of the drug removed, the time of removal, and the name of the person removing the drug.

(iii) A separate record of stocking, removal, or dispensing for administration from an emergency medication kit shall be maintained by the pharmacy and include the:

(I) date;

(II) name, strength, dosage form, and quantity of drug stocked, removed, or dispensed for administration;

(III) name, initials, or identification code of the person stocking, removing, or dispensing for administration, drugs from the system;

(IV) name, initials, or identification code of the pharmacist who checks and verifies that the system has been accurately filled; and

(V) unique prescription number assigned to the prescription drug order when the drug is administered to the patient.

(E) Inventory.

(i) A provider pharmacy shall:

(I) keep a record of all drugs sent to and returned from a remote site separate from the records of the provider pharmacy and from any other remote site's records; and

(II) keep a perpetual inventory of controlled substances and other drugs required to be inventoried under §291.17 of this title, that are received and dispensed or distributed from each remote site.

(ii) As specified in §291.17 of this title, a provider pharmacy shall conduct an inventory at each remote site. The following is applicable to this inventory.

(I) The inventory of each remote site and the provider pharmacy shall be taken on the same day.

(II) The inventory of each remote site shall be included with, but listed separately from, the drugs of other remote sites and separately from the drugs of the provider pharmacy.

(c) Remote pharmacy services using telepharmacy systems.

(1) Purpose. The purpose of this section is to provide standards for the provision of pharmacy services by a Class A or Class C pharmacy in a healthcare facility that is not at the same location as a Class A or Class C pharmacy through a telepharmacy system as outlined in §562.110 of the Texas Pharmacy Act.

(2) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings defined in the Act or §291.31 of this title.

(A) Provider pharmacy--

(i) a Class A pharmacy that provides pharmacy services through a telepharmacy system at a remote dispensing site or at a healthcare facility that is regulated by this state or the United States; or

(ii) a Class C pharmacy that provides pharmacy services through a telepharmacy system at a healthcare facility that is regulated by this state or the United States.

(B) Remote dispensing site--a location licensed as a telepharmacy that is authorized by a provider pharmacy through a telepharmacy system to store and dispense prescription drugs and devices, including dangerous drugs and controlled substances.

(C) Remote healthcare site--a healthcare facility regulated by this state or the United States that is a:

(i) rural health clinic regulated under 42 U.S.C. Section 1395x(aa);

(ii) health center as defined by 42 U.S.C. Section 254b;

(iii) healthcare facility located in a medically underserved area as determined by the United States Department of Health and Human Services;

(iv) healthcare facility located in a health professional shortage area as determined by the United States Department of Health and Human Services; or

(v) a federally qualified health center as defined by 42 U.S.C. Section 1396d(I)(2)(B).

(D) Remote pharmacy service--The provision of pharmacy services, including the storage and dispensing of prescription drugs, drug regimen review, and patient counseling, at a remote site.

(E) Remote site--a remote healthcare site or a remote dispensing site.

(F) Still image capture--A specific image captured electronically from a video or other image capture device.

(G) Store and forward--A video or still image record which is saved electronically for future review.

(H) Telepharmacy system--A system that monitors the dispensing of prescription drugs and provides for related drug use review and patient counseling services by an electronic method which shall include the use of the following types of technology:

(i) audio and video;

(ii) still image capture; and

(iii) store and forward.

(3) General requirements.

(A) A provider pharmacy may provide remote pharmacy services using a telepharmacy system at a:

(i) remote healthcare site; or

(ii) remote dispensing site.

(B) A provider pharmacy may not provide remote pharmacy services at a remote healthcare site if a Class A or Class C pharmacy that dispenses prescription drug orders to out-patients is located in the same community, unless the remote healthcare site is a federally qualified health center as defined by 42 U.S.C. Section 1396d(I)(2)(B). For the purposes of this subsection a community is defined as:

(i) the census tract in which the remote site is located, if the remote site is located in a Metropolitan Statistical Area (MSA) as defined by the United States Census Bureau in the most recent U.S. Census; or

(ii) within 10 miles of the remote site, if the remote site is not located in an MSA.

(C) A provider pharmacy may not provide remote pharmacy services at a remote dispensing site if a Class A pharmacy is located within 22 miles by road of the remote dispensing site.

(D) If a Class A or Class C pharmacy is established in a community in which a remote healthcare site has been located, the remote healthcare site may continue to operate.

(E) If a Class A pharmacy is established within 22 miles by road of a remote dispensing site that is currently operating, the remote dispensing site may continue to operate at that location.

(F) Before providing remote pharmacy services, the telepharmacy system at the remote site must be tested by the provider pharmacy and found to operate properly. The provider pharmacy shall make the results of such testing available to the board upon request.

(G) A provider pharmacy which is licensed as a Class C pharmacy is required to comply with the provisions of §§291.31 - 291.34 of this title and this section.

(H) A provider pharmacy can only provide pharmacy services at no more than two remote dispensing sites.

(4) Personnel.

(A) The pharmacist-in-charge of the provider pharmacy is responsible for all operations at the remote site including supervision of the telepharmacy system and compliance with this section.

(B) The provider pharmacy shall have sufficient pharmacists on duty such that each pharmacist may supervise no more than two remote sites that are simultaneously open to provide services.

(C) The following duties shall be performed only by a pharmacist at the provider pharmacy:

(i) receiving an oral prescription drug order for a controlled substance;

(ii) interpreting the prescription drug order;

(iii) verifying the accuracy of prescription data entry;

(iv) selecting the drug product to be stored and dispensed at the remote site;

(v) interpreting the patient's medication record and conducting a drug regimen review;

(vi) authorizing the telepharmacy system to print a prescription label at the remote site;

(vii) performing the final check of the dispensed prescription to ensure that the prescription drug order has been dispensed accurately as prescribed; and

(viii) counseling the patient.

(D) A pharmacy technician at the remote site may receive an oral prescription drug order for a dangerous drug.

(5) Operational standards.

(A) Application to provide remote pharmacy services using a telepharmacy system.

(i) A Class A or Class C pharmacy shall file a completed application containing all information required by the board to provide remote pharmacy services using a telepharmacy system.

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

(iii) On approval of the application, the provider pharmacy will be sent a license for the remote site, which must be displayed at the remote site.

(iv) If the average number of prescriptions dispensed each day at a remote dispensing site is open for business is more than 125 prescriptions, as calculated each calendar year, the remote dispensing site shall apply for a Class A pharmacy license as specified in §291.1 of this title (relating to Pharmacy License Application).

(B) Notification requirements.

(i) A provider pharmacy shall notify the board in writing within ten days of a discontinuance of service, or closure of a remote site where a telepharmacy system is operated by the pharmacy.

(ii) A provider pharmacy shall comply with appropriate federal and state controlled substance registrations for each remote site, if controlled substances are maintained.

(iii) A provider pharmacy shall file a change of location and/or name of a remote site as specified in §291.3 of this title.

(C) Environment/Security.

(i) A remote site shall be under the continuous supervision of a provider pharmacy pharmacist at all times the site is open to provide pharmacy services. To qualify as continuous supervision, the pharmacist is not required to be physically present at the remote site and shall supervise electronically through the use of the following types of technology:

- (I) audio and video;
- (II) still image capture; and
- (III) store and forward.

(ii) Drugs shall be stored in compliance with the provisions of §291.15 and §291.33(f)(2) of this title including the requirements for temperature and handling of outdated drugs.

(iii) Drugs for use in the telepharmacy system at a remote healthcare site shall be stored in an area that is:

- (I) separate from any other drugs used by the healthcare facility; and
- (II) locked by key, combination or other mechanical or electronic means, so as to prohibit access by unauthorized personnel.

(iv) Drugs for use in the telepharmacy system at a remote dispensing site shall be stored in an area that is locked by key, combination, or other mechanical or electronic means, so as to prohibit access by unauthorized personnel.

(v) Access to the area where drugs are stored at the remote site and operation of the telepharmacy system shall be limited to:

- (I) pharmacists employed by the provider pharmacy;
- (II) licensed healthcare providers, if the remote site is a remote healthcare site; and

(III) pharmacy technicians;

(vi) Individuals authorized to access the remote site and operate the telepharmacy system shall:

(I) be designated in writing by the pharmacist-in-charge; and

(II) have completed documented training concerning their duties associated with the telepharmacy system.

(vii) Remote sites shall have adequate security and procedures to:

(I) comply with federal and state laws and regulations; and

(II) maintain patient confidentiality.

(D) Prescription dispensing and delivery.

(i) A pharmacist at the provider pharmacy shall conduct a drug regimen review as specified in §291.33(c) of this title prior to delivery of the dispensed prescription to the patient or patient's agent.

(ii) The dispensed prescription shall be labeled at the remote site with the information specified in §291.33(c) of this title.

(iii) A pharmacist at the provider pharmacy shall perform the final check of the dispensed prescription before delivery to the patient to ensure that the prescription has been dispensed accurately as prescribed. This final check shall be accomplished through a visual check using electronic methods.

(iv) A pharmacist at the provider pharmacy shall counsel the patient or patient's agent as specified in §291.33(c) of this title. This counseling may be performed using electronic methods. Non-pharmacist personnel may not ask questions of a patient or patient's agent which are intended to screen and/or limit interaction with the pharmacist.

(v) If the remote site has direct access to the provider pharmacy's data processing system, only a pharmacist or pharmacy technician may enter prescription information into the data processing system.

(vi) Drugs which require reconstitution through the addition of a specified amount of water may be dispensed by the remote site only if a pharmacy technician, pharmacy technician trainee, or licensed healthcare provider reconstitutes the product.

(vii) A telepharmacy system located at a remote dispensing site may not dispense a schedule II controlled substance.

(viii) Drugs dispensed at the remote site through a telepharmacy system shall only be delivered to the patient or patient's agent at the remote site.

(E) Quality assurance program. A pharmacy that provides remote pharmacy services through a telepharmacy system at a remote site shall operate according to a written program for quality assurance of the telepharmacy system which:

(i) requires continuous supervision of the telepharmacy system at all times the site is open to provide remote pharmacy services; and

(ii) establishes mechanisms and procedures to routinely test the operation of the telepharmacy system at a minimum of every six months and whenever any upgrade or change is made to the system and documents each such activity.

(F) Policies and procedures.

(i) A pharmacy that provides pharmacy services through a telepharmacy system at a remote site shall operate according to written policies and procedures. The policy and procedure manual shall include, but not be limited to, the following:

(I) a current list of the name and address of the pharmacist-in-charge and personnel designated by the pharmacist-in-charge to have:

(-a-) access to the area where drugs are stored at the remote site; and

(-b-) operate the telepharmacy system;

(II) duties which may only be performed by a pharmacist;

(III) if the remote site is located at a remote healthcare site, a copy of the written contact or agreement between the provider pharmacy and the healthcare facility which outlines the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of the contract or agreement in compliance with federal and state laws and regulations;

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

(V) policies and procedures for:

(-a-) security;

(-b-) operation of the telepharmacy system;

(-c-) sanitation;

(-d-) storage of drugs;

(-e-) dispensing;

(-f-) supervision;

(-g-) drug and/or device procurement;

(-h-) receiving of drugs and/or devices;

(-i-) delivery of drugs and/or devices; and

(-j-) recordkeeping.

(ii) A pharmacy that provides remote pharmacy services through a telepharmacy system at a remote site shall, at least annually, review its written policies and procedures, revise them if necessary, and document the review.

(iii) A pharmacy providing remote pharmacy services through a telepharmacy system shall maintain a written plan for recovery from an event which interrupts the ability of a pharmacist to electronically supervise the telepharmacy system and the dispensing of prescription drugs at the remote site. The written plan for recovery shall include:

(I) a statement that prescription drugs shall not be dispensed at the remote site, if a pharmacist is not able to electronically supervise the telepharmacy system and the dispensing of prescription drugs;

(II) procedures for response when a telepharmacy system is experiencing downtime; and

(III) procedures for the maintenance and testing of the written plan for recovery.

(6) Additional operational standards for remote dispensing sites.

(A) A pharmacist employed by a provider pharmacy shall make at least monthly on-site visits to a remote site. The remote site shall maintain documentation of the visit.

(B) A pharmacist employed by a provider pharmacy shall be physically present at a remote dispensing site when the pharmacist is providing services requiring the physical presence of the pharmacist, including immunizations.

(C) A remote dispensing site shall be staffed by an on-site pharmacy technician who is under the continuous supervision of a pharmacist employed by the provider pharmacy.

(D) All pharmacy technicians at a remote dispensing site shall be counted for the purpose of establishing the pharmacist-pharmacy technician ratio of the provider pharmacy which, notwithstanding Section 568.006 of the Act, may not exceed three pharmacy technicians for each pharmacist providing supervision.

(E) A pharmacy technician working at a remote dispensing site must:

(i) have worked at least one year at a retail pharmacy during the three years preceding the date the pharmacy technician begins working at the remote dispensing site; and

(ii) have completed a training program on the proper use of a telepharmacy system.

(F) A pharmacy technician at a remote dispensing site may not perform sterile or nonsterile compounding. However, a pharmacy technician may prepare commercially available medications for dispensing, including the reconstitution of orally administered powder antibiotics.

(7) Records.

(A) Maintenance of records.

(i) Every record required under this section must be:

(I) accessible by the provider pharmacy and be available, for at least two years for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(II) supplied by the provider pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(ii) The remote site shall maintain original prescription drug orders for medications dispensed from a remote site using a telepharmacy system in the manner required by §291.34(b) of this title and the provider pharmacy shall have electronic access to all prescription records.

(iii) If prescription drug records are maintained in a data processing system, the system shall have a workable (electronic) data retention system which can produce a separate audit trail of drug usage by the provider pharmacy and by each remote site for the preceding two years as specified in §291.34(e) of this title.

(B) Prescriptions. Prescription drug orders shall meet the requirements of §291.34(b) of this title.

(C) Patient medication records. Patient medication records shall be created and maintained at the remote site or provider pharmacy in the manner required by §291.34(c) of this title. If such records are maintained at the remote site, the provider pharmacy shall have electronic access to those records.

(D) Inventory.

(i) A provider pharmacy shall:

(I) keep a record of all drugs ordered and dispensed by a remote site separate from the records of the provider pharmacy and from any other remote site's records;

(II) keep a perpetual inventory of all controlled substances that are received and dispensed or distributed from each remote site. The perpetual inventory shall be reconciled, by a pharmacist employed by the provider pharmacy, at least monthly.

(ii) As specified in §291.17 of this title, a provider pharmacy shall conduct an inventory at each remote site. The following is applicable to this inventory.

(I) The inventory of each remote site and the provider pharmacy shall be taken on the same day.

(II) The inventory of each remote site shall be included with, but listed separately from, the drugs of other remote sites and separately from the drugs at the provider pharmacy.

(III) A copy of the inventory of the remote site shall be maintained at the remote site.

(d) Remote pharmacy services using automated dispensing and delivery systems.

(1) Purpose. The purpose of this section is to provide standards for the provision of pharmacy services by a Class A or Class C pharmacy in a facility that is not at the same location as the Class A or Class C pharmacy through an automated dispensing and delivery system.

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

(A) Automated dispensing and delivery system--A mechanical system that dispenses and delivers prescription drugs to patients at a remote delivery site and maintains related transaction information.

(B) Deliver or delivery--The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

(C) Dispense--Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(D) Provider pharmacy--The community pharmacy (Class A) or the institutional pharmacy (Class C) providing remote pharmacy services.

(E) Remote delivery site--A location at which remote pharmacy services are provided using an automated dispensing and delivery system.

(F) Remote pharmacy service--The provision of pharmacy services, including the dispensing and delivery of prescription drugs, in remote delivery sites.

(3) General requirements for a provider pharmacy to provide remote pharmacy services using an automated dispensing and delivery system to dispense and deliver a prescription that is verified by the provider pharmacy to a patient or patient's agent.

(A) The pharmacist-in-charge of the provider pharmacy is responsible for all pharmacy operations involving the automated dispensing and delivery system located at the remote delivery site includ-

ing supervision of the automated dispensing and delivery system and compliance with this section.

(B) The patient or patient's agent shall receive counseling via a direct link to audio or video communication by a Texas licensed pharmacist who has access to the complete patient medication record (patient profile) maintained by the provider pharmacy prior to the release of any new prescription released from the system.

(C) A pharmacist shall be accessible at all times to respond to patients' or other health professionals' questions and needs pertaining to drugs delivered through the use of the automated dispensing and delivery system. Such access may be through a 24 hour pager service or telephone which is answered 24 hours a day.

(D) The patient or patient's agent shall be given the option whether to use the system.

(E) An electronic notice shall be provided to the patient or patient's agent at the remote delivery site with the following information:

(i) the name and address of the pharmacy that verified the prescription; and

(ii) a statement that a pharmacist is available 24 hours a day, 7 days a week through the use of telephonic communication.

(F) Drugs stored in the automated dispensing and distribution system shall be stored at proper temperatures, as defined in the USP/NF and §291.15 of this title.

(G) A provider pharmacy may only provide remote pharmacy services using an automated dispensing and delivery system to patients at a board-approved remote delivery site.

(H) A provider pharmacy may provide remote pharmacy services at more than one remote delivery site.

(I) Before providing remote pharmacy services, the automated dispensing and delivery system at the remote delivery site must be tested by the provider pharmacy and found to dispense and deliver accurately. The provider pharmacy shall make the results of such testing available to the board upon request.

(J) A provider pharmacy which is licensed as an institutional (Class C) pharmacy is required to comply with the provisions of §§291.31 - 291.34 of this title and this section.

(4) Operational standards.

(A) Application to provide remote pharmacy services using an automated dispensing and delivery system.

(i) A community (Class A) or institutional (Class C) pharmacy shall file a completed application containing all information required by the board to provide remote pharmacy services using an automated dispensing and delivery system.

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

(iii) Upon approval of the application, the provider pharmacy will be sent a certificate which must be displayed at the provider pharmacy.

(B) Notification requirements.

(i) A provider pharmacy shall notify the board in writing within ten days of a discontinuance of service.

(ii) A provider pharmacy shall comply with appropriate controlled substance registrations for each remote delivery site if dispensed controlled substances are maintained within an automated dispensing and delivery system at the facility.

(iii) A provider pharmacy shall file an application for change of location and/or name of a remote delivery site as specified in §291.3 of this title.

(C) Environment/Security.

(i) A provider pharmacy shall only store prescription drugs at a remote delivery site within an automated dispensing and delivery system which is locked by key, combination or other mechanical or electronic means so as to prohibit access by unauthorized personnel.

(ii) Access to the automated dispensing and delivery system shall be limited to pharmacists and pharmacy technicians or pharmacy technician trainees under the direct supervision of a pharmacist who:

(I) are designated in writing by the pharmacist-in-charge; and

(II) have completed documented training concerning their duties associated with the automated dispensing and delivery system.

(iii) Drugs shall be stored in compliance with the provisions of §291.15 of this title and §291.33(c)(8) of this title, including the requirements for temperature and the return of undelivered medication to stock.

(iv) the automated dispensing and delivery system must have an adequate security system, including security camera(s), to prevent unauthorized access and to maintain patient confidentiality.

(D) Stocking an automated dispensing and delivery system. Stocking of prescription drugs in an automated dispensing and delivery system shall be completed under the supervision of a pharmacist.

(E) Quality assurance program. A pharmacy that provides pharmacy services through an automated dispensing and delivery system at a remote delivery site shall operate according to a written program for quality assurance of the automated dispensing and delivery system which:

(i) requires continuous supervision of the automated dispensing and delivery system; and

(ii) establishes mechanisms and procedures to routinely test the accuracy of the automated dispensing and delivery system at a minimum of every six months and whenever any upgrade or change is made to the system and documents each such activity.

(F) Policies and procedures of operation.

(i) A pharmacy that provides pharmacy services through an automated dispensing and delivery system at a remote delivery site shall operate according to written policies and procedures. The policy and procedure manual shall include, but not be limited to, the following:

(I) a current list of the names and addresses of the pharmacist-in-charge and all personnel designated by the pharmacist-in-charge to have access to the prescription drugs stored in the automated dispensing and delivery system;

(II) duties which may only be performed by a pharmacist;

(III) a copy of the portion of the written contract or lease agreement between the pharmacy and the remote delivery site location which outlines the services to be provided and the responsibilities and accountabilities of each party relating to the operation of the automated dispensing and delivery system in fulfilling the terms of the contract in compliance with federal and state laws and regulations;

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

(V) policies and procedures for:
(-a-) security;
(-b-) operation of the automated dispensing and delivery system;

(-c-) preventative maintenance of the automated dispensing and delivery system;
(-d-) sanitation;
(-e-) storage of prescription drugs;
(-f-) supervision;
(-g-) delivery of prescription drugs; and
(-h-) recordkeeping.

(ii) A pharmacy that provides pharmacy services through an automated dispensing and delivery system at a remote delivery site shall, at least annually, review its written policies and procedures, revise them if necessary, and document the review.

(iii) A pharmacy providing remote pharmacy services using an automated dispensing and delivery system shall maintain a written plan for recovery from an event which interrupts the ability of the automated dispensing and delivery system to dispense and deliver prescription drugs. The written plan for recovery shall include:

(I) planning and preparation for maintaining pharmacy services when an automated dispensing and delivery system is experiencing downtime;

(II) procedures for response when an automated dispensing and delivery system is experiencing downtime; and

(III) procedures for the maintenance and testing of the written plan for recovery.

(5) Records.

(A) Maintenance of records.

(i) Every record required under this section must be:

(I) kept by the provider pharmacy and be available, for at least two years for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(II) supplied by the provider pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(ii) The provider pharmacy shall have a workable (electronic) data retention system which can produce a separate audit trail of drug delivery and retrieval transactions at each remote delivery site for the preceding two years.

(B) Transaction information.

(i) The automated dispensing and delivery system shall electronically record all transactions involving drugs stored in, removed, or delivered from the system.

(ii) Records of delivery from an automated dispensing and delivery system for a patient shall be maintained by the provider pharmacy and include the:

- (I) identity of the system accessed;
- (II) identification of the individual accessing the system;
- (III) date of transaction;
- (IV) prescription number, drug name, strength, dosage form;
- (V) number of prescriptions retrieved;
- (VI) name of the patient for whom the prescription was retrieved;
- (VII) name of prescribing practitioner; and
- (VIII) name of pharmacist responsible for consultation with the patient, if required, and documentation that the consultation was performed.

(iii) Records of stocking or removal from an automated dispensing and delivery system shall be maintained by the pharmacy and include the:

- (I) count of bulk prescription drugs stored or removed;
- (II) number of dispensed prescription packages removed;
- (III) name, initials, or identification code of the person stocking or removing prescription drugs from the system; and
- (IV) name, initials, or identification code of the pharmacist who checks and verifies that the system has been accurately filled.

(C) The pharmacy shall make the automated dispensing and delivery system and any records of the system, including testing records, available for inspection by the board.

(D) The automated dispensing and delivery system records a digital image of the individual accessing the system to pick-up a prescription and such record is maintained by the pharmacy for two years.

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

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

TRD-202200764

Timothy L. Tucker, Pharm.D.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 305-8097



PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

22 TAC §851.158

The Texas Board of Professional Geoscientists (TBPG) proposes an amendment concerning the licensure and regulation of Professional Geoscientists in Texas. TBPG proposes an amendment to 22 Texas Administrative Code (TAC) §851.158, regarding TBPG complaint procedures.

BACKGROUND, PURPOSE, AND SUMMARY OF CHANGES

TBPG proposes an amendment to 22 TAC 851.158 that will allow TBPG to streamline its complaint procedures by decreasing the amount of time that a respondent must respond to a Notice of Alleged Violation from 30 days to 20 days. This change will modify TBPG's complaint processing procedures to reduce a respondent's response time requirements for more efficient processing and to be consistent with other regulatory agencies in Texas.

Proposed changes to 22 TAC §851.158 include the addition of a new sentence in subsection (3)(A) that reads, "There is a rebuttable presumption that the notice is received three (3) days after it was mailed." Proposed language in subsection (3)(B) adds wording to show that "not later than the 20th day after the Notice of Alleged Violation is received by the Respondent, the Respondent, in writing, must" respond to the notice. Proposed language in subsection (3)(B)(ii) removes the phrase "and a contested case hearing." Proposed language in subsection (3)(C)(i) adds the sentence, "If, within twenty (20) days of receipt, the Respondent fails to respond to the Notice of Alleged Violation and either accept the proposed disciplinary action and recommended administrative penalty, make a written request for an informal conference, or make a written request for a contested-case hearing, the Board will prepare to issue a default order." Additional language in (3)(C)(ii) - (iv) updates the response time for a respondent to respond to a Notice of Alleged Violation to twenty (20) days.

FISCAL NOTE - STATE AND LOCAL GOVERNMENT

Rene D. Truan, Executive Director of the Texas Board of Professional Geoscientists, has determined that for each fiscal year of the first five years the section is in effect there is no economic cost, loss, or other negative fiscal impact to the state and local governments as a result of enforcing or administering the section as proposed. There are no estimated reductions in cost to the state and to local governments as a result of enforcing or administering the proposed sections. There will be no increase in revenue to local governments, from enforcing or administering these sections.

PUBLIC BENEFIT AND COST

Mr. Truan has also determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section includes streamlining the TBPG complaint procedure process and modifying TBPG's complaint response requirements to be more consistent with other regulatory agencies.

SMALL, MICRO-BUSINESS, LOCAL ECONOMY, AND RURAL COMMUNITIES ECONOMIC IMPACT ANALYSIS

Mr. Truan has determined that the proposed rule will not have an adverse effect on small businesses, micro-businesses, local economy, or rural communities because reducing the time to respond to a notice of violation does not affect the conduct of business or costs to those entities. Consequently, neither an economic impact statement, a local employment impact statement, nor a regulatory flexibility analysis is required.

COST IN / COST OUT

This amendment is not subject to Government Code §2001.0045, which requires every rule that imposes a cost to be accompanied by a proposed rule to decrease or eliminate a cost in the same amount. There is no increase or decrease in fees or costs related to this proposed amendment.

GOVERNMENT GROWTH IMPACT STATEMENT

During the first five years that the rule would be in effect:

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

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

Mr. Truan has determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. Although Professional Geoscientists and Registered Geoscience Firms play a key role in environmental protection for the State of Texas, this proposal is not specifically intended to protect the environment nor reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

Mr. Truan 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 Government Code §2007.043.

PUBLIC COMMENT

Comments on the proposed amendment may be submitted in writing to Rene D. Truan, Executive Director, Texas Board of Professional Geoscientists, 333 Guadalupe Street, Tower I-530, Austin, Texas 78701 or by mail to P.O. Box 13225, Austin, Texas 78711 or by e-mail to rtruan@tbpge.texas.gov. Please indicate "Comments on Proposed Rules" in the subject line of all e-mails submitted. Please submit comments within 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

This section is proposed under the Texas Geoscience Practice Act, Texas Occupations Code §1002.151, which authorizes the Board to adopt and enforce all rules and regulations consistent with the Act as necessary for the performance of its duties, and the regulation of the practice of geoscience in this state, and §1002.204, regarding complaint investigation and disposition.

This section affects Texas Occupations Code §§1002.151 and 1002.204.

§851.158. Procedures.

Procedures generally. Except for a suspension under TOC §1002.403(3), the procedures for investigation and dispensation of complaints are as follows:

- (1) Staff action.
 - (A) Verify that the complaint meets legal requirements;
 - (B) Verify the identity of the complainant (if complaint is not notarized);
 - (C) Open complaint and set up complaint record;
 - (D) Review complaint for TBPGE jurisdiction;
 - (E) Review for imminent danger to the public health, safety, or welfare;
 - (F) Prioritize complaint as required by TOC §1002.154;
 - (G) Provide acknowledgement and notification to complainant;
 - (H) Investigate complaint and complete confidential investigation report; and
 - (I) Dismiss, with or without advisement, complaints that are meritless, non-jurisdictional, or that do not involve a threat or potential threat to public health, safety, and welfare, with the exception of complaints that involve violations of the continuing education requirement.
- (2) Complaint review team. Review complaint and investigation with the possible outcomes of:
 - (A) Recommend to the Appointed Board that the complaint be dismissed (with or without non-disciplinary advisory or warning);
 - (B) Refer the complaint back to staff for further investigation; or
 - (C) Issue notice of alleged violation-proposed finding of violation and proposed disciplinary action.
- (3) Notice of alleged violation.
 - (A) The notice of alleged violation will state the authority of the TBPGE to enforce the Act and take disciplinary action, the facts or conduct alleged to warrant disciplinary action, identify the proposed disciplinary action, provide the opportunity for an informal conference to show compliance with all requirements of law, and provide the op-

portunity for a contested-case hearing. There is a rebuttable presumption that the notice is received three (3) days after it was mailed.

(B) Not later than the 20th day after the Notice of Alleged Violation is received by the Respondent, the Respondent, in writing, must [The notice of alleged violation will provide three options]:

(i) Accept the proposed findings and proposed disciplinary action, and waive the right to an informal conference, contested-case hearing, and judicial review, by signing and returning the enclosed proposed Board order;

(ii) Request an informal conference [~~and a contested-case hearing~~]; or

(iii) Request a contested-case hearing.

(C) Waiver and default.

(i) If, within twenty (20) days of receipt, the Respondent fails to respond to the Notice of Alleged Violation and either accept the proposed disciplinary action and recommended administrative penalty, make a written request for an informal conference, or make a written request for a contested-case hearing, the board will prepare to issue a default order. To proceed to issue a default order, the notice of alleged violation must state the following in capital letters in at least 12-point bold-face type: FAILURE TO TIMELY RESPOND TO THIS NOTICE BY TIMELY REQUESTING EITHER AN INFORMAL CONFERENCE AND A CONTESTED-CASE HEARING OR A CONTESTED-CASE HEARING WILL RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND THE RECOMMENDED SANCTION BEING GRANTED BY DEFAULT. YOU MUST RESPOND AND REQUEST A HEARING IN WRITING WITHIN 20 [30] DAYS OF RECEIPT OF THIS NOTICE OR YOU WAIVE YOUR RIGHT TO A HEARING.

(ii) Additionally, to proceed to issue a default order, the notice of alleged violation must also state the following: If you fail to request a hearing in writing within 20 [30] days of receipt of this notice you will be deemed to have admitted the factual allegations in this notice, waived the opportunity to show compliance with the law, waived the right to a hearing, and waived objection to the recommended sanction.

(iii) If a person fails to file a written request for a contested-case hearing within 20 [30] days of receipt of the notice of alleged violation, the person will be deemed to have admitted the factual allegations in the notice of alleged violation, waived the opportunity to show compliance with the law, waived the right to a hearing, and waived objection to the recommended sanction.

(iv) If a person responds and waives the right to an informal conference and a contested-case hearing or fails to file a written request for either an informal conference and a contested-case hearing or a contested-case hearing within 20 [30] days of receipt of the notice of alleged violation, the Board shall proceed to resolve the matter on an informal basis by issuing a default order.

(D) The TBPG may serve the notice of alleged violation by sending it to the person's last known address as shown by the TBPG's records.

(E) The notice of alleged violation shall be sent by first class or certified mail to the person's last known address as shown by the TBPG's records, and in addition should also be sent to the person's email address as shown by the TBPG's records.

(4) Informal conference.

(A) The informal conference will be informal and will not follow procedures for contested cases.

(B) The informal conference panel may be composed of Board staff and Appointed Board members. The panel may limit attendance and the time allotted for the informal conference.

(C) The informal conference is an opportunity for a person to show compliance with law. The person may speak and provide documents for the panel's consideration.

(D) The informal conference panel may recommend proposed action to be taken by the Appointed Board. The proposed action may be different from that stated in the notice of alleged violation.

(5) Contested-case hearing. If a person timely and properly requests a contested-case hearing, one shall be set at the State Office of Administrative Hearings.

(6) Board order. Except for dismissals, the Appointed Board should resolve complaints by order. The Board may accept or reject any proposed order. If a proposed order is rejected, the Appointed Board may among other things dismiss the complaint, direct Board staff to modify an order and propose the modified order for later consideration, or direct that the matter be set for a contested-case hearing.

(7) All disciplinary actions shall be permanently recorded. Except for private reprimands, all disciplinary actions shall be placed on the TBPG's website and made available upon request as public information.

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

Filed with the Office of the Secretary of State on March 7, 2022.

TRD-202200792

Katie Colby

Administrative Specialist

Texas Board of Professional Geoscientists

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 936-2248

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 266. MEDICAID HOSPICE PROGRAM

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes in the Texas Administrative Code (TAC), Title 26, Part 1, new Chapter 266, Medicaid Hospice Program, Subchapters A - C, composed of §§266.101, 266.103, 266.201, 266.203, 266.205, 266.207, 266.209, 266.211, 266.213, 266.215, 266.217, 266.219, 266.221, 266.223, 266.225, 266.227, 266.301, 266.303, 266.305, 266.307, 266.309, and 266.311.

BACKGROUND AND PURPOSE

The purpose of the proposal is to update and relocate the Medicaid Hospice Program rules from TAC, Title 40 (40 TAC), Chapter 30, to TAC, Title 26 (26 TAC), Chapter 266 as part of the consolidation of HHSC's rules in 26 TAC. The repeal of the rules in

40 TAC, Chapter 30 is proposed elsewhere in this issue of the *Texas Register*.

Proposed new Chapter 266 will make HHSC's Medicaid Hospice Program rules consistent with the federal Medicare hospice regulations, add definitions used in the chapter, include details of utilization review policy requirements, such as describing what the individualized plan of care must include, types of required documentation that a hospice must maintain, and specifics regarding the certification of terminal illness, and update standards to protect the health and safety of individuals receiving hospice care.

The proposed new rules in Chapter 266 incorporate the federal rate changes in Title 42, Code of Federal Regulations (42 CFR), Part 418, Subpart G, Payment for Hospice Care, that HHSC implemented on January 1, 2016. These changes allow providers to be paid at a higher rate during the first 60 days of routine home care and during the final seven days. Additionally, the proposed new rules create an annual aggregate cap and align it with the federal fiscal year. The proposed new rules also align hospice election periods to those in 42 CFR Part 418, Subpart B, Duration of hospice care coverage - Election periods.

The proposed new rules also include hospice documentation requirements, recoupment of payments, and the option to request an informal review of and appeal proposed recoupment.

The proposed new rules in Chapter 266 do not include the rules proposed for repeal in 40 TAC §30.2, concerning Purpose; 40 TAC §30.92, concerning Minimum Data Set Assessment; and 40 TAC 30.100, concerning Additional Requirements, because HHSC determined the rules to be either unnecessary or no longer applicable.

The proposed new rules also update agency names, replace references to the "initial period of care" with references to the "initial election period," and replace references to "recipient" or "beneficiary" with references to "individual."

SECTION-BY-SECTION SUMMARY

New Subchapter A, Introduction

Proposed new §266.101, Definitions, replaces 40 TAC §30.4. In addition, the proposed new rule adds definitions of "CFR - Code of Federal Regulations," "CHC - continuous home care," "CMS - Centers for Medicare and Medicaid Services," "crisis," "HHSC - Texas Health and Human Services Commission," "IDT - interdisciplinary team," "licensed vocational nurse," "period of crisis," "RN - registered nurse," "SIA - service intensity add-on," "skilled nursing care," "social worker," "TAC - Texas Administrative Code," "TMHP - Texas Medicaid & Healthcare Partnership," and "utilization review." The proposed new rule also revises the definitions of "curative," "physician," and "social worker" for clarity. The proposed new rule deletes the definitions of "bereavement counseling," "ICF/MR-RC," and "palliative care" because these terms are not used in the chapter. The proposed new rule does not include a definition of "hospice" because having one definition for this term does not always reflect how the term is used in the chapter.

Proposed new §266.103, Submitting Written Information to HHSC, replaces 40 TAC §30.36, with changes to require a hospice to submit written information to HHSC in accordance with the instructions on the HHSC website.

New Subchapter B, Utilization Review

Proposed new §266.201, Duration of Hospice Care Coverage: Election Periods, replaces 40 TAC §30.12. The proposed new rule permits an individual who is eligible for hospice to elect hospice for an initial 90-day period, a subsequent 90-day period, or an unlimited number of subsequent 60-day periods. Under the current rule, an eligible individual elects to receive hospice for one or more six-month periods. This change makes the election periods the same for Medicare and Medicaid hospice. To facilitate the transition from the old to the new election periods, the proposed new rule also states an individual receiving Medicaid hospice services on the date the rule becomes effective may continue receiving those services until the current election period expires. Any subsequent election period is a 60-day period under proposed new §266.201(a)(3).

Proposed new §266.203, Certification of Terminal Illness, replaces 40 TAC §30.14. The proposed new rule describes the requirements of a written and oral certification of terminal illness, the content and sources of certifications, and documentation and additional requirements. Subsection (a)(3) requires the hospice to submit the Physician Certification of Terminal Illness Form to the TMHP Long Term Care Online Portal. Subsection (b), regarding oral certification, requires a hospice to obtain a written certification before it submits a claim for payment. Subsection (c)(2) requires the physician narrative to include the individual-specific findings supporting the conclusion the individual is terminally ill. Subsection (f) describes the documentation requirements for an oral and written certification. For an election period after the subsequent 90-day election period, subsection (f)(2) requires the hospice record to include clearly labeled documentation of the face-to-face assessment. Proposed new §266.203 does not include the requirement in 40 TAC §30.14 that the hospice record includes the current minimum data set or level-of-need assessment if the individual receiving hospice services resides in a nursing facility or intermediate care facility for individuals with an intellectual disability or related conditions (ICF/IID). Proposed new §266.203 also does not include the requirement that the hospice provides the nursing facility or ICF/IID a copy of the documentation supporting the services provided by the hospice to an individual residing in the nursing facility or ICF/IID. These requirements are no longer part of the utilization review process. In addition, the proposed new §266.205(f) contains updated rules on record retention, including in an individual's nursing facility or ICF/IID record.

Proposed new §266.205, Election of Hospice Care, replaces 40 TAC §30.16. Subsection (a) requires an individual to elect hospice by filing the Individual Election/Cancellation/Update Form with a particular hospice. Subsection (f) adds requirements for the hospice to retain copies of all election forms in the hospice record for the individual and the individual's nursing facility or ICF/IID record, if applicable, and for hospice providers to meet the record retention requirements in 40 TAC Chapter 49 (relating to Contracting for Community Services). Subsection (g) requires the hospice to submit the Individual Election/Cancellation/Update form to the Texas Medicaid & Healthcare Partnership (TMHP) Long Term Care Online Portal.

Proposed new §266.207, Revoking the Election of Hospice Care, replaces 40 TAC §30.18. Subsection (b) requires an individual to file the Individual Election/Cancellation/Update Form with the hospice to revoke the election of hospice care. Subsection (e) requires the hospice to submit the Individual Election/Cancellation/Update Form to the TMHP Long Term Care Online Portal.

Proposed new §266.209, Requirements for Payments, replaces 40 TAC §30.50, Requirements for Reimbursement. HHSC decided it is clearer to use the term "Payments" in the title and new rule and made corresponding changes in the Provider Manual. The proposed new rule states that to be eligible for Medicaid hospice payment, the hospice must document that the services provided meet the eleven specific requirements described in the new rule.

Proposed new §266.211, Continuous Home Care (CHC), replaces 40 TAC §30.54(a)(1)-(7). The proposed new rule describes CHC as being care provided only during a "period of crisis" for a maximum of five consecutive days to maintain an individual at the individual's place of residence. The term "period of crisis" is defined in the proposed new §266.101. Paragraph (2) requires skilled nursing care to be provided for the "identified crisis" and adds that skilled nursing care can be provided by either an RN or licensed vocational nurse employed by the hospice providing services and that, for an individual residing in a nursing facility, the skilled nursing care requirement is not met when facility staff provides skilled nursing care for the crisis. Paragraph (2) also requires skilled nursing care to include at least one of four listed nursing services. Paragraph (3) adds a requirement that the hospice document why the physician considers social work or chaplain services necessary to ameliorate the crisis and what these services accomplished during CHC. Paragraph (4) provides additional detail concerning what a signed physician's order for skilled nursing care must include. Paragraph (5) adds two new requirements for the CHC plan of care. The first is that the plan of care must be updated when the individual's condition changes. The second is that the plan of care must include a description of the specific crisis and how the hospice plans to resolve the crisis. Paragraph (5) specifically requires the plan of care to identify the services needed to meet the needs of both the individual and family. Paragraph (6) provides additional details about how the hospice must document the discussion of temporary alternate placement with the family or responsible party.

Proposed new §266.213, Extension of Continuous Home Care, replaces 40 TAC §30.54(a)(8)-(13). The proposed new rule describes the requirements for requesting an extension of CHC and the review conducted by HHSC. If the hospice believes the period of crisis will extend beyond five consecutive days, subsection (a) requires the hospice to discuss the temporary alternate placement available to meet the needs of the individual during the period of crisis and to document that discussion before the fifth day of the crisis. If the hospice believes the extension of CHC is necessary instead of alternate placement, subsection (a)(1) requires the hospice to fax a Request for CHC Extension Form to HHSC by the fourth day of the CHC period. Subsection (a)(2) describes the required content of the request for the CHC extension, including the required documentation, which is in the current rule. Subsection (c) states that HHSC reviews documentation faxed on or before the fourth consecutive day of the period of crisis within 16 work hours of receiving the documentation if it is sent in accordance with the instructions in subsection (a)(1) of the rule. Subsection (d) states that HHSC will not consider requests faxed after the fourth consecutive day of the period of crisis. Subsection (f) provides that HHSC will notify a hospice of its decision in writing, via fax, not later than the end of the fifth consecutive day of the period of crisis. If HHSC denies the request, subsection (g) of the rule provides that HHSC sends a notice of denial to the individual whose CHC the hospice was seeking to extend and informs the individual of the individual's right to re-

quest a Medicaid fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules). Subsection (i) states that the approval of a CHC extension request is not an approval of the initial CHC period, nor an approval for the care provided during the extension period, and that HHSC will conduct a review of all paid CHC claims to determine compliance with eligibility requirements for the hospice payment. The proposed new rule does not include the provision currently in 40 TAC §30.54(a)(13) that permits a hospice to request reconsideration if the hospice does not agree with HHSC's denial of the CHC extension.

Proposed new §266.215, Respite Care, replaces 40 TAC §30.54(b). However, 40 TAC §30.54(b) currently describes respite care as short-term inpatient care provided to the individual "at home" only when necessary to relieve the family members or other persons caring for the individual at home. Subsection (a) of the proposed rule describes respite care as short-term "inpatient care" provided to an individual only when necessary to relieve the family members or other persons caring for the individual at home. This change removes the erroneous suggestion that respite care is provided in the individual's home.

Proposed new §266.217, Medicaid Hospice Payments and Limitations, replaces 40 TAC §30.60. HHSC made three major changes in this section to make the Medicaid hospice rules consistent with the federal Medicare hospice regulations. First, subsection (a)(1) creates two different rates for routine home care. This change results in a higher base payment rate for the first 60 days of hospice care and a reduced base payment rate for days 61 and over of hospice care. Subsection (a)(1) also describes how HHSC will determine the proper base payment rate when an individual is discharged and readmitted to hospice. Second, subsection (a)(2) creates a service intensity add-on (SIA) payment. This change will result in an add-on payment equal to the CHC hourly pay rate multiplied by the amount of direct patient care provided by an RN or social worker during the last 7 days of an individual's life. Subsection (a)(2) also lists the documentation the hospice must submit to claim the SIA payment. Third, in subsection (d), HHSC creates an annual aggregate limitation on hospice payments. This change results in a limitation on the total Medicaid payments for hospice care that a hospice can receive each year. Subsection (d) describes the limitation and how it is calculated.

HHSC made several other changes in the proposed new §266.217. Subsection (b)(2) of the rule allows a hospice to be paid for physician services on the day of discharge if the physician provides direct patient services on that day. Subsection (b)(2) does not include the unnecessary language currently in 40 TAC §30.60 describing how Medicaid makes payments for non-hospice physician services. Subsection (b)(2) does not include language currently in 40 TAC §30.60 requiring the Medicaid hospice provider to inform physicians on how to bill for services to individuals because the Medicaid hospice program does not enforce this requirement. Subsection (c) clarifies the Medicaid payment limitations for inpatient care by adding that a day counts as an inpatient hospice care day only if it is a day on which the individual who has elected hospice care receives inpatient respite care or general inpatient care. The calculation of the limitations for inpatient care remains the same. Subsection (f) relates to pediatric concurrent care and is entirely new. This new provision states that an individual under 21 years of age who elects Medicaid hospice care may receive Medicaid services related to the treatment of the terminal illness, or a related condition, for which the hospice care was elected

concurrently with the hospice care. Subsection (f) also states that the hospice is responsible for the palliative care related to the terminal illness or a related condition and not responsible for acute care services related to the treatment of the terminal illness or a related condition or for services unrelated to the terminal illness or related condition.

In addition, the proposed new §266.217 does not include several of the current provisions in 40 TAC §30.60 regarding Medicaid hospice-nursing facility per diem rates, Medicaid hospice-ICF/IID per diem rates, Medicaid payments on Medicare coinsurance for drugs and biologicals, and Medicaid payments for Medicare respite coinsurance. HHSC is proposing to address those provisions in proposed new §266.305, General Contracting Requirements. The proposed new provisions will also not include the current provisions in 40 TAC §30.60 regarding Medicaid time limitations for hospice payment and third-party liability for hospice services because those rules are covered in 26 TAC §554.801 and 1 TAC Chapter 354, Subchapter J.

Proposed new §266.219, Utilization Review and Control Activities Performed by HHSC, replaces 40 TAC §30.90. However, in the proposed new rule, HHSC does not include the current provision in 40 TAC §30.90(a), which describes HHSC's on-site activities related to utilization review in nursing facilities receiving Medicaid payments through the hospice provider. HHSC does not conduct on-site activities related to utilization review. Proposed subsection (a) requires hospice staff to cooperate with HHSC staff during the utilization review of hospice services and the review of hospice clinical records. Subsection (b) requires the hospice to respond within 30 calendar days after HHSC makes a request for information. Subsection (c) states that HHSC staff review most claims for payment after they are paid and recoup any overpayments. Subsection (d) states that HHSC staff review claims for the SIA before paying the SIA.

Proposed new §266.221, Hospice Documentation Requirements, does not have an equivalent section in current 40 TAC Chapter 30. The proposed new rule describes different hospice documentation requirements. Subsection (a) describes the types of documentation required for each individual receiving Medicaid hospice services. Subsection (b) states the requirements for physician's orders. Subsection (c) states the requirements for the plan of care. Subsection (d) states the requirements for a hospice to request payment on the day of discharge. Subsection (e) requires documentation to be clearly labeled, indicate what type of documentation it is, be legible to a reader other than the author, and be signed and dated.

Proposed new §266.223, Recoupment, describes the circumstances under which HHSC will propose to recoup funds paid to a hospice if the hospice has not complied with the requirements described in this chapter. The proposed new rule also states the percentage of the claim HHSC will propose to recoup for each type of violation. Subsection (b)(1) covers the recoupment amounts for violations discovered during hospice eligibility and level of service reviews. Subsection (b)(2) covers the recoupment amounts for violations discovered during CHC reviews. Subsection (d) states that HHSC will recoup the amount of any overpayment discovered.

Proposed new §266.225, Informal Review, describes the informal review process. Subsection (a) states that before HHSC issues a notice of proposed recoupment, HHSC provides the hospice with a description of the alleged rule violation warranting the proposed recoupment and the option to request an informal review to demonstrate that the hospice did not commit the

alleged violation or to accept the proposed recoupment. Subsection (b) requires a hospice's request for an informal review to be received by HHSC within 10 calendar days after the hospice received the description of the alleged violation and contain documentation that refutes the alleged violation. Subsection (c) states that HHSC conducts the informal review by reviewing the hospice's written response and supporting evidence. Subsection (d) states that HHSC provides the hospice with official notice of the outcome of the informal review.

Proposed new §266.227, Review Decision and Notice, describes how HHSC informs the hospice of its final decision regarding recoupment. Subsection (a) states that HHSC issues a notice of proposed recoupment under 40 TAC §49.533(c) if HHSC upholds or modifies proposed recoupment after the informal review. Subsection (b) states that the notice of proposed recoupment includes a description of the alleged rule violation warranting the proposed recoupment, the amount of the proposed recoupment, HHSC's decision to uphold or modify the proposed recoupment after an informal review, and the option for the hospice to accept the proposed recoupment or appeal the proposed recoupment as provided in 40 TAC §49.541.

New Subchapter C, Contracting Requirements

Proposed new §266.301, Eligibility Requirements, replaces 40 TAC §30.10. The proposed new rule states the requirements an individual must meet to be eligible to elect hospice care under Medicaid. The proposed new rule does not include language currently in 40 TAC §30.10(a)(3) that requires an individual to have an identified need documented on a comprehensive assessment to be eligible for hospice care.

Proposed new §266.303, Change of the Designated Hospice, replaces 40 TAC §30.20. The proposed new rule describes the process for an individual or representative to change the hospice from which the individual receives hospice services, which is referred to in the rules as the "designated hospice." In subsection (d), language was included to clarify that both the hospice from which the individual has received care and the hospice from which the individual plans to receive care must submit an Individual Election/Cancellation/Discharge Form. In addition, the reference to submitting the form to "Provider Claims Services" has been replaced with the "TMHP Long Term Care Online Portal."

Proposed new §266.305, General Contracting Requirements, replaces portions of 40 TAC §30.30 and §30.60. Subsections (a), (b), and (c) contain the requirements formerly in 40 TAC §30.30(a), (b), and (c). Subsections (d), (e), (f), and (g) contain the requirements formerly in 40 TAC §30.60(c), (d), (f) and (g). The proposed new rule covers the requirements for contracting with HHSC to provide Medicaid hospice services.

Proposed new §266.307, Voluntary Termination of Hospice Contract, replaces 40 TAC §30.34. The proposed new rule covers the steps a Medicaid hospice provider must take to terminate its contract with HHSC. The proposed new rule replaces references to "DADS claims processor" with references to "the TMHP Long Term Care Online Portal."

Proposed new §266.309, Condition of Participation""Physical Therapy, Occupational Therapy, and Speech-language Pathology, replaces 40 TAC §30.40. The proposed new rule covers the provision of physical therapy, occupational therapy, speech-language pathology, and lab services. The proposed new rule uses the language from 40 TAC §30.40 with no substantive changes.

Proposed new §266.311, Waiver Requirements for Nursing Services or Occupational, Physical, and Speech Therapies, replaces 40 TAC §30.52. The proposed new rule covers the Centers for Medicare and Medicaid Services (CMS) waiver for nursing services or occupational, physical, and speech therapies provided by a hospice located in a non-urbanized area. The proposed new rule uses the language from 40 TAC §30.52 with no substantive changes.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments. HHSC implemented the CMS rate changes in 2016, and these rules bring the TAC sections related to Medicaid hospice services in line with the changes made at that time.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The proposed rules do not require any changes to current business practices nor are there any additional costs or fees imposed.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and are necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Stephanie Stephens, State Medicaid Director, has determined that for each year of the first five years the rules are in effect, the public will benefit from hospice providers having access to one set of clear and detailed requirements for providing Medicaid hospice care that aligns the Medicaid hospice rules with the federal Medicare hospice regulations.

Trey Wood, Chief Financial Officer, has also determined that for the first five years the proposed rules are in effect, there is no

estimated cost for persons required to comply with the proposed rules. The proposed rules do not require any changes to current business practices nor are there any additional costs 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 COMMENT

Written comments on the proposal may be submitted to the Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4900 North Lamar Boulevard, Austin, Texas 78751; or e-mailed to HHSCRulesCoordinationOffice@hhsc.state.tx.us.

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 postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 20R126" in the subject line.

SUBCHAPTER A. INTRODUCTION

26 TAC §266.101, §266.103

STATUTORY AUTHORITY

The new rules are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The new sections implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§266.101. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Individual subchapters may have definitions that are specific to the subchapter.

(1) Attending physician--A physician who:

(A) is a doctor of medicine or osteopathy; and

(B) is identified by an individual as having the most significant role in the determination and delivery of the individual's medical care.

(2) Cap year--The 12-month period ending September 30 used in the application of the caps on hospice reimbursement specified

in §266.217 of this chapter (relating to Medicaid Hospice Payments and Limitations).

(3) CFR--Code of Federal Regulations.

(4) CHC--Continuous home care. A category of care provided during a period of crisis consisting primarily of skilled nursing care.

(5) CMS--Centers for Medicare and Medicaid Services. The federal agency that provides funding and oversight for the Medicare and Medicaid programs.

(6) Crisis--A sudden or severe intensification of symptoms that appropriate medical intervention and nursing services could reasonably be expected to ameliorate. Expected fluctuations in an individual's condition related to the end of life process are not a crisis.

(7) Curative--Designed to restore a person to health.

(8) Employee--An employee, as defined in the Social Security Act §210(j) (42 U.S.C. §410), of the hospice or, if the hospice is a subdivision of an agency or organization, an employee of the agency or organization who is appropriately trained and assigned to the hospice unit. The term "employee" also refers to a volunteer under the jurisdiction of the hospice.

(9) HHSC--Texas Health and Human Services Commission.

(10) ICF/IID--Intermediate care facility for individuals with an intellectual disability or related conditions.

(11) IDT--Interdisciplinary team. An interdisciplinary team must include persons who are qualified and competent to practice in the following professional roles:

(A) physician who is an employee or under contract with the hospice who may also be the hospice medical director or the hospice medical director's designee;

(B) RN;

(C) social worker; and

(D) pastoral or other counselor.

(12) Licensed vocational nurse--A nurse who is currently licensed by the Texas Board of Nursing to practice vocational nursing.

(13) Period of crisis--A period of time during which an individual requires continuous care that is primarily skilled nursing care to achieve palliation or management of acute medical symptoms.

(14) Physician--A doctor of medicine or doctor of osteopathy currently licensed by the Texas Medical Board to practice medicine or osteopathy at the time and place the service is provided.

(15) Representative--An individual who has been authorized under state law to terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated.

(16) RN--Registered nurse. An individual currently licensed by the Texas Board of Nursing to practice professional nursing.

(17) SIA--Service intensity add-on. Payments for direct patient care provided by a social worker or an RN during the last seven days of life when provided during routine home care.

(18) Skilled nursing care--Tasks that are determined by the assessing RN to require the skill of a licensed nurse when considering the inherent complexity of the task, the condition of the individual, and the accepted standards of medical and nursing practice.

(19) Social worker--A person who is currently licensed as a social worker under Texas Occupations Code Chapter 505.

(20) TAC--Texas Administrative Code.

(21) Terminally ill--The individual has a medical prognosis that his or her life expectancy is six months or less if the illness runs its normal course.

(22) TMHP--Texas Medicaid & Healthcare Partnership. The Texas Medicaid program claims administrator.

(23) Utilization review--Medical record review of paid hospice claims to determine if provider compliance meets the requirements for payment of services.

§266.103. Submitting Written Information to HHSC.

A hospice must submit written information to HHSC in accordance with the instructions on the HHSC website.

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

Filed with the Office of the Secretary of State on March 4, 2022.

TRD-202200787

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 221-9021



SUBCHAPTER B. UTILIZATION REVIEW

26 TAC §§266.201, 266.203, 266.205, 266.207, 266.209, 266.211, 266.213, 266.215, 266.217, 266.219, 266.221, 266.223, 266.225, 266.227

STATUTORY AUTHORITY

The new rules are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The new sections implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§266.201. Duration of Hospice Care Coverage: Election Periods.

(a) An individual who is eligible may elect to receive hospice care during one or more of the following election periods:

(1) an initial 90-day period;

(2) a subsequent 90-day period; or

(3) an unlimited number of subsequent 60-day periods.

(b) The election periods are available in the order listed and may be elected consecutively or separately at different times.

(c) An individual receiving Medicaid hospice services on the date this rule becomes effective may continue receiving those services until the current election period expires. Any subsequent election period is a 60-day period under subsection (a)(3) of this section.

§266.203. Certification of Terminal Illness.

(a) Written certification.

(1) For the initial election period, a hospice must obtain a signed and dated Physician Certification of Terminal Illness Form that meets the requirements of this section before the hospice submits an initial request for payment, but no more than 15 days before the election period begins.

(2) For an election period after the initial election period, a hospice must obtain a signed and dated Physician Certification of Terminal Illness Form that meets the requirements of this section before the previous period expires, but no more than 15 days before the next election period begins.

(3) The hospice must submit the Physician Certification of Terminal Illness Form to the TMHP Long Term Care Online Portal.

(b) Oral certification. If a hospice does not obtain the written certification required by subsection (a)(1) of this section within two days after an initial election period begins, the hospice must obtain an oral certification that meets the requirements of this section no later than two days after the initial election period begins. The hospice must obtain a written certification before it submits a claim for payment. An election period is described in §266.201 of this subchapter (relating to Duration of Hospice Care Coverage: Election Periods).

(c) Content of certification. An oral or written certification must:

(1) specify that an individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course;

(2) include a physician narrative that states individual-specific clinical findings of signs and symptoms, anthropometric measurements, weights, oral intake, and laboratory and diagnostic testing results supporting the conclusion the individual is terminally ill; and

(3) include clinical information that supports the medical prognosis, which may be provided orally for an oral certification and must be provided with accompanying documentation for a written certification.

(d) Additional requirement for election period after the subsequent 90-day election period. To determine an individual's continued eligibility for hospice care for an election period after the subsequent 90-day election period, a hospice physician or hospice advanced practice RN must perform a face-to-face assessment of the individual.

(1) The hospice must ensure a face-to-face assessment is performed before each subsequent election period begins, but no more than 30 days before the subsequent election period begins.

(2) For an individual who is dually eligible for Medicare and Medicaid, a Medicare face-to-face encounter satisfies the requirement for a face-to-face assessment.

(e) Sources of certification. The hospice must obtain the certification required by subsection (a) or (b) of this section from:

(1) for the initial election period:

(A) the medical director of the hospice or a physician who is a member of the hospice IDT; and

(B) the individual's attending physician, if the individual has an attending physician; and

(2) for an election period after the initial election period, a physician described in paragraph (1)(A) of this subsection.

(f) Documentation.

(1) After the hospice receives a certification:

(A) for an oral certification, the hospice physician or RN must make an entry in the individuals' hospice record that includes the name of the physician who made the oral certification, the clinical information that supports the prognosis, the date the hospice received the certification, the signature of the staff person who makes the entry, and the date of the entry; and

(B) for a written certification, the hospice staff must file the written certification and supporting documentation in the individual's hospice record.

(2) For an election period after the subsequent 90-day election period, the hospice record must include clearly labeled documentation of the face-to-face assessment.

§266.205. Election of Hospice Care.

(a) Filing an election statement. An individual who meets the eligibility requirements for hospice care may elect hospice by filing the Individual Election/Cancellation/Update Form with a particular hospice. If the individual is physically or mentally incapacitated, the individual's representative may file the form. If the individual is dually eligible for Medicaid and Medicare, the individual must elect the Medicaid and Medicare hospice benefit at the same time.

(b) Content of election statement. The election statement must include the following:

(1) identification of the particular hospice that will provide care to the individual;

(2) the individual's or representative's acknowledgment that the individual or representative has been given a full explanation of the palliative rather than curative nature of hospice care as it relates to the individual's terminal illness;

(3) acknowledgment that certain Medicaid services, as set forth in subsection (d) of this section, are waived by the election;

(4) the effective date of the election, which may be the first day of hospice care or a later date, but must be no earlier than the date of the election statement; and

(5) the signature of the individual or representative.

(c) Duration of election. An election to receive hospice care will continue through the initial election period and the subsequent election periods without a break in care as long as the individual:

(1) remains in the care of a hospice; and

(2) does not revoke the election under the provisions of §266.207 of this subchapter (relating to Revoking the Election of Hospice Care).

(d) Waiver of other benefits. For the duration of an election of hospice care, an individual 21 years of age or older waives all rights to the following Medicaid services:

(1) hospice care provided by a hospice other than the hospice designated by the individual unless the care is provided under arrangements made by the designated hospice; and

(2) any Medicaid services related to the treatment of the terminal condition for which hospice care was elected, or a related condition for which the hospice care was elected, or that are equivalent to hospice care except for services:

(A) provided by the designated hospice;

(B) provided by another hospice under arrangements made by the designated hospice; or

(C) provided by the individual's attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services.

(e) Re-election of hospice benefits. If an election has been revoked in accordance with §266.207 of this subchapter, the individual, or the individual's representative, if the individual is mentally or physically incapacitated, may at any time file an election in accordance with this section.

(f) Record retention. The hospice must retain copies of all election forms in the hospice record for the individual and the individual's nursing facility or ICF/IID record, if applicable. Providers must meet the record retention requirements specified in 40 TAC Chapter 49 (relating to Contracting for Community Services).

(g) The hospice must submit the Individual Election/Cancellation/Update Form to the TMHP Long Term Care Online Portal.

§266.207. Revoking the Election of Hospice Care.

(a) An individual or representative may revoke the individual's election of hospice care at any time during an election period. If the individual is dually eligible for Medicaid and Medicare, the individual must revoke the Medicaid and Medicare hospice election at the same time.

(b) To revoke the election of hospice care, the individual or representative must file the Individual Election/Cancellation/Update Form with the hospice.

(c) The revocation effective date may not be earlier than the date the revocation is made.

(d) An individual, upon revoking the election of hospice care for a particular election period:

(1) is no longer covered under Medicaid for hospice care;

(2) resumes Medicaid coverage of the benefits waived under §266.205(d) of this subchapter (relating to Election of Hospice Care); and

(3) may at any time elect to receive hospice coverage as long as the individual meets eligibility requirements.

(e) The hospice must submit the Individual Election/Cancellation/Update Form to the TMHP Long Term Care Online Portal.

§266.209. Requirements for Payments.

To be eligible for Medicaid hospice payment, the hospice must document that services provided meet the following requirements.

(1) The hospice providing the services must have a Medicaid hospice contract with HHSC on the date it provides services.

(2) The services must be reasonable and necessary for the palliation or management of the terminal illness, as well as conditions related to the terminal illness.

(3) The hospice must deliver the services on or after the date the individual elects hospice care in accordance with §266.205 of this subchapter (relating to Election of Hospice Care) but before the date the individual revokes the election of hospice care in accordance

with §266.207 of this subchapter (relating to Revoking the Election of Hospice Care).

(4) The hospice election statement must identify the hospice requesting payment as the individual's hospice provider.

(5) A physician must certify that the individual receiving hospice services is terminally ill in accordance with §266.203 of this subchapter (relating to Certification of Terminal Illness).

(6) The individual receiving services must be eligible for Medicaid.

(7) The hospice must establish an individualized plan of care prior to initiating services.

(8) The services the hospice provides must be consistent with the plan of care.

(9) If the individual receiving services lives in a nursing facility or ICF/IID, the hospice must have a contract with that nursing facility or ICF/IID.

(10) If the individual receiving services is dually eligible for Medicare and Medicaid, the hospice service must not be covered by the Medicare hospice benefit.

(11) The hospice must submit both the Individual Election/Cancellation/Update Form and the Physician Certification of Terminal Illness Form to the TMHP Long Term Care Online Portal.

§266.211. Continuous Home Care.

CHC is provided only during a period of crisis for a maximum of five consecutive days to maintain an individual at the individual's place of residence.

(1) A minimum of eight hours of CHC must be provided during a 24-hour day that begins and ends at midnight. The care need not be continuous. For example, four hours could be provided in the morning and another four hours in the evening of that day.

(2) Skilled nursing care must be provided for the identified crisis for more than half of the CHC period and must be provided by either an RN or licensed vocational nurse. The RN or licensed vocational nurse must be an employee of the hospice providing services. For an individual residing in a nursing facility, the skilled nursing care requirement is not met when facility staff provided skilled nursing care for the crisis. For the purpose of CHC, skilled nursing care includes at least one of the following:

(A) administration of intravenous or intramuscular medications;

(B) insertion, sterile irrigation, and replacement of catheters;

(C) initial clinical assessment for specific therapeutic responses; or

(D) application of dressings involving prescription medications.

(3) Homemaker, home health aide services, medical social work, or chaplain services may be provided to supplement the nursing care. The hospice must document why the physician considers social work or chaplain services necessary to ameliorate the crisis and what these services accomplished during CHC. On-call staff may be used to provide CHC but must be on site, providing care to the individual in the individual's place of residence to be considered for inclusion in CHC hours.

(4) The hospice must have a signed physician's order for skilled nursing care. The physician's order must:

(A) be specific to the identified crisis and be dated before the initiation of CHC, but not more than three days before the initiation of CHC;

(B) document the rationale for increased nursing needs and care; and

(C) be in the individual's hospice record and plan of care.

(5) The attending physician, hospice medical director or his designee, and the IDT must establish the plan of care before initiating CHC. The hospice RN must coordinate the plan of care. The plan of care must:

(A) be updated when the individual's condition changes; and

(B) include the following:

(i) a description of the specific crisis and how the hospice plans to resolve the crisis;

(ii) the needs of the individual;

(iii) identification of the services needed to meet the needs of both the individual and family, including management of discomfort and symptom relief;

(iv) the scope and frequency of the services needed to meet the needs of both the individual and family;

(v) documentation of daily physician care plan oversight; and

(vi) clinical findings and documentation that support the scope and frequency of crisis care needed.

(6) Before initiating CHC, the hospice must advise and discuss with the family or responsible party that temporary alternate placement may be necessary at the end of the five consecutive days. The hospice must document the discussion with the family or responsible party in the individual's records, including:

(A) the date and time of the discussion;

(B) the names and titles of the participating IDT members;

(C) at least one potential alternate placement; and

(D) any other outcomes of the discussion.

§266.213. Extension of Continuous Home Care.

(a) If the hospice believes that the period of crisis will extend beyond five consecutive days, the IDT must discuss the temporary alternate placement available to meet the needs of the individual during the period of crisis, such as a hospital or nursing facility. This discussion must occur and be documented before the fifth day of the crisis. If, after this discussion, the hospice believes that an extension of CHC is necessary instead of alternate placement, the hospice must fax a Request for CHC Extension Form to HHSC.

(1) The extension request must be faxed to HHSC by the fourth day of the CHC period.

(2) The extension request must include:

(A) a description of the specific crisis and how the hospice plans to resolve the crisis;

(B) documentation of all CHC provided during the period of crisis for which the hospice is seeking the extension;

(C) physician's orders;

(D) documentation of daily physician plan of care oversight;

(E) documentation that skilled nursing care was provided as more than half of the care given in a 24-hour period for each of the three days of CHC;

(F) documentation of the IDT's discussion regarding alternate placement prior to the initiation of CHC; and

(G) documentation of the reasons the CHC period must be extended, including the reasons the originally documented alternate placement is no longer appropriate or desired.

(b) HHSC denies the CHC extension request if the documentation is incomplete.

(c) HHSC reviews documentation faxed on or before the fourth consecutive day of the period of crisis within 16 work hours of receiving the documentation if it is sent in accordance with the instructions in subsection (a)(1) of this section.

(d) HHSC will not consider requests faxed after the fourth consecutive day of the period of crisis.

(e) HHSC will not consider multiple requests for extensions for the same period of crisis.

(f) HHSC notifies a hospice in writing, via fax, of its decision no later than the end of the fifth consecutive day of the period of crisis.

(g) If HHSC denies the request for an extension of CHC, HHSC sends a notice of denial to the individual whose CHC the hospice was seeking to extend. The notice of denial informs the individual of the individual's right to request a Medicaid fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules).

(h) If HHSC denies the request for an extension of CHC, HHSC pays the hospice at the routine home care rate or inpatient care rate, if applicable, for subsequent days of care.

(i) The approval of a CHC extension request is not an approval of the initial CHC period, nor an approval for the care provided during the extension period. HHSC will conduct a review of all paid CHC claims to determine compliance with eligibility requirements for the hospice payment.

§266.215. Respite Care.

(a) Respite care is short-term inpatient care provided to an individual only when necessary to relieve the family members or other persons caring for the individual at home.

(b) Respite care can be provided by:

(1) a hospice that meets the condition of participation for providing inpatient care directly; or

(2) a hospital or nursing facility that also meets the Medicare standards regarding 24-hour nursing service and patient areas.

(c) Respite care may be provided only on an occasional basis and may not be reimbursed for more than five consecutive days at a time.

(d) Respite care may not be provided when the hospice patient is a nursing home resident.

§266.217. Medicaid Hospice Payments and Limitations.

(a) Medicaid hospice per diem and hourly rates. For each day that an individual is under the care of a hospice, the hospice is paid an amount applicable to the type and intensity of the services furnished to

the individual. HHSC pays a daily rate for routine home care, in-patient respite care, and general inpatient care. For CHC and the SIA, the amount of payment is based on the number of hours of care furnished to the individual on that day.

(1) Routine home care. The hospice is paid the routine home care rate for each day the individual is at home, under the care of the hospice, and not receiving CHC. The appropriate routine home care rate is determined as follows.

(A) For routine home care delivered during the first 60 days an individual is receiving hospice care, the routine home care rate is the higher base payment rate.

(B) For routine home care delivered after the first 60 days an individual is receiving hospice care, the routine home care rate is the reduced base payment rate.

(C) If an individual receiving hospice services is discharged and readmitted to hospice not more than 60 days after the discharge, HHSC will count all days the individual received hospice services since the original hospice admission in determining the proper base payment rate.

(D) If an individual receiving hospice services is discharged and readmitted to hospice more than 60 days after the discharge, HHSC disregards the previous hospice admission in determining the proper base payment rate.

(2) Service Intensity Add-on. The hospice is paid an SIA in addition to the routine home care rate for visits provided by an RN or social worker during the last seven days of a hospice election ending with an individual discharged due to death. The SIA is the CHC hourly rate, multiplied by the number of hours of care provided by the RN or social worker, up to 4 hours during a 24-hour day that begins and ends at midnight. To claim the SIA, a hospice must submit:

(A) documentation of the in-person, skilled services provided by the RN, the social worker, or both;

(B) the times the services were provided; and

(C) the Individual Election/Cancellation/Update Form indicating the hospice election was canceled due to death.

(3) Continuous Home Care. The hospice is paid the CHC rate when direct patient care is provided. The CHC rate is divided by 24 hours to arrive at an hourly rate. A minimum of 8 hours of direct patient care must be provided per day. For every hour, or part of an hour, direct patient care is furnished, the hourly rate is paid to the hospice up to 24 hours a day. HHSC pays for a maximum of five consecutive days of CHC unless HHSC receives and grants a request for an extension of CHC. If the hospice ceases to provide direct patient care, CHC has ended.

(4) Inpatient respite care. The hospice is paid at the inpatient respite care rate for each day on which the individual is in an approved inpatient facility and is receiving respite care. Payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge. Payment for the sixth and any subsequent days is at the routine home care rate.

(A) An individual who receives hospice respite care in a nursing facility and returns home after the respite care does not have to be in a Medicaid bed in the nursing facility.

(B) Respite care days are subject to the limitation on total hospice inpatient care days, as outlined in subsection (c) of this section.

(C) If the individual dies while receiving inpatient respite care, HHSC pays the inpatient respite care rate for the day of death.

(5) General Inpatient Care. Payment is made at the general inpatient rate for each day on which the individual is in an approved inpatient facility and is receiving general inpatient care.

(A) The general inpatient care rate is paid for the day of admission and all subsequent inpatient days except the day of discharge.

(B) For the day of discharge, HHSC pays the routine home care rate.

(C) If the individual dies while in an inpatient facility, HHSC pays the general inpatient care rate for the day of death.

(D) General inpatient care days are subject to the limitation on total hospice inpatient care days, as outlined in subsection (c) of this section.

(b) Medicaid payments for physician services. The hospice:

(1) is paid for hospice physician services in accordance with the HHSC reimbursement rates for physician services;

(2) is paid for physician services on the day of discharge if the physician provides direct patient services on that day;

(3) is not paid for hospice physician services when the services are provided by physicians who are not on staff with the hospice or who are independent contractors under contract with the hospice; and

(4) must include physician services in the hospice plan of care and clinical records.

(c) Medicaid payment limitations for inpatient care. During the cap year, the aggregate number of inpatient hospice care days must not exceed 20 percent of the total number of hospice care days for the same cap year. This limitation is applied once each year, at the end of the cap year for each Medicaid hospice provider. A day counts as an inpatient hospice care day only if it is a day on which the individual who has elected hospice care receives inpatient respite care or general inpatient care. The limitation is calculated as follows.

(1) The maximum allowable number of inpatient days is calculated by multiplying the total number of days of Medicaid hospice care by 0.2.

(2) If the total number of days of inpatient care furnished to Medicaid hospice patients is less than or equal to the maximum, no adjustment is necessary.

(3) If the total number of days of inpatient care exceeds the maximum allowable number, the limitation is determined by:

(A) calculating a ratio of the maximum allowable days to the number of actual days of inpatient care and multiplying this ratio by the total reimbursement for inpatient care that was made;

(B) multiplying excess inpatient care days by the reduced base payment routine home care rate;

(C) adding together the amounts calculated in subparagraphs (A) and (B) of this paragraph; and

(D) comparing the amount calculated under subparagraph (C) of this paragraph with interim payments made to the hospice for inpatient care during the cap year.

(d) Medicaid aggregate payment limitations. During the cap year, the aggregate payments to a hospice are subject to an annual ag-

gregate cap. This limitation is applied once each year, at the end of the cap year for each Medicaid hospice provider. A hospice's aggregate cap is calculated by multiplying the adjusted cap amount, as determined under paragraph (1) of this subsection, by the number of Medicaid beneficiaries, as determined under paragraph (2) of this subsection.

(1) Cap Amount. The cap amount was set at \$6,500 in 1983 and is updated using one of two methodologies described in subparagraphs (A) and (B) of this paragraph.

(A) For accounting years that end on or after October 1, 2025, the cap amount is adjusted for inflation by using the percentage change in the medical care expenditure category of the Consumer Price Index (CPI) for urban consumers that is published by the Bureau of Labor Statistics. This adjustment is made using the change in the CPI from March 1984 to the fifth month of the cap year.

(B) For accounting years that end before October 1, 2025, the cap amount is the cap amount for the preceding accounting year updated by the percentage update to payment rates for hospice care for services furnished during the fiscal year beginning on October 1st preceding the beginning of the accounting year as determined pursuant to the Social Security Act §1814(i)(1)(C) (42 U.S.C. §1395f), including the application of any productivity or other adjustments to the hospice percentage update.

(2) Number of Medicaid Beneficiaries. For purposes of this paragraph, HHSC adopts by reference the streamlined methodology and the patient-by-patient proportional methodology in 42 CFR §418.309(b) and (c), effective October 1, 2018, to determine the number of Medicaid beneficiaries for purposes of the aggregate cap. A hospice determines the number of Medicaid beneficiaries using the same methodology it uses to determine the number of Medicare beneficiaries under 42 CFR §418.309(b) or (c).

(e) Recoupment of Excess Payments. HHSC recoups payments in excess of the limitations for inpatient care and the aggregate payment limitations from subsequent Medicaid hospice provider claims.

(f) Pediatric Concurrent Care.

(1) An individual under 21 years of age who elects to receive Medicaid hospice care may receive Medicaid services related to the treatment of the terminal illness, or a related condition, for which the hospice care was elected concurrently with the hospice care.

(2) The hospice is responsible for palliative care related to the terminal illness or a related condition. The hospice is not responsible for acute care services related to the treatment of the terminal illness or a related condition or for services unrelated to the terminal illness or a related condition.

§266.219. Utilization Review and Control Activities Performed by HHSC.

(a) Hospice staff must cooperate with HHSC staff during utilization review of hospice services and the review of hospice clinical records.

(b) The hospice must respond within 30 calendar days after HHSC makes a request for information.

(c) HHSC staff review most claims for payment after they are paid and recoup any overpayments.

(d) HHSC staff review claims for the SIA before paying the SIA.

§266.221. Hospice Documentation Requirements.

(a) Types of Documentation Required. A hospice must maintain the following information on each individual receiving Medicaid hospice services.

(1) Signed hospice election and discharge forms.

(2) Signed Physician's Certification of Terminal Illness.

(3) Physician narratives.

(4) Documentation of each face-to-face assessment.

(5) Patient history and physical exams before and during the provision of hospice services, including previous and new diagnoses, emergency room visits, and ability to perform activities of daily living.

(6) Physician consultation reports, orders, and progress notes.

(7) Hospital admission and discharge reports.

(8) Plans of care covering all periods during which the hospice provides services to the individual.

(9) Nursing assessments and nursing notes.

(10) IDT meeting notes.

(11) Medication administration records, including doses, frequency, and routes.

(12) Signs and symptoms, anthropometric measurements, weights, oral intake, and laboratory and diagnostic testing results supporting the conclusion that the individual's condition is terminal.

(13) Other documentation supporting the plan of care, service delivery, and outcome of services.

(14) Summary of circumstances surrounding the death, including date, time, family in attendance, and hospice staff in attendance.

(b) Requirements for Physician's Orders. A hospice must have a signed physician's order that:

(1) covers the time period for which hospice services were provided; and

(2) documents the terminal illness and related medical need for skilled nursing care, as provided.

(c) Requirements for the Plan of Care. A hospice must maintain a plan of care for each individual receiving Medicaid hospice services. The plan of care must meet the following criteria.

(1) The plan of care must relate to the identified terminal illness.

(2) The plan of care must be updated every 15 days, or when the individual's condition changes if sooner than 15 days, and include any change in the individual's status.

(3) The plan of care must include the following:

(A) a description of the individual's service needs and how the hospice plans to meet those needs;

(B) the baseline condition of the individual at the beginning of the election period including symptoms documented with location, severity, and frequency;

(C) identification of the specific interventions and services necessary for the management of the symptoms including the intensity, frequency, duration, and scope of services;

(D) physician orders for the specific interventions and services necessary; and

(E) the measurable outcomes anticipated from implementing the plan of care and reasonable timeframes expected for achieving those measurable outcomes.

(d) Requirements for Physician Services on the Day of Discharge. To request payment for physician services on the day of discharge, the hospice must submit to HHSC proof that:

(1) the physician is a hospice employee; and

(2) the physician provided direct services to the patient on the day of discharge.

(e) Requirements for all documentation. All documentation must be:

(1) clearly labeled to indicate what type of documentation it is;

(2) legible to a reader other than the author; and

(3) signed and dated.

§266.223. Recoupment.

(a) HHSC recoups from a hospice under 40 TAC §49.533 (relating to Recoupment) amounts paid to the hospice for a service if the hospice has not complied with the requirements described in this chapter.

(b) Recoupment amounts for hospice eligibility and level of service utilization reviews.

(1) HHSC recoups 100 percent of the hospice claim amount for the dates of service reviewed when the hospice fails to provide HHSC the following:

(A) the Individual Election/Cancellation/Update Form completed in accordance with §266.205 of this subchapter (relating to Election of Hospice Care);

(B) the Physician Certification of Terminal Illness Form completed in accordance with §266.203 of this subchapter (relating to Certification of Terminal Illness);

(C) a physician narrative that meets the minimum criteria in §266.203(c)(2) of this subchapter; or

(D) if the individual receiving hospice services is in an election period after the subsequent 90-day election period, documentation of the face-to-face assessment required by §266.203(d) of this subchapter.

(2) HHSC recoups 50 percent of the hospice claim amount for the dates of service reviewed when the hospice fails to provide nursing assessments and notes.

(3) HHSC recoups 30 percent of the hospice claim amount for the dates of service reviewed when the hospice fails to provide HHSC supporting clinical documentation related to the terminal illness and the progression of the terminal illness, including signs and symptoms, anthropometric measurements, weights, oral intake, and laboratory and diagnostic testing.

(4) HHSC recoups 25 percent of the hospice claim amount for the dates of service reviewed when the hospice fails to provide HHSC with documentation of an initial plan of care and updated plans of care as required by §266.211 of this subchapter (relating to Continuous Home Care) and §266.221 of this subchapter (relating to Hospice Documentation Requirements).

(c) Recoupment amounts for CHC reviews.

(1) HHSC recoups 100 percent of the CHC claim amount for the dates of service reviewed when the hospice fails to provide HHSC the following:

(A) documentation establishing that a crisis existed;

(B) a physician's order for CHC; or

(C) documentation establishing that the individual received care for at least 8 hours within a 24-hour day during the period of crisis.

(2) HHSC recoups 50 percent of the CHC claim for the dates of service reviewed when the hospice fails to provide HHSC documentation establishing that the hospice agency employees provided skilled nursing care for more than 50 percent of the period of crisis.

(3) HHSC recoups 25 percent of the CHC claim amount for the dates of service reviewed when the hospice fails to provide HHSC the following as required by §266.211 of this subchapter and §266.221 of this subchapter:

(A) the plan of care specific to the identified crisis and dated before the initiation of CHC;

(B) documentation that is legible to a reader other than the author, clear, complete, signed or initialed, and dated in accordance with hospice policy and currently accepted standards of practice; or

(C) documentation that is signed and appropriately authenticated, which means the hospice is able to authenticate each handwritten and electronic signature of a primary author who has reviewed and approved the entry.

(4) HHSC recoups 10 percent of the CHC claim amount for the dates of service reviewed when the hospice fails to provide HHSC documentation of the discussion of temporary alternate placement required by §266.211(6) of this subchapter, including documentation of the IDT meeting and who participated in the IDT meeting.

(d) Other. HHSC will recoup the amount of any overpayment discovered.

§266.225. Informal Review.

(a) Before HHSC issues a notice of proposed recoupment amount under 40 TAC §49.533(c) (relating to Recoupment), HHSC gives a hospice:

(1) a description of the alleged rule violation warranting the proposed recoupment;

(2) the amount of the proposed recoupment; and

(3) the option to:

(A) request an informal review to demonstrate that the hospice did not commit the alleged violation; or

(B) accept the proposed recoupment.

(b) A hospice's request for an informal review must:

(1) be received by HHSC within 10 calendar days after the hospice receives the description of the alleged violation and amount of the proposed recoupment from HHSC; and

(2) contain documentation that refutes the alleged violation.

(c) HHSC conducts the informal review by reviewing the hospice's written response and supporting evidence.

(d) HHSC provides the hospice with official notice of the outcome of the informal review.

§266.227. Review Decision and Notice.

(a) HHSC issues a notice of proposed recoupment under 40 TAC §49.533(c) (relating to Recoupment), if HHSC upholds or modifies a proposed recoupment after the informal review.

(b) The notice of proposed recoupment includes:

(1) a description of the alleged rule violations warranting the proposed recoupment;

(2) the amount of the proposed recoupment;

(3) HHSC's decision to uphold or modify the proposed recoupment issued after an informal review; and

(4) the option for the hospice to:

(A) accept the proposed recoupment; or

(B) appeal the proposed recoupment as provided in 40 TAC §49.541 (relating to Contractor's Right to Appeal).

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

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Health and Human Services Commission

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For further information, please call: (512) 221-9021



SUBCHAPTER C. CONTRACTING REQUIREMENTS

26 TAC §§266.301, 266.303, 266.305, 266.307, 266.309, 266.311

STATUTORY AUTHORITY

The new rules are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The new sections implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§266.301. Eligibility Requirements.

(a) To be eligible to elect hospice care under Medicaid, an individual must:

(1) be certified as Medicaid eligible by HHSC or the Social Security Administration; and

(2) be certified as being terminally ill in accordance with §266.203 of this chapter (relating to Certification of Terminal Illness).

(b) If dually eligible, an individual must elect the hospice benefit under both the Medicare and Medicaid programs.

§266.303. Change of the Designated Hospice.

(a) An individual or representative may change the particular hospice from which the individual receives hospice care once in each election period. If the recipient is dually eligible for Medicaid and Medicare, the individual must change the Medicaid and Medicare hospice providers at the same time.

(b) The change of the designated hospice is not a revocation of the election for the period in which it is made.

(c) To change the designated hospice, the individual or representative must file, with both the hospice from which care has been received and with the newly designated hospice, a statement that includes the following information:

(1) the name of the hospice from which the individual has received care and the name of the hospice from which the individual plans to receive care; and

(2) the date the change is to be effective.

(d) Both the hospice from which the individual has received care and the hospice from which the individual plans to receive care must submit an Individual Election/Cancellation/Discharge Form on the TMHP Long Term Care Online Portal.

§266.305. General Contracting Requirements.

(a) A hospice participating in the Medicaid Hospice Program must comply with this chapter and applicable federal regulations and state rules, including 42 CFR Part 418; 26 TAC Chapter 558 (relating to Licensing Standards for Home and Community Support Services Agencies); and 40 TAC Chapter 49 (relating to Contracting for Community Services).

(b) A hospice participating in the Medicaid Hospice Program must not have restrictive policies or practices, including:

(1) requiring an individual to execute a will with the hospice named as legatee or devisee;

(2) assigning an individual's life insurance to the hospice;

(3) transferring an individual's property to the hospice;

(4) requiring an individual to pay a lump sum or make any other payment or concession to the hospice beyond the recognized Medicaid rate;

(5) controlling or restricting an individual or legal representative in using the individual's personal needs allowance while in a nursing facility or an ICF/IID;

(6) restricting an individual from transferring or withdrawing from the Medicaid Hospice Program at will, except as provided by state law;

(7) denying appropriate hospice care to an individual on the basis of the individual's race, religion, color, national origin, sex, age, disability, marital status, or source of payment; and

(8) preventing or requiring the execution of written or unwritten directives to reject life-sustaining procedures by an adult individual.

(c) If a hospice provides services to a resident of a nursing facility or an ICF/IID, the hospice must have a written contract for the provision of services with the nursing facility or ICF/IID.

(d) Medicaid hospice-nursing facility per diem rates. The Medicaid Hospice Program pays the Medicaid hospice provider a

hospice-nursing facility rate that is no less than 95 percent of the Medicaid nursing facility rate for each individual in a nursing facility to take into account the room and board furnished by the facility. When the hospice-nursing facility rate is paid to the hospice provider, the Medicaid vendor payment to the nursing facility is not paid. Room and board services include the performance of personal care services, including assistance in the activities of daily living, in socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies.

(e) Medicaid hospice-ICF/IID per diem rates. The Medicaid Hospice Program pays the Medicaid hospice provider a hospice-ICF/IID rate that is no less than 95 percent of the ICF/IID rate for each individual in an ICF/IID to take into account the room and board furnished by the facility. When the hospice-ICF/IID rate is paid to the hospice provider, the Medicaid vendor payment to the ICF/IID is not paid. Room and board services include the performance of personal care services, including assistance in the activities of daily living, in socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies.

(f) Medicaid payments on Medicare coinsurance for drugs and biologicals. For Medicare-Medicaid individuals only, the Medicaid Hospice Program pays the Medicaid hospice provider a five percent coinsurance on prescription drugs and biologicals, not to exceed \$5.00 per prescription.

(g) Medicaid payments for Medicare respite coinsurance. For Medicare-Medicaid individuals only, the Medicaid Hospice Program pays the hospice provider a five percent coinsurance for each day of respite care for up to five consecutive days of a hospice coinsurance period.

§266.307. Voluntary Termination of Hospice Contract.

(a) At least 10 days before a hospice terminates its contract with HHSC, the hospice must:

(1) for each individual receiving Medicaid hospice services, submit an Individual Election/Cancellation/Update Form to the TMHP Long Term Care Online Portal indicating the individual has changed his designated hospice or revoked his election of hospice care; and

(2) for each individual receiving Medicaid hospice services who is changing his designated hospice, ensure that a copy of the individual's active record is sent to the receiving hospice in order to ensure continuity of care and services to the individual.

(b) Submission of the Individual Election/Cancellation/Update Form to the TMHP Long Term Care Online Portal is governed by §266.303 of this subchapter (relating to Change of the Designated Hospice) and §266.207 of this chapter (relating to Revoking the Election of Hospice Care).

§266.309. Condition of Participation--Physical Therapy, Occupational Therapy, and Speech-language Pathology.

(a) Physical therapy services, occupational therapy services, and speech-language pathology services must be available and, when provided, offered in a manner consistent with accepted standards of practice.

(b) Lab services must be provided under the following conditions.

(1) If the hospice engages in laboratory testing outside of the context of assisting an individual in self-administering a test with

an appliance that has been cleared for that purpose by the FDA, such testing must be in compliance with all applicable requirements of 42 CFR Part 493.

(2) If the hospice chooses to refer specimens for laboratory testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and sub-specialties of services in accordance with the applicable requirements of 42 CFR Part 493.

§266.311. Waiver Requirements for Nursing Services or Occupational, Physical, and Speech Therapies.

(a) CMS may approve a waiver for nursing services or occupational, physical, and speech therapies provided by a hospice which is located in a non-urbanized area. The location of a hospice that operates in several areas is considered to be the location of its central office. The hospice must provide evidence that it was operational on or before January 1, 1983, and that it made a good faith effort to hire a sufficient number of nurses or therapists to provide services directly. CMS bases its decision on whether to approve a waiver application on the following:

(1) the current Bureau of the Census designations for determining non-urbanized areas;

(2) evidence that a hospice was operational on or before January 1, 1983, including:

(A) proof that the organization was established to provide hospice services on or before January 1, 1983;

(B) evidence that hospice-type services were furnished to patients on or before January 1, 1983; and

(C) evidence that the hospice care was a discrete activity rather than an aspect of another type of provider's patient care program on or before January 1, 1983; and

(3) evidence that a hospice made a good faith effort to hire nurses or therapists, including:

(A) copies of advertisements in local newspapers that demonstrate recruitment efforts;

(B) job descriptions for nurse employees or therapists;

(C) evidence that salary and benefits are competitive for the area; and

(D) evidence of any other recruiting activities, such as recruiting efforts at health fairs and contacts with nurses or therapists at other providers in the area.

(b) A waiver request for occupational, physical, and speech therapies must be submitted in writing to HHSC.

(c) HHSC will recommend in writing, approval or disapproval of the requested waiver for occupational, physical, and speech therapies to CMS within 30 days of receiving the request.

(d) CMS receives requests for waivers of nursing services without the involvement of HHSC.

(e) Any waiver request is deemed to be granted unless it is denied within 60 days after it is received.

(f) Waivers will remain effective for one year at a time.

(g) CMS may approve a maximum of two one-year extensions for each initial waiver. If a hospice wishes to receive a one-year extension, the hospice must submit a certification to CMS, prior to the expiration of the waiver period, that the employment market for nurses and therapists has not changed significantly since the time the initial waiver was granted.

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

Filed with the Office of the Secretary of State on March 4, 2022.

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 221-9021



CHAPTER 742. MINIMUM STANDARDS FOR LISTED FAMILY HOMES

SUBCHAPTER E. BASIC CARE REQUIREMENTS

26 TAC §742.508

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §742.508, concerning What are the requirements when an infant is engaged in tummy time, in Title 26, Texas Administrative Code (TAC), Chapter 742, Minimum Standards for Listed Family Homes, Subchapter E, Basic Care Requirements.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement the portion of Senate Bill (S.B.) 225, 87th Legislature, Regular Session, 2021, that amended Chapter 42, Human Resources Code by adding Section 42.04291. This new section requires the HHSC Executive Commissioner to establish standards for listed family homes and registered and licensed child-care homes for the visual and auditory supervision of an infant engaged in time on the infant's stomach while awake (that is, tummy time). To meet this legislative requirement, HHSC Child Care Regulation is proposing a new rule for listed family homes that specifies supervision requirements for when an infant is engaged in tummy time activities.

SECTION-BY-SECTION SUMMARY

Proposed new §742.508 outlines the supervision requirements a listed family home must follow when an infant is engaged in tummy time. The rule requires a listed family home to do the following when an infant is positioned for tummy time activities: (1) be able to see and hear the infant; (2) reposition the infant as necessary to maintain the infant's comfort and safety; and (3) move the infant immediately into a face-up position if the infant falls asleep.

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, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that 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 result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to HHSC;

(5) the proposed rule will create a new rule;

(6) the proposed rule will not expand, limit, or repeal existing rules;

(7) the proposed rule will not change the number of individuals subject to the rule; and

(8) the proposed rule will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not require any change in current business practices.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule (1) is necessary to protect the health, safety, and welfare of the residents of Texas; (2) does not impose a cost on regulated persons; and (3) is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Jean Shaw, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rule is in effect, the public benefit will be an improvement in the safety of infants in child-care homes by requiring greater supervision of infants engaged in tummy time activities.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the proposal does not impose any additional costs or fees on persons required to comply with this rule.

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

Questions about the content of this proposal may be directed by email to Aimee.Belden@hhs.texas.gov.

Written comments on the proposal may be submitted to Aimee Belden, Rules Writer, Child Care Regulation, Texas Health and Human Services Commission, E-550, P.O. Box 149030, Austin, Texas 78714-9030; or by email to CCRRules@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 21R160" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new rule affects Texas Government Code §531.0055 and Texas Human Resources Code §42.042.

§742.508. What are the requirements when an infant is engaged in tummy time?

When an infant is positioned for tummy time activities, you must:

- (1) Ensure that you can see and hear the infant;
- (2) Move the infant into another position as necessary to maintain the infant's comfort and safety; and
- (3) If the infant has fallen asleep, move the infant immediately into a face-up position as required by §742.507(a) of this subchapter (relating to What additional requirements apply when an infant is sleeping or resting?).

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

Filed with the Office of the Secretary of State on March 2, 2022.

TRD-202200760

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 438-3269



CHAPTER 747. MINIMUM STANDARDS FOR CHILD-CARE HOMES

SUBCHAPTER H. BASIC CARE REQUIREMENTS FOR INFANTS

26 TAC §747.2318

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §747.2318, concerning What are the requirements when an infant is engaged in tummy time?, in Title 26, Texas Administrative Code (TAC), Chapter 747, Minimum Standards for Child-Care Homes, Subchapter H, Basic Care Requirements for Infants.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement the portion of Senate Bill (S.B.) 225, 87th Legislature, Regular Session, 2021, that

amended Chapter 42, Human Resources Code by adding Section 42.04291. This new section requires the HHSC Executive Commissioner to establish standards for listed family homes and registered and licensed child-care homes for the visual and auditory supervision of an infant engaged in time on the infant's stomach while awake (that is, tummy time). To meet this legislative requirement, HHSC Child Care Regulation is proposing a new rule for licensed and registered child-care homes that specifies supervision requirements for when an infant is engaged in tummy time activities.

SECTION-BY-SECTION SUMMARY

Proposed new §747.2318 outlines the supervision requirements a licensed or registered child-care home must follow when an infant is engaged in tummy time. The rule requires a licensed or registered child-care home to do the following when an infant is positioned for tummy time activities: (1) be able to see and hear the infant; (2) reposition the infant as necessary to maintain the infant's comfort and safety; and (3) move the infant to the infant's crib and position the infant on the infant's back if the infant falls asleep.

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, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that 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 result in no assumed change in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to HHSC;
- (5) the proposed rule will create a new rule;
- (6) the proposed rule will not expand, limit, or repeal existing rules;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not require any change in current business practices.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule (1) is necessary to protect the health, safety, and welfare of the residents of Texas; (2) does not impose a cost on regulated persons; and (3) is necessary to implement legis-

lation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Jean Shaw, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rule is in effect, the public benefit will be an improvement in the safety of infants in child-care homes by requiring greater supervision of infants engaged in tummy time activities.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the proposal does not impose any additional costs or fees on persons required to comply with this rule.

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

Questions about the content of this proposal may be directed by email to Aimee.Belden@hhs.texas.gov.

Written comments on the proposal may be submitted to Aimee Belden, Rules Writer, Child Care Regulation, Texas Health and Human Services Commission, E-550, P.O. Box 149030, Austin, Texas 78714-9030; or by email to CCRRules@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 postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 21R160" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new rule affects Texas Government Code §531.0055 and Texas Human Resources Code §42.042.

§747.2318. What are the requirements when an infant is engaged in tummy time?

When an infant is positioned for tummy time activities, you must:

- (1) Ensure that you can see and hear the infant;
- (2) Move the infant into another position as necessary to maintain the infant's comfort and safety; and
- (3) If the infant has fallen asleep, move the infant immediately to the infant's crib and position the infant on the infant's back

as required by §747.2327 of this subchapter (relating to Are infants required to sleep on their backs?).

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

Filed with the Office of the Secretary of State on March 2, 2022.

TRD-202200761

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: April 17, 2022,

For further information, please call: (512) 438-3269



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 30. MEDICAID HOSPICE PROGRAM

As required by Texas Government Code §531.0202(b), the Department of Aging and Disability Services (DADS) was abolished effective September 1, 2017, after all of its functions were transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code §531.0201 and §531.02011. Rules of the former DADS are codified in Title 40, Part 1, and will be repealed or administratively transferred to Title 26, Health and Human Services, as appropriate. Until such action is taken, the rules in Title 40, Part 1 govern functions previously performed by DADS that have transferred to HHSC. Texas Government Code §531.0055, requires the Executive Commissioner of HHSC to adopt rules for the operation and provision of services by the health and human services system, including rules in Title 40, Part 1. Therefore, the Executive Commissioner of HHSC proposes the repeal of rules in the Texas Administrative Code (TAC), Title 40 (40 TAC), Part 1, Chapter 30, concerning Medicaid Hospice Program, consisting of §§30.2, 30.4, 30.10, 30.12, 30.14, 30.16, 30.18, 30.20, 30.30, 30.34, 30.36, 30.40, 30.50, 30.52, 30.54, 30.60, 30.62, 30.90, 30.92, and 30.100. HHSC proposes new rules in 26 TAC, Chapter 266, concerning Medicaid Hospice Program.

BACKGROUND AND PURPOSE

The proposed repeal of 40 TAC Chapter 30 deletes rules of the former DADS from the TAC. HHSC will propose new rules governing the Medicaid Hospice Program in 26 TAC Chapter 266, elsewhere in this issue of the Texas Register.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§30.2, 30.4, 30.10, 30.12, 30.14, 30.16, 30.18, 30.20, 30.30, 30.34, 30.36, 30.40, 30.50, 30.52, 30.54, 30.60, 30.62, 30.90, 30.92, and 30.100 allows new rules governing the Medicaid Hospice Program to be proposed in 26 TAC Chapter 266.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the repeals will be in effect, enforcing or administering the repeals does not have foreseeable implications relating to costs or revenues of local government.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The proposed repeals do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

LOCAL EMPLOYMENT IMPACT

The proposed repeals will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these repeals because the repeals do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Stephanie Stephens, State Medicaid Director, has determined that for each year of the first five years the repeals are in effect, the public benefit will be the consolidation of all HHSC rules in 26 TAC.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed repeals because the repeals do not impose any additional costs.

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 Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin,

Texas 78711-3247, or street address 4900 North Lamar Boulevard, Austin, Texas 78751; or emailed to HHSCRulesCoordinationOffice@hhsc.state.tx.us.

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 postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 20R126" in the subject line.

SUBCHAPTER A. INTRODUCTION

40 TAC §30.2, §30.4

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.2. *Purpose.*

§30.4. *Definitions.*

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

Filed with the Office of the Secretary of State on March 4, 2022.

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

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For further information, please call: (512) 221-9021



SUBCHAPTER B. ELIGIBILITY REQUIREMENTS

40 TAC §§30.10, 30.12, 30.14, 30.16, 30.18, 30.20

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas

Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.10. *Eligibility Requirements.*

§30.12. *Duration of Hospice Care Coverage: Election Periods.*

§30.14. *Certification of Terminal Illness and Record Maintenance.*

§30.16. *Election of Hospice Care.*

§30.18. *Revoking the Election of Hospice Care.*

§30.20. *Change of the Designated Hospice.*

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

Filed with the Office of the Secretary of State on March 4, 2022.

TRD-202200780

Karen Ray

Chief Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 221-9021



SUBCHAPTER C. CONTRACTING AND DISCLOSURE REQUIREMENTS

40 TAC §§30.30, 30.34, 30.36

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.30. *General Contracting Requirements.*

§30.34. *Voluntary Termination of Hospice Contract.*

§30.36. *Submission of Written Information.*

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

Filed with the Office of the Secretary of State on March 4, 2022.

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

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For further information, please call: (512) 221-9021



SUBCHAPTER D. PROVIDERS' CONDITIONS OF PARTICIPATION: OTHER SERVICES

40 TAC §30.40

STATUTORY AUTHORITY

The proposed repeal is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeal implements Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.40. *Condition of Participation--Physical Therapy, Occupational Therapy, and Speech-language Pathology.*

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

Filed with the Office of the Secretary of State on March 4, 2022.

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

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For further information, please call: (512) 221-9021



SUBCHAPTER E. COVERED SERVICES

40 TAC §§30.50, 30.52, 30.54

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary

rules for the proper and efficient administration of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.50. *Requirements for Reimbursement.*

§30.52. *Waiver Requirements for Nursing Services or Occupational, Physical, and Speech Therapies.*

§30.54. *Special Coverage 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 March 4, 2022.

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

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For further information, please call: (512) 221-9021



SUBCHAPTER F. REIMBURSEMENT

40 TAC §30.60, §30.62

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.60. *Medicaid Hospice Payments and Limitations.*

§30.62. *Medicaid Hospice Claims 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 March 4, 2022.

TRD-202200784

Karen Ray

Chief Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 221-9021



SUBCHAPTER I. MEDICAL REVIEW AND RE-EVALUATION

40 TAC §30.90, §30.92

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.90. *Utilization Review and Control Activities Performed by Texas Health and Human Services Commission (HHSC) Utilization Review (UR) Department.*

§30.92. *Minimum Data Set Assessment.*

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

Filed with the Office of the Secretary of State on March 4, 2022.

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 221-9021



SUBCHAPTER J. MISCELLANEOUS

40 TAC §30.100

STATUTORY AUTHORITY

The proposed repeal is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code Chapter 531, Subchapter A-1, which provides for the consolidation of the health and human services system; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC will adopt necessary rules for the proper and efficient administration of the Medicaid program.

The proposed repeal implements Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§30.100. *Additional 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 March 4, 2022.

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: April 17, 2022

For further information, please call: (512) 221-9021



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 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 83. REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

SUBCHAPTER B. RULES FOR CREDIT ACCESS BUSINESSES

DIVISION 3. APPLICATION PROCEDURES

7 TAC §83.3010

Proposed amended §83.3010, published in the September 3, 2021, issue of the *Texas Register* (46 TexReg 5512), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on March 4, 2022.

TRD-202200775



TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 365. LICENSING AND REGISTRATION

22 TAC §365.19

Proposed amended §365.19, published in the August 6, 2021, issue of the *Texas Register* (46 TexReg 4824), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on March 3, 2022.

TRD-202200766



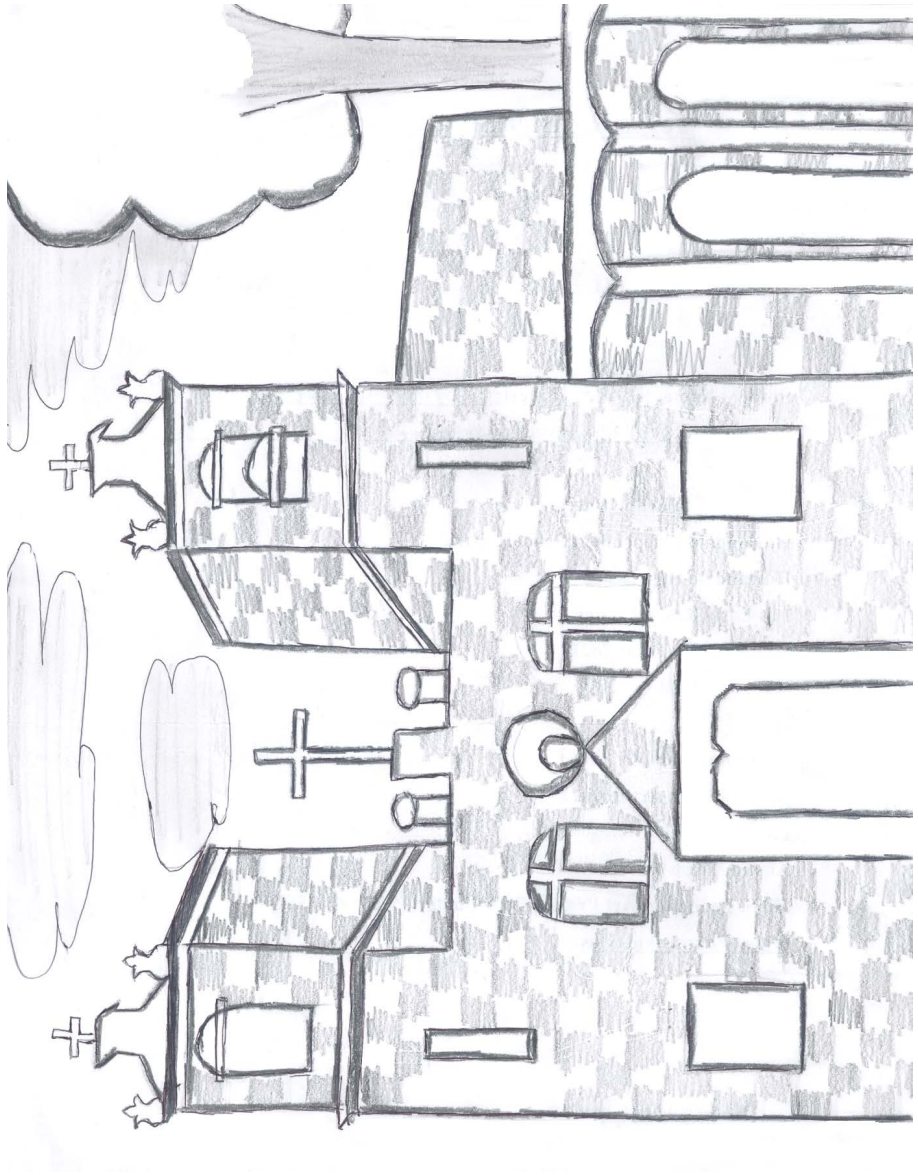
22 TAC §365.20

Proposed amended §365.20, published in the August 6, 2021, issue of the *Texas Register* (46 TexReg 4827), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on March 3, 2022.

TRD-202200767





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 1. OFFICE OF THE GOVERNOR

CHAPTER 3. PUBLIC SAFETY OFFICE

SUBCHAPTER J. DETERMINATION OF DEFUNDING MUNICIPALITIES

1 TAC §§3.9401, 3.9402, 3.9405 - 3.9407

The Office of the Governor ("OOG") adopts new rules in 1 Texas Administrative Code Chapter 3, Subchapter J, §3.9401 concerning Applicability, §3.9402, concerning Definitions, §3.9405, concerning Criteria for Approval of Certain Reductions to Budget, §9.406, concerning Written Determination That A Municipality is a Defunding Municipality and §3.9407, concerning Termination of Defunding Determination. The new §§3.9401, 3.9402, and 3.9405 - 3.9407 are adopted without changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 5997). These rules will not be republished.

REASONED JUSTIFICATION:

The Public Safety Office ("PSO") of the OOG is responsible for determining whether a municipality is a defunding municipality, deciding whether to approve a municipality's proposed reduction to the appropriation to the municipality's police department for certain specified reasons that except a municipality from being considered a defunding municipality, and terminating a defunding determination upon finding that the defunding municipality has reversed the unapproved reduction. The establishment of these functions are governed by Chapter 109 of the Texas Local Government Code, which was added by the 87th Legislature, Regular Session, in House Bill 1900. The primary purposes of the new subchapter are to provide guidance to municipalities that seek an exception for a reduction to the appropriation to the municipality's police department, to establish the criteria used to approve such proposed reductions, and to formalize the practices the Criminal Justice Division follows when reviewing applicable budgets or complaints.

SECTION-BY-SECTION SUMMARY

The adopted new §3.9401 establishes the applicability of new Subchapter J.

The adopted new §3.9402 defines certain terms used in new Subchapter J.

The adopted new §3.9405 states the review procedure and criteria used by PSO in deciding whether to approve a reduction under this exception.

The adopted new §3.9406 establishes practices PSO will use to issue written determinations establishing a defunding municipality.

The adopted new §3.9407 provides guidance regarding the PSO's termination of an issued defunding determination.

SUMMARY OF COMMENTS AND AGENCY RESPONSE:

The 30-day comment period ended October 17, 2021. The OOG did not receive any comments regarding the proposed rules §§3.9401, 3.9402, 3.9406, or 3.9407. During this period, the OOG received comments regarding §3.9405 from the City of Austin and the City of Corpus Christi. Both cities were neutral on the adoption of the rules. A summary of the comments relating to the rule and the OOG's responses follows.

Comment: One commenter suggests that the term "capital expenditure" in §3.9405(1) requires a more specific definition, particularly when such an expenditure is made to pay down debt.

Response: The OOG disagrees. A municipality may request an exception for a capital expenditure and explain its reasoning and justification for the request. Narrowing the definition of "capital expenditure" will unnecessarily limit the field of expenditures for which an exception could be granted.

Comment: One commenter suggests the definition of "public safety" under §3.9405(3) is overly broad. The comment suggests amending the criteria to consider only data that is reported and only response times to ongoing violent crimes.

Response: The OOG disagrees. The determination of whether public safety is impacted by a budget reduction is determined on a case-by-case basis which allows the OOG the opportunity to consider the specific facts presented by a specific applicant in its specific situation and circumstances. Narrowly defining the term "public safety" to encompass only certain specified categories will not allow for the consideration of numerous phenomena that factor into public safety.

Comment: Commenters suggest that §3.9405 should take into consideration the movement of functions within the municipality budget that do not impact safety. Specifically, commenters note that §3.9405 fails to take into consideration the movement of functions from a police department to other departments within a city.

Response: The OOG disagrees. Whether a function can be effectively removed from the oversight of a police department and whether the transfer of said function will impact public safety should be determined on a case-by-case basis.

STATUTORY AUTHORITY

The rules are adopted under Texas Government Code, §772.006(a)(10), which provides that the Criminal Justice Division shall adopt necessary rules, and Texas Local Government Code §109.006(b), which provides that the division shall adopt rules to implement requirements established in Chapter 109 of the Texas Local Government Code.

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

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

TRD-202200771

Stephanie Greger

Assistant General Counsel

Office of the Governor

Effective date: March 23, 2022

Proposal publication date: September 17, 2021

For further information, please call: (512) 463-1788



1 TAC §3.9403, §3.9404

The Office of the Governor ("OOG") adopts new §3.9403, concerning Review Process for Municipal Budgets, and §3.9404, concerning Application for Exception for Certain Reductions to Budget, in 1 Texas Administrative Code Chapter 3, Subchapter J, concerning Determination of Defunding Municipalities. Section 3.9403 and §3.9404 are adopted with changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 5997). These rules will be republished.

REASONED JUSTIFICATION:

The Public Safety Office ("PSO") of the OOG is responsible for determining whether a municipality is a defunding municipality, deciding whether to approve a municipality's proposed reduction to the appropriation to the municipality's police department for certain specified reasons that except a municipality from being considered a defunding municipality, and terminating a defunding determination upon finding that the defunding municipality has reversed the unapproved reduction. The establishment of these functions are governed by Chapter 109 of the Texas Local Government Code, which was added by the 87th Legislature, Regular Session, in House Bill 1900. The primary purposes of the new subchapter are to provide guidance to municipalities that seek an exception for a reduction to the appropriation to the municipality's police department, to establish the criteria used to approve such proposed reductions, and to formalize the practices the Criminal Justice Division follows when reviewing applicable budgets or complaints.

SECTION-BY-SECTION SUMMARY:

The adopted new §3.9403 addresses the PSO review process for municipal budgets.

The adopted new §3.9404 explains the procedure for submitting an application for PSO approval of a proposed reduction of the appropriated budget for a municipality's police department.

SUMMARY OF COMMENTS AND AGENCY RESPONSE:

The 30-day comment period ended October 17, 2021. The OOG received comments from the City of Irving, the City of Corpus Christi, and the City of Austin. The City of Irving opposed the adoption of the rules, and the City of Corpus Christi and the City of Austin were neutral on the adoption of the rules. A summary of the comments relating to the rules and the OOG's response follows.

Comment: All commenters suggest the sources of data that §3.9403(d) specifies PSO may rely on for the municipal budget

review process are too broad. The commenters suggest limiting the list of data sources to ensure the uniformity and accuracy of the information reviewed by PSO. Specifically, the commenters suggest removing references to "publicly sourced data" and "any other relevant data necessary for the PSO to meet the requirements in Chapter 109, Local Government Code."

Response: The OOG acknowledges the inclusion of the two specified categories of data may lead to confusion, and has removed those two categories and merged proposed subsections (c) and (d) together into a single subsection within §3.9403. The new subsection more clearly specifies that the PSO will only rely upon data collected from a municipality's publicly available budget, to include data provided by a municipality under Chapter 102, Texas Local Government Code and data from the budget office of the municipality's law enforcement agency. The OOG has also modified the language of the newly-combined subsection for readability and uniformity of style.

Comment: The City of Corpus Christi and the City of Austin suggest that the application deadline under §3.9404(d) is too early in the budgeting process to ensure that municipalities have the data needed to determine whether an exception is necessary. Commenters propose an application deadline of 45 calendar days rather than 60 business days, and a response deadline of 30 calendar days rather than 30 business days.

Response: The OOG agrees and will adopt the suggested changes.

STATUTORY AUTHORITY

The rules are adopted under Texas Government Code, §772.006(a)(10), which provides that the Criminal Justice Division shall adopt necessary rules, and Texas Local Government Code §109.006(b), which provides that the division shall adopt rules to implement requirements established in Chapter 109 of the Texas Local Government Code.

§3.9403. *Review Process for Municipal Budgets.*

(a) The PSO shall conduct an annual budget review of all municipalities with a population of more than 250,000 following each fiscal year beginning on or after September 1, 2021 to determine whether the municipality potentially qualifies as a defunding municipality because it reduced its appropriation to the municipality's police department in comparison to its preceding fiscal year.

(b) The PSO shall derive the population of municipalities of this state from the most recent census provided by the United States Census Bureau.

(c) The PSO shall base each annual review on data collected from the municipality's publicly available budget, including:

- (1) data published and provided by the municipality under Chapter 102, Texas Local Government Code; and
- (2) law enforcement agency budget office data.

§3.9404. *Application for Exception for Certain Reductions to Budget.*

(a) A municipality must submit an application provided under subsection (d) of this section to the PSO to request an exception from being considered a defunding municipality due to a reduction to the appropriation to the municipality's police department as set forth in Section 109.004(a)(2), Local Government Code.

(b) An application submitted under this section must be submitted by either the mayor or city manager of the applying municipality.

(c) The application and all necessary documentation must be submitted via certified mail to: Public Safety Office, Office of the Governor, PO Box 12428, Austin, Texas 78711.

(d) Applications must be postmarked no later than 45 calendar days prior to the formal adoption of the proposed budget. The PSO shall make a determination on granting the exception within 30 calendar days after it receives the application. PSO shall not grant an exception under this section after a municipality has adopted a budget for the fiscal year for which it seeks an exception.

(e) Application forms shall be made available at <https://gov.texas.gov/organization/cjd>.

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

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

TRD-202200772

Aimee Snoddy

Executive Director, Public Safety Office

Office of the Governor

Effective date: March 23, 2022

Proposal publication date: September 17, 2021

For further information, please call: (512) 463-1919



PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 11. TEXAS HEALTHCARE TRANSFORMATION AND QUALITY IMPROVEMENT PROGRAM REIMBURSEMENT

1 TAC §355.8212

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §355.8212, concerning Waiver Payments to Hospitals for Uncompensated Charity Care.

Section 355.8212 is adopted without changes to the proposed text as published in the December 24, 2021, issue of the *Texas Register* (46 TexReg 8861). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

Texas Health and Human Services Commission (HHSC) makes Uncompensated Care (UC) payments to qualifying hospitals that serve a large number of Medicaid and uninsured individuals. Attachment H of the 1115 Waiver establishes rules and guidelines for the State to claim federal matching funds for UC payments. This rulemaking amends the definitions of certain provider classes, describes a time frame during which the provider classes are classified into certain categories, and updates and clarifies other amendments.

House Bill (H.B.) 3301, 86th Legislature, allowed qualifying hospitals in low-population areas to enter into merger agreements, subject to receipt of a Certificate of Public Advantage (COPA). In 2019, COPAs were approved for two merger agreements. The

mergers resulted in each of the merged entities being designated a Sole Community Hospital (SCH) by the federal Centers for Medicare and Medicaid Services (CMS). This SCH designation in turn resulted in each of the merged entities to be classified as rural hospitals under HHSC rules, significantly shifting the rural set-aside funds for Demonstration Year 10 (DY10).

As a result, HHSC is adopting revised §355.8212, which will re-define the classification criteria for a rural hospital and update the rural set-aside amount to address the large shift in funds by setting the rural set-aside to the maximum costs for demonstration year 10. For Demonstration year 11 and onward, the rural set-aside will be the lessor of demonstration year 10 costs or demonstration year 11 costs.

COMMENTS

The 31-day comment period ended January 24, 2022.

During this period, HHSC received comments regarding the proposed rule from two commenters: Paris Regional Medical Center and Parkview Regional. A summary of the comments relating to the rule and HHSC's responses follow.

Comment: The commenters were in favor of the proposed rule amendments.

Response: HHSC appreciates the support for the proposed amendment. No revision to the rule text was made in response to these comments.

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 authority to administer the federal medical assistance (Medicaid) program in Texas; and 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 agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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

TRD-202200762

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: March 23, 2022

Proposal publication date: December 24, 2021

For further information, please call: (737) 867-7813



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 33. STATEMENT OF INVESTMENT OBJECTIVES, POLICIES, AND GUIDELINES OF THE TEXAS PERMANENT SCHOOL FUND

SUBCHAPTER A. STATE BOARD OF EDUCATION RULES

19 TAC §33.21

The State Board of Education (SBOE) adopts new §33.21, concerning the Texas Permanent School Fund (PSF) Corporation. The new section is adopted without changes to the proposed text as published in the December 17, 2021 issue of the *Texas Register* (46 TexReg 8420) and will not be republished. The new section addresses the term length of SBOE members on the board of directors of the Texas PSF Corporation as required by Senate Bill (SB) 1232, 87th Texas Legislature, Regular Session, 2021.

REASONED JUSTIFICATION: In accordance with statute, the rules in 19 TAC Chapter 33 establish investment objectives, policies, and guidelines for the Texas PSF.

SB 1232, 87th Texas Legislature, Regular Session, 2021, allows the SBOE to create the Texas PSF Corporation and delegate its authority to manage the PSF to the corporation. Specifically, SB 1232 added new TEC, §43.053, which establishes the composition of the board of directors of the Texas PSF Corporation and requires the SBOE to establish by rule the terms of SBOE members of the board of directors.

New §33.21 specifies that the term of office for an SBOE member who serves on the Texas PSF Corporation board of directors will end when that member no longer serves on the SBOE Committee on School Finance/Permanent School Fund.

The SBOE approved the proposed new section for first reading and filing authorization at its November 19, 2021 meeting and for second reading and final adoption at its January 28, 2022 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the new section for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2022-2023 school year. The earlier effective date will align the rule with statute as soon as possible. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began December 17, 2021, and ended at 5:00 p.m. on January 21, 2022. The SBOE also provided an opportunity for registered oral and written comments at its January 2022 meeting in accordance with the SBOE board operating policies and procedures. No public comments were received.

STATUTORY AUTHORITY. The new section is adopted under Texas Constitution, Article VII, §5(a), which authorizes the State Board of Education (SBOE) to make distributions from the Permanent School Fund (PSF) to the available school fund with certain limits; Texas Constitution, Article VII, §5(f), which authorizes the SBOE to manage and invest the PSF according to the prudent investor standard and make investments it deems appropriate; Texas Education Code (TEC), §43.001, which describes the PSF as a perpetual endowment; and TEC, §43.053, as added by SB 1232, 87th Texas Legislature, Regular Session, 2021, which establishes the composition of the board of directors of the Texas PSF Corporation and requires the SBOE to establish by rule the terms of SBOE members of the board of directors. SB 1232 allows the SBOE to create the Texas PSF Corporation and delegate its authority to manage the PSF and the charter district bond guarantee reserve fund to the corporation.

CROSS REFERENCE TO STATUTE. The new section implements Texas Constitution, Article VII, §5(a) and (f), and Texas Education Code, §43.001 and §43.053, as added by Senate Bill 1232, 87th Texas Legislature, Regular Session, 2021.

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

Filed with the Office of the Secretary of State on March 2, 2022.

TRD-202200758

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: March 22, 2022

Proposal publication date: December 17, 2021

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



TITLE 22. EXAMINING BOARDS

PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 78. SCOPE OF PRACTICE

22 TAC §78.2

The Texas Board of Chiropractic Examiners (Board) adopts the repeal of 22 TAC §78.2 (Prohibitions on the Scope of Practice) without changes, as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8300). The rule will not be republished. As part of the Board's comprehensive rule revision effort, the overall purpose of the repeal is to make the Board's rules simpler and easier to navigate.

The Board will adopt a new §78.2 in a separate rulemaking. That action will simply cut language in the current §78.1 (Scope of Practice) referring to prohibited acts and move it to the new, updated §78.2. These rulemaking actions are to improve the readability and organization of the Board's rules; there are no substantive changes to the effect of the Board's current rules. None of these adopted rules change the current chiropractic scope of practice in Texas.

The Board received no comments relating to the repeal of this rule.

The repeal is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules to clarify what activities are within and outside the scope of practice).

No other statutes or rules are affected by this repeal.

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 February 28, 2022.

TRD-202200729

Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Effective date: March 20, 2022
Proposal publication date: December 10, 2021
For further information, please call: (512) 305-6700



22 TAC §78.2

The Texas Board of Chiropractic Examiners (Board) adopts new 22 TAC §78.2 (Prohibitions on the Scope of Practice), without changes to the proposed text as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8300). The rule will not be republished. As part of the Board's comprehensive rule revision effort, the overall purpose of this adopted rule is to make the Board's rules simpler and easier to navigate.

Specifically, this adopted rule takes language referring to the prohibition on chiropractors from using surgical or invasive procedures from §78.1 (Scope of Practice) and places it into the new §78.2.

These rulemaking actions are to improve the readability and organization of the Board's rules; there are no substantive changes to the effect of the Board's current rules relating to the scope of practice.

The rule is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules clarifying what activities are within and outside the scope of practice).

No other statutes or rules are affected by this new rule.

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 February 28, 2022.

TRD-202200730
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Effective date: March 20, 2022
Proposal publication date: December 10, 2021
For further information, please call: (512) 305-6700



22 TAC §78.3

The Texas Board of Chiropractic Examiners (Board) adopts the repeal of 22 TAC §78.3 (General Delegation of Responsibility) without changes, as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8301). The rule will not be republished.

As part of the Board's comprehensive rule revision effort, the overall purpose of the repeal is to make the Board's rules simpler and easier to navigate. The Board will adopt a new §78.3 in a separate rulemaking. These rulemaking actions are to improve

the readability and organization of the Board's rules; there are no substantive changes to the effect of the Board's current rules on delegation.

The Board received no comments relating to the repeal of this rule.

The repeal is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules to clarify what activities are within and outside the scope of practice).

No other statutes or rules are affected by this repeal.

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 February 28, 2022.

TRD-202200731
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Effective date: March 20, 2022
Proposal publication date: December 10, 2021
For further information, please call: (512) 305-6700



22 TAC §78.3

The Texas Board of Chiropractic Examiners (Board) adopts new 22 TAC §78.3 (General Delegation of Responsibility) without changes, as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8302). The rule will not be republished. As part of the Board's comprehensive rule revision effort, the overall purpose of the adopted new rule is to make the Board's rules simpler and easier to navigate; there are no substantive changes to the effect of the Board's current rules relating to delegation.

Specifically, this adopted rule removes superfluous language from the current subsection (c)(4) of §78.3 referring to the performance of physical treatments by a qualified individual.

The Board received no comments concerning this rule.

The rule is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules clarifying what activities are within and outside the scope of practice).

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 February 28, 2022.

TRD-202200732

Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Effective date: March 20, 2022
Proposal publication date: December 10, 2021
For further information, please call: (512) 305-6700



22 TAC §78.6

The Texas Board of Chiropractic Examiners (Board) adopts new 22 TAC §78.6 (Required Diligence in the Practice of Chiropractic), without changes to the proposed text as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8303). The rule will not be republished.

This rulemaking action simply takes language referring to those acts a chiropractor must affirmatively perform from the old §79.2 (Lack of Diligence) and moving it to a stand-alone rule. The new adopted §79.2 will retain the prohibited acts only. The Board believes moving the affirmative act language of the current §79.2 to a stand-alone rule in the chapter on scope of practice is a more logical place for it. This adopted rule and the adopted new §79.2 do not substantively change the Board's existing rules on the diligent practice of chiropractic.

The Board received no comments concerning this rule.

The rule is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules clarifying what activities are within and outside the scope of practice).

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 February 28, 2022.

TRD-202200736
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Effective date: March 20, 2022
Proposal publication date: December 10, 2021
For further information, please call: (512) 305-6700



CHAPTER 79. UNPROFESSIONAL CONDUCT

22 TAC §79.2

The Texas Board of Chiropractic Examiners (Board) adopts the repeal of 22 TAC §79.2 (Lack of Diligence), as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8304). The repeal will not be republished.

As part of the Board's comprehensive rule revision effort, the overall purpose of the repeal is to make the Board's rules simpler and easier to navigate. The Board will adopt a new §79.2 in a separate rulemaking. The Board will also adopt a new §78.6 (Required Diligence in the Practice of Chiropractic) to accommodate the structural changes in §79.2. These rulemaking actions are

to improve the readability and organization of the Board's rules; there are no substantive changes to the effect of the Board's current rules on diligence in the practice of chiropractic.

The Board received no comments relating to the repeal of this rule.

The repeal is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules to clarify what activities are within and outside the scope of practice).

No other statutes or rules are affected by this repeal.

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 February 28, 2022.

TRD-202200733
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Effective date: March 20, 2022
Proposal publication date: December 10, 2021
For further information, please call: (512) 305-6700



22 TAC §79.2

The Texas Board of Chiropractic Examiners (Board) adopts new 22 TAC §79.2 (Lack of Diligence), as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8305). The rule is adopted without changes to the text as published and will not be republished.

As part of the Board's comprehensive rule revision effort, the overall purpose of the new rule is to make the Board's rules simpler and easier to navigate.

The adopted rule simply takes language in the old §79.2 referring to those acts a chiropractor must affirmatively perform and moving it to a stand-alone rule in the new §78.6 (Required Diligence in the Practice of Chiropractic). The new §79.2 retains the prohibited acts from the old rule. The Board believes moving the affirmative act language of the old §79.2 to a stand-alone rule in the chapter on scope of practice is a more logical place for it. This adopted new §79.2 and the new §78.6 do not substantively change the Board's existing rules on the diligent practice of chiropractic.

The Board received no comments concerning this rule.

The rule is adopted under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.1525 (which authorizes the Board to adopt rules clarifying what activities are within and outside the scope of practice).

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 February 28, 2022.

TRD-202200734

Christopher Burnett

General Counsel

Texas Board of Chiropractic Examiners

Effective date: March 20, 2022

Proposal publication date: December 10, 2021

For further information, please call: (512) 305-6700



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 417. AGENCY AND FACILITY RESPONSIBILITIES

SUBCHAPTER C. CHARGES FOR SERVICES IN TDMHMR FACILITIES

25 TAC §§417.101 - 417.110

The Texas Health and Human Services Commission (HHSC) adopts the repeal of §417.101, concerning Purpose; §417.102, concerning Application; §417.103, concerning Definitions; §417.104, concerning Fee Assessment and Notification of Charges; §417.105, concerning Accruing Charges; §417.106, concerning Appeal Process; §417.107, concerning Filing Notice of Lien; §417.108, concerning Exhibits; §417.109, concerning References; and §417.110, concerning Distribution.

The repeals of §§417.101 - 417.110 are adopted without changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 6195). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The adopted repeals reflect the move of the state hospitals from the Department of State Health Services to HHSC by moving HHSC rules from Texas Administrative Code (TAC) Title 25, Chapter 417, Subchapter C to 26 TAC Chapter 910 to consolidate HHSC rules. The new rules are adopted simultaneously elsewhere in this issue of the *Texas Register*.

COMMENTS

The 31-day comment period ended October 18, 2021.

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

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §552.016 - §552.020, which provides authority for HHSC to set fees for services provided by State Hospitals and requires the Executive Commissioner of HHSC to establish a sliding fee schedule for services provided to children.

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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Chief Counsel

Department of State Health Services

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For further information, please call: (512) 438-3049



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 910. CHARGES FOR SERVICES IN STATE FACILITIES

26 TAC §§910.1 - 910.10

The Texas Health and Human Services Commission (HHSC) adopts new §910.1, concerning Purpose; §910.2, concerning Application; §910.3, concerning Definitions; §910.4, concerning Fee Assessment and Notification of Charges; §910.5, concerning State Hospital Accruing Charges; §910.6, concerning State Supported Living Center Accruing Charges; §910.7, concerning Rate Review Process at State Hospitals; §910.8, concerning Appeal Process; §910.9, concerning Filing Notice of Lien; and §910.10, concerning Taxable Income of the Parents.

New §§910.3, 910.4, 910.7, 910.8, and 910.9 are adopted with changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 6196). These rules will be republished.

New §§910.1, 910.2, 910.5, 910.6, and 910.10 are adopted without changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 6196). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The new rules reflect the move of the state hospitals from the Department of State Health Services and the state supported living centers from the Department of Aging and Disability Services to HHSC by moving HHSC rules from Texas Administrative Code (TAC) Title 25, Chapter 417, Subchapter C and 40 TAC Chapter 7, Subchapter C to 26 TAC Chapter 910 to consolidate HHSC rules. The repeals of 25 TAC Chapter 417, Subchapter C and 40 TAC Chapter 7, Subchapter C are adopted simultaneously elsewhere in this issue of the *Texas Register*.

COMMENTS

The 31-day comment period ended October 18, 2021.

During this period, HHSC received comments regarding the proposed rules from Disability Rights Texas and Texas Council for Developmental Disabilities. A summary of comments relating to the rules and HHSC's responses follow.

Comment: Both organizations requested the inclusion of ways to obtain information in addition to postal correspondence throughout the proposed chapter.

Response: HHSC agrees and added website addresses to §910.3(5), §910.4(c)(1)(E), §910.4(c)(1)(F), §910.4(d)(4), §910.4(e)(4), and §910.8(b).

Comment: One commenter requested a review of the chapter to include legally authorized representative (LAR), as appropriate, and specifically to add LAR to §910.4(a)(1).

Response: HHSC agrees and revised §910.4(a)(1).

Comment: One commenter requested that paperwork to appeal a lien against property may be submitted to a specific website address and not just through a request by mail.

Response: HHSC declines to add this language because the filing of such claims is governed by court procedures as outlined in Texas Health and Safety Code (HSC) §552.019 and §593.082. No changes were made to the rules as a result of this comment.

Comment: One commenter recommended clarifying how charging more than a facility's current maximum rate is justified as authorized by §910.4(a)(4).

Response: HHSC declines to revise the rule in response to this comment because this rule only applies to individuals and their LAR and §910.4(a)(1) clarifies that "charges to the individual will not exceed the facility's current maximum rate."

Comment: One commenter recommended revising the language in §910.4(c)(1)(C) from "child support ordered" to "child support received", so a parent is not expected to pay from funds the parent does not have.

Response: HHSC declines to revise the rule in response to this comment because this rule is intended to apply to parents liable for payment, including both those ordered to pay child support and those receiving child support. Child support is collected pursuant to HSC §552.014(c) and §593.077(c), which provide that a parent who receives child support payments for an individual is liable for the monthly charges based on the amount of child support payments actually received in addition to the liability of that parent based on ability to pay. While assessing a parent's finances to determine the fee for services, HHSC will take into consideration that a parent may not have received the ordered child support.

Comment: One commenter shared that §910.4(c)(1)(F) is not clear as to whom this section applies and what income HHSC is trying to capture.

Response: HHSC agrees and added language specifying §910.4(c)(1)(F) applies to the net income of minor individuals receiving services at a state supported living center.

Comment: One commenter requested the term "toll" used in §910.7(c) be defined or explained.

Response: HHSC agrees and revised the rule to read "delay" instead of "toll."

Comment: One commenter stated §910.8(b) does not explain how to obtain the form to appeal fees assessed and requested the form be placed on a website.

Response: HHSC agrees. Section 910.8(b) was revised to state the facility reimbursement office will provide the form, and to include the website from which the form can be downloaded.

Comment: One commenter requested §910.8(b) state the notification of intent to appeal a fee may be made orally or in writing.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The current rule text allows for notification to occur orally or in writing.

Comment: One commenter recommended adding language to §910.8(b) to define the timeframe within which HHSC shall provide the appeal form.

Response: HHSC agrees with an individual and LAR needing timely access to the appeal form and revised §910.8(b) to include a website from which the form can be downloaded at any time.

Comment: Both commenters requested including video conferencing as a method to communicate in §§910.8(l)(1), 910.8(n), and 910.8(q).

Response: HHSC disagrees and declines to revise the rule. At this time, the HHSC Appeals Division does not have the capability to offer this option to the public at large.

Comment: One commenter recommended §910.8(m) state either party in a hearing may be granted one continuance.

Response: HHSC disagrees and declines to revise the rule in response to this comment. As the rule currently states, the administrative law judge (ALJ) may provide as many continuances as the ALJ finds appropriate.

Comment: One commenter recommended adding language to explicitly state individuals found to be indigent are exempt from payment for services.

Response: HHSC disagrees and declines to revise the rule. This language can be found under HSC Chapter 552, Subchapter B, which governs payment for state hospital services. Specifically, §552.013(a) provides that "a person may not be denied services under this subtitle because of an inability to pay for the services," and further under subsection (b) that "the state shall support, maintain, and treat indigent and nonindigent patients at the expense of the state." Similar language can be found under HSC Chapter 593, Subchapter A, which governs payment for state supported living center services. Specifically, §593.011(b) provides that "the department shall provide services free of charge to indigent persons."

Comment: One commenter recommended adding language to §910.8(x) to clarify HHSC will not collect and the individual will not accrue new charges during the appeal process.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The current rule under §910.8(x) states HHSC will not seek reimbursement for services during the appeal. Additionally, an individual will accrue charges during an appeal, and after the finding of the appeal the amount of charges may change depending on the appeal finding.

Comment: One commenter recommended adding language to §910.9(a) indicating HHSC will notify individuals or LARS by email of the intent to file a lien.

Response: HHSC agrees and revised the rule in response to this comment. HHSC will send the notice via alternative means when a patient or person legally responsible for the payment of services makes such a request and provides the necessary contact information. HHSC, however, is required to provide notice by certified mail to the patient and the person legally responsible for the patient's support, if applicable, pursuant to HSC §533.004(f).

Comment: One commenter recommended language be added to §910.9 specifying that HHSC will not file a lien until the conclusion of the ALJ decision.

Response: HHSC agrees and added language to §910.9(d), which states "HHSC shall not file a lien until the conclusion of the ALJ decision."

Comment: One commenter asked how HHSC can increase fees subsequent to an appeal as mentioned in §910.9(c)(4).

Response: The purpose of an appeal is to resolve disagreements over the amounts charged for services as referenced in §910.4(g)(8). During an appeal, an ALJ reviews the amount to be charged as determined by HHSC pursuant to these rules under Chapter 910. Consequently, a charge may be decreased, sustained, or increased.

A change was made to §910.8(b) and §910.9(a)(4) to correct the name of a form.

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §552.016 - §552.020, which provides authority for HHSC to set fees for services provided by State Hospitals and requires the Executive Commissioner of HHSC to establish a sliding fee schedule for services provided to children; and Texas Health and Safety Code §593.011, which requires HHSC to charge reasonable fees for services provided by State Supported Living Centers (SSLCs), and Texas Health and Safety Code §593.071 - §593.082, which sets forth requirements for SSLC service fees and requires the Executive Commissioner of HHSC to establish a sliding fee schedule for services provided to children.

§910.3. Definitions.

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

(1) Administrative Law Judge (ALJ)--An independent hearing examiner assigned by the Texas Health and Human Services Commission (HHSC) who presides over a hearing for an appeal of a fee with the power to administer oaths, receive evidence, take testimony, and make findings of fact or law.

(2) Adult--A person who is not a minor.

(3) Appellant--The individual or their legally authorized representative (LAR) appealing a fee.

(4) Charges--The total amount of all fees.

(5) Current maximum rate--The rate, established by HHSC, that reflects the average daily cost of support, maintenance, and treatment (SMT) per individual for each facility. A copy of the current maximum rates for all facilities may be obtained at www.hhs.texas.gov/services/mental-health-substance-use/state-hospitals; www.hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslc; or by contacting HHSC Health and Specialty Care System, Reimbursement Management, P.O. Box 12668, Mail Code E-619, Austin, Texas 78701-2668.

(6) Facility--Any state hospital, state supported living center, and the intermediate care facility for individuals with an intellectual disability (ICF/IID) component of the Rio Grande State Center operated by HHSC.

(7) Fee--A specific amount of money assessed, based on at least one source of funds, that is owed monthly to a facility for an individual's SMT.

(8) Full day--A 24-hour period extending from midnight to midnight.

(9) HHSC--Texas Health and Human Services Commission.

(10) Individual--Any person who is admitted to a facility and who is provided SMT as an inpatient or resident (i.e., a person to whom a bed is assigned by the facility).

(11) Legally authorized representative (LAR)--A person authorized by law to act on behalf of an individual, including a parent, guardian, or managing conservator of a minor individual, or a guardian of an adult individual.

(12) Minor--A person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

(13) Party--The appellant or HHSC.

(14) Reimbursement office--The HHSC facility reimbursement office that manages the assessment and notification of charges and the appeal process.

(15) SMT--Support, maintenance, and treatment.

§910.4. Fee Assessment and Notification of Charges.

(a) General provisions. The fee for an individual's support, maintenance, and treatment (SMT) is assessed in accordance with this section.

(1) Charges to the individual or legally authorized representative (LAR), as appropriate, will not exceed the facility's current maximum rate.

(2) Failure of the individual or LAR to provide financial information upon request or to assign third-party benefits may result in charges equal to the facility's current maximum rate accruing to the individual.

(3) The finances and assets of an adult's guardian or the guardian of the estate of a minor, who is not also the legal guardian of the minor, are not considered in assessing fees.

(4) Charges to a payor that is not an individual or LAR may exceed the facility's current maximum rate.

(b) Necessary financial information. Upon an individual's admission to a facility, or shortly afterward, the reimbursement office shall provide the individual, and their personal representative, or their LAR, with a property and financial statement form, appropriate to the type of services provided to the individual.

(c) Assessing fees for services provided to minor individuals.

(1) The following sources of funds are property from which the state may be reimbursed for a minor individual's SMT and are considered separately in assessing a fee:

(A) third-party coverage of the minor individual;

(B) the minor individual's benefits from governmental and non-governmental agencies and institutions;

(C) child support ordered in a divorce or attorney general proceeding or a suit affecting the parent-child relationship pursuant to Texas Health and Safety Code §552.014 and §593.077;

(D) real or personal property in the minor individual's guardianship estate or owned by the minor individual;

(E) the net taxable income of the minor individual's parents as authorized by the Texas Health and Safety Code §552.017, §593.075, and §593.076, in accordance with the Taxable Income of Parents formula, which may be obtained at www.hhs.texas.gov/services/mental-health-substance-use/state-hospitals; www.hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslcs; or by contacting the Texas Health and Human Services Commission (HHSC) Health and Specialty Care, Reimbursement Management, P.O. Box 12668, Austin, Texas 78701-2668, and Internal Revenue Services' guidelines; and

(F) monthly net income of the minor individual (excluding income from the source described in subparagraph (B) of this paragraph) receiving services at a state supported living center, in accordance with the Individuals in State Supported Living Centers formula, which may be obtained at www.hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslcs or by contacting the facility reimbursement office.

(2) An order in a divorce proceeding that provides for child support payments (as referenced in paragraph (1)(C) of this subsection) does not limit the fee that may be assessed (except that it may not exceed the current maximum rate), nor does the order exempt either parent from liability for the charges.

(d) Assessing a fee for adult individuals in inpatient mental health facilities. The following sources of funds are considered separately in assessing a fee:

(1) third-party coverage of the adult individual;

(2) the adult individual's benefits from governmental and non-governmental agencies and institutions;

(3) real or personal property in the adult individual's guardianship estate or owned by the adult individual or spouse; and

(4) monthly gross income of the adult individual (excluding income from the source described in paragraph (2) of this subsection) and income of the spouse, in accordance with the Adult Individuals in Inpatient Mental Health Facilities formula, which may be obtained at www.hhs.texas.gov/services/mental-health-substance-use/state-hospitals or by contacting the facility reimbursement office.

(e) Assessing a fee for adult individuals in state supported living centers and the ICF/IID component of the Rio Grande State Center. The following sources of funds are considered separately in assessing a fee:

(1) third-party coverage of the adult individual;

(2) the adult individual's benefits from governmental and non-governmental agencies and institutions;

(3) real or personal property in the adult individual's guardianship estate or owned by the adult individual or spouse;

(4) the adult individual's monthly net earned income in accordance with the Individuals in State Supported Living Centers formula, which may be obtained at www.hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslcs or by contacting HHSC Health and Specialty Care, Reimbursement Management, P.O. Box 12668, Austin, Texas 78701-2668; and

(5) income of the adult individual (excluding income from the sources described in paragraphs (2) and (4) of this subsection) and income of the spouse.

(f) Trusts. The provisions of the Texas Health and Safety Code §552.018 and §593.081, apply to the fee assessment for an individual who is a beneficiary of a trust or trusts.

(g) Notification of charges. After a fee has been assessed, the reimbursement office shall provide written notification to the individual or LAR of charges that includes:

(1) the date on the notification of charges;

(2) the name of the individual receiving SMT from the facility;

(3) the fees and the sources of funds used to assess the fees;

(4) the effective dates of the fees;

(5) the facility's current maximum rate;

(6) a statement that the individual or LAR is responsible for notifying the facility's reimbursement office within 30 days of the change, when there is a change in any of the sources of funds HHSC uses to assess a fee or a change in family status that would affect any assessed fee;

(7) information on possible payments from a third-party payor; and

(8) a statement that the individual or LAR has the right to appeal under the following conditions if they disagree with the fee.

(A) If the individual or LAR has submitted complete financial information, then the individual or LAR must notify the reimbursement office of their intent to appeal the fee. The individual or LAR must initiate the appeal, in accordance with §910.8(c) of this chapter (relating to Appeal Process), within 45 business days of the date on the notification of charges.

(B) If the individual or LAR has not submitted complete financial information, the individual or LAR must contact the reimbursement office and provide complete financial information within 15 business days of the date on the notification of charges or the individual or LAR forfeits the right to appeal. If the individual or LAR provides complete financial information within 15 business days of the date on the notification of charges, the individual or LAR must initiate the appeal, in accordance with §910.8(c) of this chapter, within 45 business days of the date on the notification of charges.

(h) Complete financial information received within 15 business days of the date on the notification of charges. If the reimbursement office receives complete financial information from the individual or LAR within 15 business days of the date on the notification of charges as required in subsection (g)(8)(B) of this section, the reimbursement office shall, within 10 business days:

(1) review the financial information;

(2) revise the fee, if appropriate; and

(3) inform the individual or LAR in writing:

(A) of the fee amount;

(B) that the individual or LAR has a right to appeal if they disagree with the fee; and

(C) that an appeal must be initiated, in accordance with §910.8(c) of this chapter within 45 business days of the date on the notification of charges referenced in subsection (g) of this section.

(i) Fee revision. HHSC shall determine if a fee revision is warranted each time HHSC receives information indicating:

- (1) a change in any of the sources of funds HHSC uses to assess a fee; and
- (2) a change in family status that would affect any assessed fee.

(j) Individuals transferring between two facilities. If an individual is transferred between two facilities, only the receiving facility may bill for the day of transfer. The transferring facility may not bill on the individual's date of admission from a transfer from another HHSC operated facility.

(k) Individuals receiving Medicaid Benefits. If an individual is receiving Medicaid benefits, reimbursement will be completed pursuant to applicable federal and state Medicaid laws.

§910.7. Rate Review Process at State Hospitals.

(a) If the individual or legally authorized representative (LAR) has provided complete financial information and the person disagrees with the fees assessed by the Texas Health and Human Services Commission (HHSC), the individual or LAR may contact the reimbursement office of the state hospital in which the individual would receive services to request a reduction and review of charges by the state hospital superintendent, or designee. The request must be made in writing within 10 business days of the date on the notification of charges letter. The individual or LAR retains the right to formally appeal the charges without using the rate review process at a state hospital.

(b) The individual or LAR will be notified of the rate review process at the time of initial rate determination and upon any subsequent rate determination.

(c) A request under this section will delay the deadline under §910.8(c)(2) of this chapter (relating to Appeal Process) for an appeal request to be submitted until a determination is made regarding a review under this section.

(d) If HHSC requests more information for a review, the request must be made within 7 business days of the original review request. An individual must submit additionally requested information within 15 business days. If the additional information is not received within 15 days, the request under this section will be considered withdrawn. If additional information is not received, HHSC must provide a notice to the individual that the request under this section is considered withdrawn and that the individual may proceed with an appeal under §910.8 of this chapter.

(e) Once HHSC receives all necessary information, HHSC must issue a review decision within seven business days and provide notice of the decision to the individual or LAR.

§910.8. Appeal Process.

(a) Right to appeal. If the individual or legally authorized representative (LAR) has provided complete financial information and the individual or LAR disagrees with any fees assessed by the Texas Health and Human Services Commission (HHSC), then the individual or LAR is entitled to appeal such fees.

(b) Obtaining forms to initiate an appeal. To appeal a fee, the individual or LAR must notify the reimbursement office at the facility providing support, maintenance, and treatment to the individual of their intent to appeal the fee. Upon such notification, the reimbursement office shall ensure the individual or LAR has provided complete financial information before sending the individual or LAR a copy of this chapter and a Request for Appeal form. Upon determination that complete financial information has been provided to the reimbursement office, the reimbursement office must provide the form to the individual or

LAR within five business days. Additionally, forms can be obtained at www.hhs.texas.gov/services/mental-health-substance-use/state-hospitals and www.hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslcs.

(c) Initiating the appeal.

(1) The individual or LAR initiates an appeal by completing, signing, and sending the Request for Appeal form, referenced in subsection (b) of this section or §910.9(a)(4) of this chapter (relating to Filing Notice of Lien), to: OCC_Appeals_Contested-Cases@hhs.texas.gov or HHSC Appeals Division, P.O. Box 149030, Mail Code W-613, Austin, Texas 78714-9030.

(2) An appeal may be initiated before the 45th business day after notification of charges.

(d) Representation.

(1) The appellant may represent their self or use legal counsel, a relative, a friend, or other spokesperson.

(2) HHSC is represented by an HHSC attorney.

(e) Type of hearing. The appellant may choose to:

(1) appear by telephone conference, or by virtual platform, or have their representative appear by telephone conference or by virtual platform at the hearing; or

(2) have a document desk review hearing in which the administrative law judge (ALJ) makes a decision based solely upon documentation filed by the parties with neither party appearing.

(f) Scheduling the hearing. The ALJ shall schedule the hearing to be held not later than the 120th business day after the date the Request for Appeal form is received by the Appeals Division. The ALJ shall consider any request for reasonable accommodations related to a disability of the appellant or the appellant's representative.

(1) If the appellant chooses to appear by telephone conference, the ALJ shall schedule a date, time, and phone number for the hearing. At least 20 calendar days before the hearing, the ALJ shall notify the parties, in accordance with subsection (g) of this section, of the scheduled date, time, and phone number of the hearing.

(2) If the appellant chooses to have a document desk review, at least 20 calendar days before the document hearing, the ALJ shall notify the parties, in accordance with subsection (g) of this section, of the date that all documentation must be filed with the Appeals Division and copies submitted to the other party or the other party's representative.

(g) Notification of parties.

(1) The appellant is notified by electronic and certified mail.

(2) The designated HHSC attorney is notified by intra-agency mail, fax, or electronic mail.

(h) Ex parte communication. Except for communications regarding procedural matters, the ALJ may not communicate with a party, directly or indirectly, on any issue of fact or law, unless both parties are present, or the communication is in writing and a copy is delivered to both parties.

(i) Privileged communication. No party is required to disclose communications between an attorney and the attorney's clients, accountant and the accountant's client, a husband and wife, a clergy-person and a person seeking spiritual advice, or the name of an informant, or other information protected from being divulged by substantive federal or state law.

(j) **Withdrawing.** The appellant may withdraw the appeal or HHSC may withdraw the fees being appealed at any time prior to the hearing. Upon withdrawal of either party, no hearing is held. The ALJ will issue an order of dismissal and notify the parties of such dismissal in accordance with subsection (g) of this section.

(k) **Settlement.** At any time before the hearing, parties may enter into a settlement disposing of the contested issues. A settlement agreement must be in writing, signed by the parties or their representatives, and filed with the Appeals Division. Upon receipt of the settlement agreement, the ALJ will issue an order of dismissal and notify the parties of such dismissal in accordance with subsection (g) of this section.

(l) **Filing documents.**

(1) Hearing at which the parties will appear by telephone.

(A) If a party intends to introduce documents at the hearing, the party shall send such documents to the Appeals Division and submit a copy of the documents to the other party or the other party's representative at least 10 business days before the hearing. Failure to submit copies of documents to the other party will result in a continuance if requested by the party who did not receive the documents.

(B) At the hearing, the ALJ may request either or both parties to file additional documents for consideration in making a decision. The ALJ shall indicate in writing the date by which the additional documents must be received by the Appeals Division.

(2) **Document hearing.** If a party intends for the ALJ to consider their documents at a document hearing, then the party shall send such documents to the Appeals Division and submit a copy of the documents to the other party or the other party's representative by the date identified by the ALJ as described in subsection (f)(2) of this section. Failure to submit copies of documents to the other party will result in a continuance if requested by the party who did not receive the documents.

(m) **Continuance.** The ALJ may grant continuances on the request of either party provided the party shows good cause for requesting the continuance. A request for a continuance may be written or oral and may be made before or during a hearing. If a hearing is continued, the ALJ shall schedule the hearing to be continued on a day that is not later than the 45th day after the hearing was originally scheduled. The ALJ must notify the parties, in accordance with subsection (g) of this section, of the continued hearing date within five business days of granting a continuance.

(n) **Telephone conference.**

(1) Telephone conference equipment used for a hearing must be capable of allowing the parties and the ALJ to hear and speak to each other at all times during the hearing.

(2) If a party elected to appear by telephone, on the date and time of the hearing, the ALJ shall initiate telephone contact with the party using the telephone number provided by the party.

(o) **Failure to appear.** If the appellant fails to appear at the hearing, the ALJ shall adjourn the hearing. If the appellant notifies the ALJ within three business days after the hearing date and provides evidence of good cause for failing to appear and requests a continuance, the ALJ may grant a continuance. If the ALJ has not been notified by the fourth business day after the hearing date, the ALJ shall close the record and consider all the documents previously filed by both parties and prepare a decision based on such previously filed documents.

(p) **Evidence.**

(1) **Documents.** Documents provided as evidence for the hearing do not need authentication.

(2) **Testimony.** Material and relevant testimony is admissible.

(q) **Procedural rights.** Each party has the right to:

(1) establish all pertinent facts and circumstances;

(2) present an argument without undue interference;

(3) question or refute any evidence; and

(4) have an audio recording of the hearing proceedings. The ALJ will provide a recording on request.

(r) **Audio recording of hearing proceedings.** If the hearing is not a document desk review, the ALJ shall make an audio recording of the hearing proceedings. The appellant may request and receive a copy of the audio recording at minimal charge.

(s) **Record.** The record of the hearing closes when the hearing is adjourned or at the end of the business day on the date that all documents are required to be submitted. The record consists of:

(1) all documents submitted to the Appeals Division, together with the ruling on admissibility made by the ALJ; and

(2) the audio recording of the hearing proceedings made by the ALJ, as required in subsection (r) of this section, if the hearing was not a document desk review.

(t) **Decision.** Not later than the 30th calendar day after the hearing record has closed, the ALJ shall issue a decision. Hearing decisions must be based exclusively on evidence in the record. Evidence admitted in the hearing is retained in accordance with the HHSC retention schedule. The decision shall be in writing, signed, and dated by the ALJ, and state:

(1) the names of the parties and their representatives (if any), and that they appeared by telephone, if the hearing was not a document desk review;

(2) findings of fact and conclusions of law, separately stated;

(3) whether the appealed fees have been sustained, reduced, or increased; and

(4) the amount of the fees.

(u) **Effective date.** A decision issued under this section is effective on the date it is signed by the ALJ.

(v) **Notice of decision.** After the ALJ signs the decision, the Appeals Division shall send a copy of the ALJ's decision to the parties in accordance with subsection (g) of this section.

(w) **Finality.** The decision of the ALJ is final. For correcting a clerical error, the ALJ retains jurisdiction for 20 calendar days after the date the decision is signed.

(x) **Charges.** HHSC will not seek reimbursement for services while an appeal decision is pending. Any adjustments made to the service charge as a result of an appeal decision will be included in the updated charge submitted to an individual or their LAR.

§910.9. Filing Notice of Lien.

(a) If the Texas Health and Human Services Commission (HHSC) intends to file a written notice of lien pursuant to Texas Health and Safety Code §533.004, 31 calendar days prior to filing the written notice of the lien with the county clerk, HHSC shall notify by certified mail the individual or legally authorized representative

(LAR) of HHSC's intent to file a lien. HHSC also will send the notice by an alternative means when a patient or person legally responsible for the payment of services makes such a request and provides the necessary contact information. The notice to the individual or LAR shall include:

- (1) a statement of the unpaid charges;
- (2) a copy of the statutory procedures related to filing a lien as provided by Texas Health and Safety Code §533.004;
- (3) a copy of §910.8 of this chapter (relating to Appeal Process);
- (4) a Request Appeal form and a statement that to stay the filing of the lien, the completed Request for Appeal form must be received by the Appeals Division within 31 calendar days after the date the notification of HHSC's intent to file a lien was mailed; and
- (5) the name and phone number of the HHSC staff sending the notification.

(b) If the person does not request an appeal within 31 calendar days after the date the notification of HHSC's intent to file a lien was mailed, HHSC may proceed to file the written notice of lien.

(c) If the person requests an appeal and the ALJ's decision:

(1) sustains the appealed fees, HHSC may proceed to file the written notice of lien any time after 31 calendar days of the date the notification of HHSC's intent to file a lien was mailed;

(2) reduces the appealed fees to less than the assessed amount but more than zero, the person must pay the reduced amount or HHSC may proceed to file the written notice of lien any time after 31 calendar days of the date the notification of HHSC's intent to file a lien was mailed;

(3) reduces the appealed fees to zero, HHSC must withdraw its notice of intent to file a lien in writing; or

(4) increases the appealed fees, the person must pay the increased amount or HHSC may proceed to file the written notice of lien any time after 31 calendar days of the date the notification of HHSC's intent to file a lien was mailed.

(d) HHSC shall not file a lien until the conclusion of the ALJ decision.

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

Filed with the Office of the Secretary of State on March 4, 2022.

TRD-202200778

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: March 24, 2022

Proposal publication date: September 17, 2021

For further information, please call: (512) 438-3049



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 57. FISHERIES SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

31 TAC §57.985

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 27, 2022, adopted new 31 TAC §57.985, concerning Special Bag, Possession, and Length Limits, without changes to the proposed text as published in the December 24, 2021, issue of the *Texas Register* (46 TexReg 8986). The rule will not be republished. The new rule alters what is currently reflected in TAC to establish the maximum length limit and special provisions for the harvest of largemouth bass on nine water bodies in response to a department determination that current provisions in TAC were published in error and contradict the intent of the commission.

Current department publications and public information reflect the bag limit and special provisions intended by the Texas Parks and Wildlife Commission and thus are in conflict with enforceable provisions currently in TAC; therefore, rule action is necessary at this time to ensure that the intended rule is in effect for the remainder of the license year in order to eliminate confusion and enhance compliance and enforcement. The department intends for the proposed new rule to be in effect only until the discrepancy can be corrected in 31 TAC §57.981 as part of the next annual fisheries regulations cycle.

The new section implements a five-fish, 16-inch maximum length limit with an exemption for temporary possession of 24-inch and larger bass for submission to the ShareLunker program.

The department received two comments opposing adoption of the rule as proposed. Both commenters provided a reason or rationale for opposing adoption. Those comments, accompanied by the department response, follow.

One commenter opposed adoption and stated that having no minimum length limit leads to waste. The department disagrees with the comment and responds that the intent of the rulemaking is to re-establish harvest regulations previously promulgated by the commission but not reflected accurately in TAC; however, the absence of a minimum length limit on these reservoirs will not result in waste because bag limits function to control the overall impacts of harvest. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the absence of a minimum length will cause anglers to retain every fish they catch and that there should be a maximum size limit of 18 inches and a bag limit of three fish. The department disagrees with the comment and responds that the rule as adopted is not a manipulation of harvest regulations for management purposes and reinstates the provisions of a rule duly adopted by the commission in 2019 that should have been reflected in TAC. In any case, the absence of a bag limit does not cause retention of fish. Anglers typically retain fish for consumption and do not retain fish that are not suitable for that purpose. Additionally, bag and length limits are predicated on a variety of management and population data and are designed to prevent over-utilization of the resource. No changes were made as a result of the comment.

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

The new rule 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 aquatic animal life in this state; the means, methods, and places in which it is lawful to take, or possess aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the aquatic animal life authorized to be taken or possessed; and the region, county, area, body of water, or portion of a county where aquatic animal life may be taken or possessed.

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

Filed with the Office of the Secretary of State on March 2, 2022.

TRD-202200751

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: March 22, 2022

Proposal publication date: December 24, 2021

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



CHAPTER 59. PARKS

SUBCHAPTER A. PARK ENTRANCE AND PARK USER FEES

31 TAC §59.3

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 27, 2022, adopted an amendment to 31 TAC §59.3, concerning Park Entry Passes, with changes to the proposed text as published in the December 24, 2021, issue of the *Texas Register* (46 TexReg 8988). The rule will be republished. The amendment establishes reduced entry fees for persons accompanying the holder of a state parklands passport ("passport") and restructures the section for purposes of clarity.

The change replaces "and" with "or" in paragraph (3)(A)(ii) and (C)(ii).

Under Parks and Wildlife Code, §13.018, the department is required to issue a passport to qualified individuals, which are defined by statute as Texas residents 65 years old or over; members of the United States armed forces on active duty who are 65 years old or over; veterans of the armed services of the United States who, as a result of military service, have a service-connected disability consisting of either the loss of the use of a lower extremity or a 60 percent disability rating and who are receiving compensation from the United States because of the disability; and individuals who have a physical or mental impairment that substantially limits one or more major life activities.

Under current rule, persons accompanying the holder of any category of passport are entitled to an entry fee reduction of 50 percent. The department has determined that waiving the entry fees for persons accompanying all categories of passport holders other than those who have obtained their passport after September 1, 1995 would greatly enhance the visitation experience for passport holders and encourage greater participation in beneficial parks experiences by persons who qualify for

the passport but perhaps have not contemplated visitation. For ease of reference and the sake of clarity, the proposed amendment also creates separate provisions for categories of passport holders/accompanying persons entitled to free entry and passport holders/accompanying persons entitled to a 50 percent reduction in entry fees.

The department received three comments opposing adoption of the rule as proposed. Two of the commenters provided a reason or rationale for adoption. Those comments, accompanied by the department's response, follows.

One commenter opposed adoption and stated that veterans should pay for using the same resources. The department disagrees that the rule affects any fee for veterans; rather, it establishes the fees for persons accompanying passport holders. No changes were made as a result of the comment.

One commenter opposed adoption and stated that allowing large numbers of people accompanying a passport holder to enter without paying a fee could have revenue implications. The department disagrees with the comment in part and responds that by rule only one person accompanying a passport holder is entitled to a reduced entry fee. The department prepared a fiscal note in the rule proposal preamble and estimates, based on historic data, that the rule will result in a revenue decrease of approximately \$102,000 per year to the department. No changes were made as a result of the comment.

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

The amendment is adopted under Parks and Wildlife Code, §13.018, which requires the commission to establish by rule the eligibility requirements and privileges available to the

§59.3. *Park Entry Passes.*

Parks entry passes authorize entry privileges to parks where entry fees apply but are not valid for activity or other applicable fees.

(1) Annual Park Entrance Passes.

(A) A valid annual park entrance pass authorizes park entry without payment of an individual entrance fee for the holder of the annual pass, and:

(i) all occupants in the same vehicle with the holder of the annual park entrance pass if the holder of the annual park entrance pass is entering by noncommercial motor vehicle;

(ii) up to 14 persons accompanying the pass holder in the same boat if the holder of the annual park entrance pass is entering by boat; or

(iii) up to 14 persons accompanying the pass holder if the holder of the annual park entrance pass is entering by motorcycle, bicycle or on foot.

(B) An annual park entrance pass is valid only for private, noncommercial use and is not valid for:

(i) buses or similar vehicles; or

(ii) commercial use such as tour groups.

(C) An annual park entrance pass is not valid unless presented by the person named on the pass.

(D) The fee for an annual park entrance pass shall be established by the executive director within the range of \$50 - \$100.

(E) The fee for an annual park entrance pass that is part of a promotional drawing under the provisions of §51.750 of this title (relating to Promotional Drawings), of this title is \$0.

(2) Youth Group Annual Entrance Pass.

(A) A youth group annual entrance pass authorizes entry to any state park without payment of an individual entrance fee for up to a total of 50 persons belonging to a nonprofit youth organization.

(B) The department on a case-by-case basis may limit the number of adult supervisors entering a park under this subsection. Vehicles entering a park under a single youth group pass may be subject to additional fees if the number of vehicles exceeds the vehicle capacity for the campsite.

(C) The fee for a pass under this subsection shall be established by the executive director within the range of \$50 - \$300.

(D) A youth group annual entrance pass is valid for 12 months from date of purchase.

(3) State Parklands Passport. A state parklands passport shall be issued at no cost to any person meeting the criteria established by Parks and Wildlife Code, §13.018. For the purposes of this paragraph, "accompanying" means entering a park simultaneously with the passport holder.

(A) A state parklands passport issued to a person in a category listed in this subparagraph authorizes the entry of the person to any state park without payment of an individual entrance fee, and includes the waiver of the entry fee for one person accompanying and providing assistance to the passport holder:

(i) a person whose birth date is before September 1, 1930;

(ii) a veteran of the armed services of the United States who, as a result of military service, has a service-connected disability, as defined by the Veterans' Administration, consisting of the loss of the use of a lower extremity or of a 60 percent disability rating and who is receiving compensation from the United States because of the disability; or

(iii) a holder of a state parklands passport issued on or before August 31, 1995.

(B) To be eligible for issuance of a state parklands passport under the provisions of Parks and Wildlife Code, §13.018(a)(3), a person must submit government-issued personal identification and one of the following:

(i) an Award of Benefits Letter or a Statement of Benefits from the Social Security Administration that attests to the applicant's permanent disability; or

(ii) an affidavit or attestation on a form approved by the department certifying that the applicant meets the requirements of Parks and Wildlife Code, §13.018(a)(3) and this subsection.

(C) A state parklands passport issued to a person in a category listed in this subparagraph who does not otherwise qualify under subparagraph (A) of this paragraph authorizes the entry of the person to any state park upon payment of 50% of the posted entrance fee for the park, rounded to the nearest higher whole dollar, which shall also apply to one person accompanying and providing assistance to the passport holder.

(i) a Texas resident whose birth date is after August 31, 1930;

(ii) a member of the United States armed forces on active duty who is 65 years old or over; or

(iii) an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(D) A parklands passport is nontransferable.

(E) The department may collect a fee for a replacement state parklands passport.

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

Filed with the Office of the Secretary of State on March 2, 2022.

TRD-202200754

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: April 4, 2022

Proposal publication date: December 24, 2021

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 7. DADS ADMINISTRATIVE RESPONSIBILITIES

SUBCHAPTER C. CHARGES FOR SERVICES IN STATE FACILITIES

40 TAC §§7.101 - 7.110

The Texas Health and Human Services Commission (HHSC) adopts the repeal of §7.101, concerning Purpose; §7.102, concerning Application; §7.103, concerning Definitions; §7.104, concerning Fee Assessment and Notification of Charges; §7.105, concerning Accruing Charges; §7.106, concerning Appeal Process; §7.107, concerning Filing Notice of Lien; §7.108, concerning Exhibits; §7.109, concerning References; and §7.110, concerning Distribution.

The repeal of §§7.101 - 7.110 is adopted without changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 6206). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The repeals reflect the move of the state supported living centers from the Department of Aging and Disability Services to HHSC by moving HHSC rules from Texas Administrative Code (TAC) Title 40, Chapter 7, Subchapter C to 26 TAC Chapter 910 to consolidate HHSC rules. The new rules are adopted simultaneously elsewhere in this issue of the *Texas Register*.

COMMENTS

The 31-day comment period ended October 18, 2021.

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

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Health and Safety §593.011, which requires HHSC to charge reasonable fees for services provided by State Supported Living Centers (SSLCs); and Texas Health and Safety Code §593.071 - §593.082, which sets forth requirements for SSLC service fees and requires the Executive Commissioner of HHSC to establish a sliding fee schedule for services provided to children.

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

Filed with the Office of the Secretary of State on March 4, 2022.

TRD-202200776

Karen Ray

Chief Counsel

Department of Aging and Disability Services

Effective date: March 24, 2022

Proposal publication date: September 17, 2021

For further information, please call: (512) 438-3049



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

State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) proposes the review of Title 19, Texas Administrative Code (TAC), Chapter 235, Classroom Teacher Certification Standards, pursuant to the Texas Government Code (TGC), §2001.039.

As required by the TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 235 continue to exist.

The comment period on the review of 19 TAC Chapter 235 begins March 18, 2022, and ends April 18, 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/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 235 at the April 29, 2022, meeting in accordance with the SBEC board operating policies and procedures.

TRD-202200795

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: March 7, 2022



The State Board for Educator Certification (SBEC) proposes the review of Title 19, Texas Administrative Code (TAC), Chapter 241, Certification as Principal, pursuant to the Texas Government Code (TGC), §2001.039.

As required by the TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 241 continue to exist.

The comment period on the review of 19 TAC Chapter 241 begins March 18, 2022, and ends April 18, 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/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 241 at the April 29, 2022, meeting in accordance with the SBEC board operating policies and procedures.

TRD-202200796

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: March 7, 2022



The State Board for Educator Certification (SBEC) proposes the review of Title 19, Texas Administrative Code (TAC), Chapter 242, Superintendent Certificate, pursuant to the Texas Government Code (TGC), §2001.039.

As required by the TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 242 continue to exist.

The comment period on the review of 19 TAC Chapter 242 begins March 18, 2022, and ends April 18, 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/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 242 at the April 29, 2022, meeting in accordance with the SBEC board operating policies and procedures.

TRD-202200797

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: March 7, 2022



Texas Department of Insurance

Title 28, Part 1

The Texas Department of Insurance (TDI), under Texas Government Code §2001.039, will review and consider for re-adoption the following chapters of 28 Texas Administrative Code Part 1: Chapter 1 (relating to General Administration); Chapter 3 (relating to Life, Accident, and Health Insurance and Annuities); Chapter 8 (relating to Hazardous Condition); Chapter 10 (relating to Workers' Compensation Health Care Networks); Chapter 11 (relating to Health Maintenance Organizations); Chapter 12 (relating to Independent Review Organizations); Chapter 15 (relating to Surplus Lines Insurance); Chapter 24 (relating to Discount Health Care Program Principles of Regulation); Chapter 29 (relating to Guaranty Acts); and Chapter 31 (relating to Liquidation).

TDI will consider whether the reasons for initially adopting these rules continue to exist and determine whether these rules should be repealed, re-adopted, or re-adopted with amendments. Any repeals or necessary

amendments identified during the review of these rules will be proposed in a separate rulemaking document and published in the *Texas Register* under the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TDI will consider any written comments on the rule review that are received by TDI no later than 5:00 p.m., central time, on April 18, 2022. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC-GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

TRD-202200841
James Person
General Counsel
Texas Department of Insurance
Filed: March 8, 2022

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Adopted Rule Reviews

Texas State Board of Pharmacy

Title 22, Part 15

The Texas State Board of Pharmacy adopts the review of Chapter 291, (§§291.51 - 291.55), concerning Pharmacies (Nuclear Pharmacy (Class B)), Chapter 309, (§§309.1 - 309.8), concerning Substitution of Drug Products, pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules. The proposed review was published in the December 24, 2021, issue of the *Texas Register* (46 TexReg 9064).

No comments were received.

The agency finds the reasons for adopting the rules contained in Chapter 291 and Chapter 309 continue to exist.

TRD-202200765
Timothy L. Tucker, Pharm.D.
Executive Director
Texas State Board of Pharmacy
Filed: March 3, 2022

◆ ◆ ◆
The Texas State Board of Pharmacy adopts the review of Chapter 305, (§305.1 and §305.2), concerning Educational Requirements, pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules. The proposed review was published in the December 24, 2021, issue of the *Texas Register* (46 TexReg 9064).

No comments were received.

The agency finds the reasons for adopting the rules contained in Chapter 305 no longer exist.

TRD-202200790
Timothy L. Tucker, Pharm.D.
Executive Director
Texas State Board of Pharmacy
Filed: March 4, 2022

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TABLES &

GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 19 TAC Chapter 230 - Preamble

Revised Draft Timeline and Implementation Plan		
Implementation Year	Implementation Phase	Implementation Actions
2022-2023	<p>Non-Consequential Implementation with Choice: Candidates have the option to take the edTPA or PPR. No official cut score would be implemented during this period. Candidates would "pass" the edTPA when they submit a complete edTPA portfolio.</p>	<p>edTPA would be an option as an assessment in addition to the PPR: EC-12 exam for the demonstration of pedagogical knowledge and skills for the majority of initial educator certification categories.</p> <p>The edTPA would be implemented non-consequentially as a data collection year. In addition, this first year of non-consequential implementation with choice will allow EPPs to further engage in learning opportunities (e.g., attend targeted trainings and webinars; partner with programs who participated in the previous, 3-year edTPA pilot to identify and implement best practices) to inform and support the subsequent phased-in years of edTPA implementation.</p> <p>To support this learning process, EPPs would not be held accountable for candidate performance on the edTPA during the 2022-2023 academic year in the EPP's Accountability System for Educator Preparation (ASEP) rating.</p> <p>SBEC rulemaking to implement candidate edTPA performance as a component of an EPP's ASEP accountability for the 2023-2024 academic year onward.</p> <p>A standard setting committee, comprised of Texas educators, would recommend passing standards informed by the three years of edTPA pilot data and the first non-consequential implementation year data (Spring 2024).</p> <p>Commissioner rulemaking period to implement committee recommended passing standards would begin.</p> <p>Note: For the purpose of the non-consequential implementation period, a complete portfolio would be defined as a portfolio with less than two condition codes. This mirrors the requirements for teacher candidates during the edTPA pilot.</p>
2023-2024	<p>Non-Consequential Implementation: No official cut score would be implemented during this period. Candidates would "pass" the edTPA when they submit a complete edTPA portfolio.</p>	<p>edTPA would be required non-consequentially for all test takers* as a data collection year beginning September 1, 2023.</p> <p>EPPs would be held accountable for candidate performance on the edTPA during the 2023-2024 academic year in the EPP's ASEP rating, though the edTPA would continue to be implemented non-consequentially.</p> <p>edTPA passing standards would be adopted in commissioner rules by January 2024, with an effective</p>

Revised Draft Timeline and Implementation Plan (continued)		
Implementation Year	Implementation Phase	Implementation Actions
		<p>date of September 2024, in order to provide ample notice to the field.</p> <p>Note: For the purpose of the non-consequential implementation period, a complete portfolio would be defined as a portfolio with less than two condition codes. This mirrors the requirements for teacher candidates during the edTPA pilot.</p>
2024-2025	<p>Consequential Implementation: An official cut score would be implemented during this period. Candidates would need to meet or exceed the given cut score to pass the exam.</p>	<p>edTPA would be required consequentially for all test takers* beginning September 1, 2024.</p> <p>EPPs would be held accountable for candidate performance on the edTPA during the 2024-2025 academic year in the EPP's ASEP rating.</p> <p>edTPA passing standards would be effective as of September 1, 2024.</p>

**The requirement would exclude the Trade and Industrial Education: EC-12, Trade and Industrial Workforce Training: Grades 6-12, and the Junior Reserve Officer Training Corps (JROTC): Grades 6-12 certificate categories because the certificates have a separate pedagogy exam requirement.*

Figure: 19 TAC §230.21(e) [~~Figure: 19 TAC §230.21(e)~~]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Art			
§233.10	Art: Early Childhood–Grade 12	178 Art EC–12 Texas Examinations of Educator Standards (TExES)	160 Pedagogy and Professional Responsibilities (PPR) EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2015 edTPA: Visual Arts [(pilot exam)]
Bilingual Education			
§233.6	Bilingual Education Supplemental: Spanish	164 Bilingual Education Supplemental TExES and 190 Bilingual Target Language Proficiency (BTLPT)—Spanish TExES	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: American Sign Language	164 Bilingual Education Supplemental TExES and 184 American Sign Language (ASL) EC–12 TExES and 073 Texas Assessment of Sign Communications—American Sign Language (TASC—ASL)	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: Arabic	164 Bilingual Education Supplemental TExES and American Council for the Teaching of Foreign Languages (ACTFL) 614 Oral Proficiency Interview (OPI)—Arabic and 615 Writing Proficiency Test (WPT)—Arabic	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: Chinese	164 Bilingual Education Supplemental TExES and ACTFL 618 OPI—Chinese (Mandarin) and 619 WPT—Chinese (Mandarin)	Not Applicable: Not a Stand-alone Certificate

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Bilingual Education (continued)			
§233.6	Bilingual Education Supplemental: Japanese	164 Bilingual Education Supplemental TExES and ACTFL 616 OPI—Japanese and 617 WPT—Japanese	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: Vietnamese	164 Bilingual Education Supplemental TExES and ACTFL 620 OPI—Vietnamese and 621 WPT—Vietnamese	Not Applicable: Not a Stand-alone Certificate
Career and Technical Education			
§233.13	Technology Education: Grades 6–12	171 Technology Education 6–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2143 edTPA: Technology and Engineering Education [(pilot exam)] or 2151 edTPA: Career and Technical Education
§233.13	Family and Consumer Sciences, Composite: Grades 6–12	American Association of Family and Consumer Sciences (AAFCS) 200 Family and Consumer Sciences—Composite Examination	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2117 edTPA: Family and Consumer Sciences [(pilot exam)] or 2151 edTPA: Career and Technical Education
§233.13	Human Development and Family Studies: Grades 8–12	AAFCS 202 Human Development and Family Studies Concentration Examination	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2117 edTPA: Family and Consumer Sciences [(pilot exam)] or 2151 edTPA: Career and Technical Education
§233.13	Hospitality, Nutrition, and Food Sciences: Grades 8–12	AAFCS 201 Hospitality, Nutrition, and Food Science Concentration Examination	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2117 edTPA: Family and Consumer Sciences [(pilot exam)] or 2151 edTPA: Career and Technical Education

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Career and Technical Education (continued)			
§233.13	Agriculture, Food, and Natural Resources: Grades 6–12	272 Agriculture, Food, and Natural Resources 6–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2100 edTPA: Agricultural Education [[[pilot exam]]] or 2151 edTPA: <u>Career and Technical Education</u>
§233.13	Business and Finance: Grades 6–12	276 Business and Finance 6–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2102 edTPA: Business Education [[[pilot exam]]] or 2151 edTPA: <u>Career and Technical Education</u>
§233.14	Marketing: Grades 6–12	275 Marketing 6–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2102 edTPA: Business Education [[[pilot exam]]] or 2151 edTPA: <u>Career and Technical Education</u>
§233.14	Health Science: Grades 6–12	273 Health Science 6–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2151 edTPA: <u>Career and Technical Education</u>
§233.14	Trade and Industrial Education: Grades 6–12	Not Applicable	270 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6–12 TExES (last operational date 8/31/2021) Starting 9/1/2021 370 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6–12 TExES

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Career and Technical Education (continued)			
§233.14	Trade and Industrial Workforce Training: Grades 6–12	Not Applicable	370 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6–12 TExES
Computer Science and Technology Applications			
§233.5	Computer Science: Grades 8–12	241 Computer Science 8–12 TExES	160 PPR EC–12 TExES (last operational date 8/31/2023) or 2143 edTPA: Technology and Engineering Education [(pilot exam)]
§233.5	Technology Applications: Early Childhood–Grade 12	242 Technology Applications EC–12 TExES	160 PPR EC–12 TExES (last operational date 8/31/2023) or 2108 edTPA: Educational Technology Specialist [(pilot exam)]
Core Subjects			
§233.2	Core Subjects: Early Childhood–Grade 6	291 Core Subjects EC–6 TExES	160 PPR EC–12 TExES or 2110 edTPA: Elementary Education: Literacy with Mathematics Task 4 (pilot exam)]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Core Subjects (continued)			
§233.2	Core Subjects with Science of Teaching Reading: Early Childhood–Grade 6	293 Science of Teaching Reading TExES and either: 291 Core Subjects EC–6 TExES (last operational date 12/31/2021) or 391 Core Subjects EC–6 TExES (starting 1/1/2021)	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2110 edTPA: Elementary Education: Literacy with Mathematics Task 4 [(pilot exam)] or 2001 edTPA: Elementary Literacy or 2002 edTPA: <u>Elementary Mathematics or 2149 edTPA: Elementary Education: Mathematics with Literacy Task 4 or 2014 edTPA: Early Childhood Education or 2016 edTPA: Middle Childhood Mathematics or 2017 edTPA: Middle Childhood Science or 2018 edTPA: Middle Childhood English Language Arts or 2019 edTPA: Middle Childhood History/Social Studies</u>
[§233.2	Core Subjects: Grades 4–8	211 Core Subjects 4–8 TExES	160 PPR EC–12 TExES or 2016 edTPA: Middle Childhood Mathematics (pilot exam) or 2017 edTPA: Middle Childhood Science (pilot exam) or 2018 edTPA: Middle Childhood English Language Arts (pilot exam) or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Core Subjects (continued)			
§233.2	Core Subjects with Science of Teaching Reading: Grades 4–8	293 Science of Teaching Reading TExES and 211 Core Subjects 4–8 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2016 edTPA: Middle Childhood Mathematics [pilot exam] or 2017 edTPA: Middle Childhood Science [pilot exam] or 2018 edTPA: Middle Childhood English Language Arts [pilot exam] or 2019 edTPA: Middle Childhood History/Social Studies [pilot exam]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Counselor			
§239.20	School Counselor: Early Childhood–Grade 12	152 School Counselor EC–12 TExES (last operational date 8/31/2021) Starting 9/1/2021 252 School Counselor EC–12 TExES	Not Applicable: Not an Initial Certificate
Dance			
§233.10	Dance: Grades 6–12	279 Dance 6–12 TExES	160 PPR EC–12 TExES (last operational date 8/31/2023) or 2021 edTPA: K–12 Performing Arts [pilot exam]
Early Childhood			
§233.2	Early Childhood: Prekindergarten–Grade 3	292 Early Childhood: PK–3 TExES and 293 Science of Teaching Reading TExES	160 PPR EC–12 TExES (last operational date 8/31/2023) or 2014 edTPA: Early Childhood Education [pilot exam]
Educational Diagnostician			
§239.84	Educational Diagnostician: Early Childhood–Grade 12	153 Educational Diagnostician EC–12 TExES (last operational date 12/31/2020) Starting 1/1/2021 251 Educational Diagnostician EC–12 TExES	Not Applicable: Not an Initial Certificate

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
English Language Arts and Reading			
§233.3	English Language Arts and Reading: Grades 4–8	117 English Language Arts and Reading 4–8 TExES	160 PPR EC–12 TExES or 2018 edTPA: Middle Childhood English Language Arts (pilot exam)]
§233.3	English Language Arts and Reading with Science of Teaching Reading: Grades 4–8	293 Science of Teaching Reading TExES and 117 English Language Arts and Reading 4–8 TExES (last operational date 12/31/2021) or 217 English Language Arts and Reading 4–8 TExES (starting 1/1/2022)	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2018 edTPA: Middle Childhood English Language Arts [pilot exam]
§233.3	English Language Arts and Reading: Grades 7–12	231 English Language Arts and Reading 7–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2003 edTPA: Secondary English Language Arts [pilot exam]
§233.3	English Language Arts and Reading/Social Studies: Grades 4–8	113 English Language Arts and Reading/ Social Studies 4–8 TExES	160 PPR EC–12 TExES or 2018 edTPA: Middle Childhood English Language Arts (pilot exam) or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)]
§233.3	English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4–8	293 Science of Teaching Reading TExES and 113 English Language Arts and Reading/ Social Studies 4–8 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2018 edTPA: Middle Childhood English Language Arts [pilot exam] or 2019 edTPA: Middle Childhood History/Social Studies [pilot exam]
§239.93	Reading Specialist: Early Childhood–Grade 12	151 Reading Specialist EC–12 TExES	Not Applicable: Not an Initial Certificate

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
English as a Second Language			
§233.7	English as a Second Language Supplemental	154 English as a Second Language Supplemental TExES	Not Applicable: Not a Stand-alone Certificate
Gifted and Talented			
§233.9	Gifted and Talented Supplemental	162 Gifted and Talented TExES	Not Applicable: Not a Stand-alone Certificate
Health			
§233.11	Health: Early Childhood–Grade 12	157 Health Education EC–12 TExES	160 PPR EC–12 TExES (last operational date 8/31/2023) or 2119 edTPA: Health Education [(pilot exam)]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Journalism			
§233.3	Journalism: Grades 7–12	256 Journalism 7–12 TExES	160 PPR EC–12 TExES <u>(last operational date 8/31/2023)</u> or 2003 edTPA: Secondary English Language Arts [pilot exam]
Junior Reserve Officer Training			
§233.17	Junior Reserve Officer Training Corps: Grades 6–12	Not Applicable	160 PPR EC–12 TExES <u>(last operational date 8/31/2023)</u> or 370 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6–12 TExES
Languages Other Than English			
§233.15	American Sign Language: Early Childhood–Grade 12	184 ASL EC–12 TExES and 073 TASC–ASL	160 PPR EC–12 TExES <u>(last operational date 8/31/2023)</u> or 2020 edTPA: World Language [pilot exam]
§233.15	Arabic: Early Childhood–Grade 12	ACTFL 605 OPI—Arabic and 600 WPT—Arabic	160 PPR EC–12 TExES <u>(last operational date 8/31/2023)</u> or 2020 edTPA: World Language [pilot exam]
§233.15	Chinese: Early Childhood–Grade 12	ACTFL 606 OPI—Chinese (Mandarin) and 601 WPT—Chinese (Mandarin)	160 PPR EC–12 TExES <u>(last operational date 8/31/2023)</u> or 2020 edTPA: World Language [pilot exam]
§233.15	French: Early Childhood–Grade 12	610 Languages Other Than English (LOTE) French EC–12 TExES	160 PPR EC–12 TExES <u>(last operational date 8/31/2023)</u> or 2020 edTPA: World Language [pilot exam]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Languages Other Than English (continued)			
§233.15	German: Early Childhood–Grade 12	611 LOTE German EC–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2020 edTPA: World Language [[[pilot exam]]]
§233.15	Hindi: Early Childhood–Grade 12	ACTFL 622 OPI—Hindi and 623 WPT—Hindi	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2020 edTPA: World Language [[[pilot exam]]]
§233.15	Italian: Early Childhood–Grade 12	ACTFL 624 OPI—Italian and 625 WPT—Italian	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2020 edTPA: World Language [[[pilot exam]]]
§233.15	Japanese: Early Childhood–Grade 12	ACTFL 607 OPI—Japanese and 602 WPT—Japanese	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2020 edTPA: World Language [[[pilot exam]]]
§233.15	Korean: Early Childhood–Grade 12	ACTFL 630 OPI—Korean and 631 WPT—Korean	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2020 edTPA: World Language [[[pilot exam]]]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Languages Other Than English (continued)			
§233.15	Latin: Early Childhood–Grade 12	612 LOTE Latin EC–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2104 edTPA: Classical Languages [pilot exam]
§233.15	Portuguese: Early Childhood–Grade 12	ACTFL 632 OPI–Portuguese and 633 WPT–Portuguese	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2020 edTPA: World Language [pilot exam]
§233.15	Russian: Early Childhood–Grade 12	ACTFL 608 OPI–Russian and 603 WPT–Russian	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2020 edTPA: World Language [pilot exam]
§233.15	Spanish: Early Childhood–Grade 12	613 LOTE Spanish EC–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2020 edTPA: World Language [pilot exam]
§233.15	Turkish: Early Childhood–Grade 12	ACTFL 626 OPI–Turkish and 627 WPT–Turkish	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2020 edTPA: World Language [pilot exam]
§233.15	Vietnamese: Early Childhood–Grade 12	ACTFL 609 OPI–Vietnamese and 604 WPT–Vietnamese	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2020 edTPA: World Language [pilot exam]
Librarian			
§239.60	School Librarian: Early Childhood–Grade 12	150 School Librarian Early Childhood–12 TExES	Not Applicable: Not an Initial Certificate

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Mathematics and Science			
§233.4	Mathematics: Grades 4–8	115 Mathematics 4–8 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2016 edTPA: Middle Childhood Mathematics [pilot exam]
§233.4	Science: Grades 4–8	116 Science 4–8 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2017 edTPA: Middle Childhood Science [pilot exam]
§233.4	Mathematics/Science: Grades 4–8	114 Mathematics/ Science 4–8 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2016 edTPA: Middle Childhood Mathematics [pilot exam] or 2017 edTPA: Middle Childhood Science [pilot exam]
§233.4	Mathematics: Grades 7–12	235 Mathematics 7–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2005 edTPA: Secondary Mathematics [pilot exam]
§233.4	Science: Grades 7–12	236 Science 7–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2006 edTPA: Secondary Science [pilot exam]
§233.4	Life Science: Grades 7–12	238 Life Science 7–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2006 edTPA: Secondary Science [pilot exam]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Mathematics and Science (continued)			
§233.4	Physical Science: Grades 6–12	237 Physical Science 6–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2006 edTPA: Secondary Science [pilot exam]
§233.4	Physics/Mathematics: Grades 7–12	243 Physics/Mathematics 7–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2005 edTPA: Secondary Mathematics [pilot exam] or 2006 edTPA: Secondary Science [pilot exam]
§233.4	Mathematics/Physical Science/Engineering: Grades 6–12	274 Mathematics/Physical Science/Engineering 6–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2005 edTPA: Secondary Mathematics [pilot exam] or 2006 edTPA: Secondary Science [pilot exam] or 2143 edTPA: Technology and Engineering Education [pilot exam]
§233.4	Chemistry: Grades 7–12	240 Chemistry 7–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2006 edTPA: Secondary Science [pilot exam]
Music			
§233.10	Music: Early Childhood–Grade 12	177 Music EC–12 TExES	160 PPR EC–12 TExES (last operational date <u>8/31/2023</u>) or 2021 edTPA: K–12 Performing Arts [pilot exam]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Physical Education			
§233.12	Physical Education: Early Childhood–Grade 12	158 Physical Education EC–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2011 edTPA: Physical Education [(pilot exam)]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Principal and Superintendent			
§241.20	Principal as Instructional Leader: Early Childhood–Grade 12	268 Principal as Instructional Leader TExES	Educational Testing Service (ETS) 368 Performance Assessment for School Leaders (PASL)
§241.35	Principal as Instructional Leader Endorsement	Not Applicable: Not an Initial Certificate (Individuals must already hold a valid certificate to serve in the role of principal to be eligible for this endorsement.)	Educational Testing Service (ETS) 368 Performance Assessment for School Leaders (PASL)
§242.20	Superintendent: Early Childhood–Grade 12	195 Superintendent TExES	Not Applicable: Not an Initial Certificate
Social Studies			
§233.3	Social Studies: Grades 4–8	118 Social Studies 4–8 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2019 edTPA: Middle Childhood History/Social Studies [(pilot exam)]
§233.3	Social Studies: Grades 7–12	232 Social Studies 7–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2004 edTPA: Secondary History/Social Studies [(pilot exam)]
§233.3	History: Grades 7–12	233 History 7–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2004 edTPA: Secondary History/Social Studies [(pilot exam)]
Speech Communications			
§233.3	Speech: Grades 7–12	129 Speech 7–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2003 edTPA: Secondary English Language Arts [(pilot exam)]

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Required Pedagogy Test(s) [Pedagogical Requirement(s)]
Special Education			
§233.8	Special Education: Early Childhood–Grade 12	161 Special Education EC–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2012 edTPA: Special Education [pilot exam]
§233.8	Special Education Supplemental	163 Special Education Supplemental TExES	Not Applicable: Not a Stand-alone Certificate
§233.8	Teacher of the Deaf and Hard of Hearing: Early Childhood–Grade 12	181 Deaf and Hard of Hearing EC–12 TExES and 072 TASC or 073 TASC—ASL (required for assignment but not for certification)	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2012 edTPA: Special Education [pilot exam]
§233.8	Teacher of Students with Visual Impairments Supplemental: Early Childhood–Grade 12	182 Visually Impaired TExES and 283 Braille TExES	Not Applicable: Not a Stand-alone Certificate
Theatre			
§233.10	Theatre: Early Childhood–Grade 12	180 Theatre EC–12 TExES	160 PPR EC–12 TExES (<u>last operational date 8/31/2023</u>) or 2021 edTPA: K–12 Performing Arts [pilot exam]

STATE BOARD FOR EDUCATOR CERTIFICATION

Petition for Adoption of a Rule

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

The petition [Petitions] should be signed and submitted [to]:

by mail to Rulemaking Division, Texas Education Agency, 1701 North Congress Avenue, Austin Texas 78701-1494; or [Office of Educator Leadership and Quality]

[Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494]

by using the email button at the bottom of this petition form or by emailing directly to sbecrules@tea.texas.gov.

Name:

Affiliation/Organization (if applicable):

Address:

Email Address:

Telephone:

Date:

Texas Government Code, §2001.021, specifies that an interested person must meet one of the following criteria. Please check all of the following that apply to you.

- resident of Texas
- business entity located in Texas
- governmental subdivision located in Texas
- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

Statutory authority for the proposed rule action:

Why is this rule action necessary or desirable?

(If more space is required, attach additional sheets.)

Petitioner's Signature

(Typing your name in the field above serves as your signature for the purposes of this petition.)

[Click here to submit petition form](#)



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.

Comptroller of Public Accounts

Local Sales Tax Rate Changes Effective April 1, 2022

An additional 1/2 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will be abolished, effective March 31, 2022 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Stratford (Sherman Co)	2211014	.015000	.077500

The additional 1 percent city sales and use tax for Municipal Street Maintenance and Repair will be reduced to 1/4 percent as permitted under Chapter 327 of the Texas Tax Code, effective April 1, 2022 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Coupland (Williamson Co)	2246120	.012500	.075000

The city sales and use tax will be increased to 1 1/4 percent as permitted under Chapter 321 of the Texas Tax Code, effective April 1, 2022 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Horseshoe Bay (Burnet Co)	2027072	.020000	.082500
Horseshoe Bay (Llano Co)	2027072	.020000	.082500

The city sales and use tax will be increased to 2 percent as permitted under Chapter 321 of the Texas Tax Code, effective April 1, 2022 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Trent (Taylor Co)	2221030	.020000	.082500

An additional 1/2 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective April 1, 2022 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Benjamin (Knox Co)	2138032	.020000	.082500

A 1 percent special purpose district sales and use tax will become effective April 1, 2022 in the special purpose district listed below.

SPD NAME	LOCAL CODE	NEW RATE	DESCRIPTION
Cass County Emergency Services District No. 3-A	5034545	.010000	SEE NOTE 1

A 1 1/2 percent special purpose district sales and use tax will become effective April 1, 2022 in the special purpose districts listed below.

SPD NAME	LOCAL CODE	NEW RATE	DESCRIPTION
Comal County Emergency Services District No. 7	5046587	.015000	SEE NOTE 2
Nueces County Emergency Services District No. 4	5178514	.015000	SEE NOTE 3

A 2 percent special purpose district sales and use tax will become effective April 1, 2022 in the special purpose districts listed below.

SPD NAME	LOCAL CODE	NEW RATE	DESCRIPTION
Cass County Emergency Services District No. 3	5034536	.020000	SEE NOTE 4
Fort Bend County Assistance District No. 23	5079738	.020000	SEE NOTE 5
Somervell County Assistance District	5213511	.020000	SEE NOTE 6

NOTE 1: The Cass County Emergency Services District No. 3-A is the portion of the district located in the city of Bloomburg. Contact the district representative at 903-748-3994 for additional boundary information.

NOTE 2: The Comal County Emergency Services District No. 7 is located in the southeastern portion of Comal County, which has a county sales and use tax. The unincorporated areas of Comal County in ZIP Codes 78130, 78132 and 78135 are partially located within the Comal County Emergency Services District No. 7. Contact the district representative at 830-237-5891 for additional boundary information.

NOTE 3: The Nueces County Emergency Services District No. 4 is located in the northwestern portion of Nueces County. The district is located entirely within the Corpus Christi MTA, which has a transit sales and use tax. The unincorporated areas of Nueces County in ZIP Codes 78339, 78380 and 78383 are partially located within the Nueces County Emergency Services District No. 4. Contact the district representative at 361-387-4066 for additional boundary information.

NOTE 4: The Cass County Emergency Services District No. 3 is the unincorporated portion of the district located in the southeastern portion of Cass County. The unincorporated areas of Cass County in ZIP Codes 75551 and 75556 are partially located within the Cass County Emergency Services District No. 3. Contact the district representative at 903-748-3994 for additional boundary information.

NOTE 5: The Fort Bend County Assistance District No. 23 is located in the south central portion of Fort Bend County. The unincorporated areas of Fort Bend County in ZIP Code 77469 are partially located within the Fort Bend County Assistance District No. 23. Contact the district representative at 281-403-8003 for additional boundary information.

NOTE 6: The Somervell County Assistance District has the same boundaries as Somervell County. The district excludes area within the city of Glen Rose. Contact the district representative at 254-897-2322 for additional boundary information.

TRD-202200839
 William Hamner
 Special Counsel for Tax Administration
 Comptroller of Public Accounts
 Filed: March 8, 2022

² Credit for business, commercial, investment or other similar purpose.
 TRD-202200842
 Leslie L. Pettijohn
 Commissioner
 Office of Consumer Credit Commissioner
 Filed: March 8, 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 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/14/22 - 03/20/22 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 03/14/22 - 03/20/22 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

◆ ◆ ◆
Commission on State Emergency Communications

Rider 9 Workshop - Plan for Continued Funding of Statewide 9-1-1 Service

(REVISED)

COMMISSION ON STATE EMERGENCY COMMUNICATIONS

PUBLIC NOTICE OF WORKSHOP REGARDING RIDER 9 - PLAN FOR CONTINUED FUNDING OF STATEWIDE 9-1-1 SERVICE

NOTICE: Due to anticipated weather issues, the previously noticed Rider 9 public workshop has been rescheduled by the Commission on State Emergency Communications ("CSEC") to **March 23, 2022, immediately following CSEC's open meeting. The open meeting will begin at 10:00 a.m. and is expected to adjourn by 11:00. The open meeting and the workshop will be held at the William P. Hobby Building, David P. Mattax Hearing Room, 333 Guadalupe Street, Room 100, Austin, Texas 78701.** All interested persons are invited to attend this in-person, public workshop. CSEC encourages Texas 9-1-1 Entities to attend the workshop, and to submit comments irrespective of whether attending the workshop. **Please note that no audio or video conference bridge will be available for the workshop.**

For more information, including Staff's Request for Comments, please go to the "What's New at CSEC" section of our website at <https://www.csec.texas.gov/> under "Rider 9 - Continued Funding of Statewide 9-1-1 Service Workshop" and to the separate Rider 9 Workshop webpage (<https://www.csec.texas.gov/s/9-1-1-program>).

To register for the workshop, contact Melinda Crockom at melinda.crockom@csec.texas.gov or (512) 305-6928. Questions concerning the workshop or this notice should be sent to Patrick Tyler at patrick.tyler@csec.texas.gov or 512.305.6915.

RIDER 9 PLAN: The 87th Texas Legislature included Rider 9 in CSEC's bill pattern in the General Appropriations Act for Fiscal Years 2022-2023. Rider 9 requires CSEC to:

[D]evelop a plan for the continued long-term funding of the statewide 9-1-1 services program and agency operations out of General Revenue-Dedicated 911 Service Fees Account No. 5050 and submit the plan to the Legislative Budget Board and Office of the Governor not later than July 1, 2022.

The plan must specify:

- (1) options to modify or re-structure the program and operations to preserve balances of Account No. 5050;
- (2) options to fund the program out of alternative methods of finance; and
- (3) any additional items requested by the Legislative Budget Board or Office of the Governor.

The plan must also identify any statutory changes necessary to implement the options specified.

Rider 9 is specifically focused on the long-term funding of the CSEC-Regional Planning Commission 9-1-1 service program. During CSEC's November 2021 open meeting, the Commissioners directed staff to also address in the plan funding of the 9-1-1 service programs of Texas's 57 Emergency Communication Districts.

Note: This notice is neither a formal notice of proposed rulemaking nor will the workshop lead to a rulemaking proceeding.

Workshop Accessibility: Persons planning to attend the meeting who require auxiliary aids, services, or special accommodations should request appropriate arrangements as far in advance of the workshop as possible by contacting Karen Paul-Lee at 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701, by email to KarenP@csec.texas.gov, or by phone at (512) 305-6911.

TRD-202200770

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Filed: March 3, 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 **April 18, 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 **April 18, 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: City of Baird; DOCKET NUMBER: 2020-1517-MLM-E; IDENTIFIER: RN101387462; LOCATION: Baird, Callahan County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(e)(5), by failing to ensure the raw water pump station and all appurtenances are installed in a lockable building that is designed to prevent intruder access or enclosed by an intruder-resistant fence with lockable gates; 30 TAC §290.42(d)(2)(A), by failing to provide vacuum breakers on each hose bibb within the plant facility; 30 TAC §290.42(e)(3)(D), by failing to provide facilities for determining the amount of disinfectant used daily and the amount of disinfectant remaining for use; 30 TAC §290.42(e)(4)(A), by failing to provide a full-face self-contained breathing apparatus or supplied air respirator that meets Occupational Safety and Health Administration standards for construction and operation, and a small bottle of fresh ammonia solution for testing for chlorine leakage that is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency; 30 TAC §290.42(e)(4)(B), by failing to house the gas chlorination equipment and cylinders of chlorine in separate buildings or separate rooms with impervious walls or partitions separating all mechanical and electrical equipment from the chlorine facilities; 30 TAC §290.42(e)(4)(C), by failing to provide forced air ventilation, which includes high level and floor level screened and louvered vents, a fan which is located at and draws air in through the top vent and discharges to the outside atmosphere through the floor level vent, and a fan switch outside, for enclosures containing more than one 150-pound cylinder of chlorine; 30 TAC §290.42(f)(1)(C), by failing to provide all chemical bulk storage facilities and day tanks with a label that identifies the tank's contents and

a device that indicates the amount of chemical remaining in the tank; 30 TAC §290.42(f)(1)(E), by failing to provide chemical bulk storage facilities and day tanks that are designed to minimize the possibility of leaks and spills; 30 TAC §290.42(f)(2)(D), by failing to use a chemical feed system designed to minimize the possibility of leaks and spills and provide protection against backpressure and siphoning; 30 TAC §290.42(h), by failing to provide toilet and hand washing facilities with established standards of good public health engineering practices at all installations requiring frequent visits by operating personnel; 30 TAC §290.42(m), by failing to ensure the water treatment plant and all appurtenances are enclosed by an intruder-resistant fence with lockable gates or in a locked building in the fence line; 30 TAC §290.43(c)(2), by failing to ensure that the facility's clearwell roof hatch remains locked except during inspections and maintenance; 30 TAC §290.43(c)(3), by failing to maintain the facility's storage tanks in strict accordance with current American Water Works Association standards with an overflow pipe that terminates downward with a gravity-hinged and weighted cover tightly fitted with no gap over 1/16 inch; 30 TAC §290.44(h)(4), by failing to have all backflow prevention assemblies tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications; 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a minimum disinfectant residual of 0.5 milligrams per liter of chloramine throughout the distribution system and in each finished water storage tank at all times; 30 TAC §290.46(e), by failing to use a water works operator who holds an applicable, valid license issued by the executive director(ED); 30 TAC §290.46(f)(2) and (3)(A)(i)(I), (B)(iii) and (iv), (D)(i), (E)(ii) and (iv), by failing to maintain water works operation and maintenance records organized and make them readily available for review by the ED upon request; 30 TAC §290.46(l), by failing to flush all dead-end mains at monthly intervals; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.46(m)(1)(A), by failing to inspect the facility's clearwell annually; 30 TAC §290.46(s)(2)(A), by failing to calibrate the facility's pH meter according to manufacturer specifications at least once each day and check with at least one buffer each time a series of samples is run; 30 TAC §290.46(s)(2)(B)(i) and (ii), by failing to calibrate the facility's benchtop turbidimeter with primary standards at least once every 90 days and check the calibration with secondary standards each time a series of samples is tested; 30 TAC §290.46(s)(2)(B)(iii) and (iv), by failing to calibrate the facility's five on-line turbidimeters with primary standards at least once every 90 days and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week; 30 TAC §290.46(s)(2)(C)(i) and (D), by failing to verify the accuracy of the manual disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentrations, and failing to verify the accuracy of analyzers used to determine the effectiveness of chloramination at least once every 90 days in accordance with the manufacturer's recommendations, additionally, there was no verification key for one analyzer, no low range secondary standards, and high range standards expired in 2019; 30 TAC §290.46(s)(2)(C)(ii), by failing to verify the accuracy of the facility's continuous disinfectant analyzer at least once every seven days with a chlorine solution of known concentration or by comparing the results from the on-line analyzer with the result of approved benchtop method; 30 TAC §290.46(z), by failing to create a nitrification action plan for a system distributing chloraminated water; 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; 30 TAC §290.110(e)(2) and (6) and §290.111(h)(2)(B) and (9), by failing to submit a Surface Water Monthly Operating Report with the required turbidity and disinfectant residual data to the ED by the tenth day of the month following the end of the reporting period for August and September 2020; 30 TAC §290.111(e)(3)(B), by failing to properly monitor the turbidity level of the combined filter effluent at least every four hours that the system serves water to the public; 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at all the sites that were tested, and failing to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2017 - December 31, 2019, monitoring period; and TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state; PENALTY: \$35,405; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$35,405; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(2) COMPANY: City of Euless; DOCKET NUMBER: 2021-0773-WQ-E; IDENTIFIER: RN102879814; LOCATION: Euless, Tarrant County; TYPE OF FACILITY: public water supply; RULE VIOLATED: TWC, §26.121(a)(2), by failing to prevent the unauthorized discharge of pollutants into or adjacent to waters of the state; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: City of Karnes City; DOCKET NUMBER: 2021-1032-PWS-E; IDENTIFIER: RN101236842; LOCATION: Karnes City, Karnes County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(f)(2) and (3)(D)(vii), and (E)(iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; PENALTY: \$50; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(4) COMPANY: City of Liberty Hill; DOCKET NUMBER: 2021-0806-EAQ-E; IDENTIFIER: RN104102132; LOCATION: Liberty Hill, Williamson County; TYPE OF FACILITY: wastewater treatment facility; RULE VIOLATED: 30 TAC §213.23(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone; PENALTY: \$15,500; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(5) COMPANY: City of Timpson; DOCKET NUMBER: 2021-0931-MWD-E; IDENTIFIER: RN102805850; LOCATION: Timpson, Shelby County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.65 and §305.125(2) and TWC, §26.121(a)(1), by failing to maintain authorization to discharge wastewater into or adjacent to any water in the state; PENALTY: \$12,000; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(6) COMPANY: Eastman Chemical Company; DOCKET NUMBER: 2021-1017-AIR-E; IDENTIFIER: RN100219815; LOCATION: Longview, Harrison County; TYPE OF FACILITY: industrial organic chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(2), 113.100, 116.115(c), and 122.143(4), 40 Code of Federal

Regulations §63.6(e)(i) and (ii), New Source Review (NSR) Permit Number 48626, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Number O1971, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Numbers 6 and 14, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), NSR Permit Number 78809, SC Number 1, FOP Number O1977, GTC and STC Number 15, THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$33,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$13,500; ENFORCEMENT COORDINATOR: Kate Dacy, (512) 239-4593; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: Galena Park Independent School District; DOCKET NUMBER: 2021-1061-PWS-E; IDENTIFIER: RN104213012; LOCATION: Galena Park, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(d)(2)(A), (h), and (i)(2), by failing to collect one lead and copper sample from the facility's one entry point no later than 180 days after the end of the January 1, 2018 - December 31, 2020, monitoring period during which the copper action level was exceeded, have the sample analyzed, and report the results to the executive director (ED); 30 TAC §290.117(f)(3)(A), by failing to submit a recommendation to the ED for optimal corrosion control treatment within six months after the end of the January 1, 2018 - December 31, 2020, monitoring period during which the copper action level was exceeded; and 30 TAC §290.117(g)(2)(A), by failing to submit a recommendation to the ED for source water treatment within 180 days after the end of the January 1, 2018 - December 31, 2020, monitoring period during which the copper action level was exceeded; PENALTY: \$1,787; ENFORCEMENT COORDINATOR: America Ruiz, (512) 239-2601; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: INEOS Styrolution America LLC; DOCKET NUMBER: 2021-0343-AIR-E; IDENTIFIER: RN100542224; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 5252, Special Conditions Number 1, Federal Operating Permit Number O1625, General Terms and Conditions and Special Terms and Conditions Number 12, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$4,688; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$1,875; ENFORCEMENT COORDINATOR: Kate Dacy, (512) 239-4593; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: MARINA QUEST, INC dba Texoma Marina and Resort; DOCKET NUMBER: 2021-0967-PWS-E; IDENTIFIER: RN102071990; LOCATION: Whitesboro, Grayson County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.109(d)(4)(B), by failing to collect, within 24 hours of notification of the routine distribution total coliform-positive samples on August 17, 2020, at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from each active groundwater source in use at the time the distribution coliform-positive samples were collected; PENALTY: \$967; ENFORCEMENT COORDINATOR: America Ruiz, (512) 239-2601; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(10) COMPANY: PADAM PRABHU INVESTMENT, INCORPORATED dba Stewart Food Mart 1; DOCKET NUMBER: 2021-0842-PST-E; IDENTIFIER: RN102480746; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: convenience

store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.225(2) and Texas Health and Safety Code, §382.085(b), by failing to comply with annual Stage I vapor recovery testing requirements; 30 TAC §334.48(g)(1)(A)(ii) and TWC, §26.3475(c)(2), by failing to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight; 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 within 30 days; PENALTY: \$32,407; ENFORCEMENT COORDINATOR: Courtney Gooris, (512) 239-1118; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: Reunion Ranch Water Control and Improvement District; DOCKET NUMBER: 2020-1510-MWD-E; IDENTIFIER: RN104000658; LOCATION: Austin, Hays County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §217.330(d), by failing to provide vacuum breakers on all potable water spigots; 30 TAC §305.125(1), TWC, §26.121(a)(1), and TCEQ Permit Number WQ0014480001, Effluent Limitations and Monitoring Requirements: Sites A and B, A, Effluent Limitations, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (5), and TCEQ Permit Number WQ0014480001, Operational Requirements Number 1 and Effluent Limitations and Monitoring Requirements: Sites A and B, A, Effluent Limitations, by failing to ensure the facility and all of its systems of collection, treatment, and disposal were properly operated and maintained; 30 TAC §305.125(1) and (5) and TCEQ Permit Number WQ0014480001, Special Provisions for Site A, Subsurface and Drip Irrigation for the Interim and Final Phases Numbers 4 and 6 and Operational Requirements Number 1, by failing to design and manage the subsurface irrigation area to prevent ponding or surfacing of effluent or contamination of ground and surface waters and to prevent nuisance conditions, and failing to maintain bermudagrass and ryegrass on the disposal site; and 30 TAC §305.125(1), §319.5(a), and TCEQ Permit Number WQ0014480001, Effluent Limitations and Monitoring Requirements: Sites A and B, B, Monitoring Requirements, by failing to collect effluent samples at the sampling point described in the permit; PENALTY: \$15,100; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,080; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(12) COMPANY: TAIMOOR INC dba New West End Grocery; DOCKET NUMBER: 2021-1049-PST-E; IDENTIFIER: RN101676096; LOCATION: Navasota, Grimes County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs); 30 TAC §334.49(c)(4)(C) and TWC, §26.3475(d), by failing to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years; 30 TAC §334.50(b)(2) and (d)(1)(B)(ii) and TWC, §26.3475(a) and (c)(1), by failing to provide release detection for the piping associated with the USTs, and failing to conduct reconciliation of detailed inventory control records at least once every 30 days, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the 30-day period plus 130 gallons; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for

each class of operator, Class A, Class B, and Class C, for the facility; PENALTY: \$14,714; ENFORCEMENT COORDINATOR: Berenice Munoz, (512) 239-2915; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(13) COMPANY: TEXMORE, INCORPORATED; DOCKET NUMBER: 2021-0910-AIR-E; IDENTIFIER: RN103783445; LOCATION: Manvel, Brazoria County; TYPE OF FACILITY: metal recycling site; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent nuisance conditions; PENALTY: \$11,875; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,250; ENFORCEMENT COORDINATOR: Kate Dacy, (512) 239-4593; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: Three Community Water Supply Corporation; DOCKET NUMBER: 2021-0790-PWS-E; IDENTIFIER: RN101451581; LOCATION: Brownsboro, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(h)(4), by failing to certify that backflow prevention assemblies are operating within specifications; 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute per connection; and 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; PENALTY: \$1,900; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(15) COMPANY: Victoria County Navigation District; DOCKET NUMBER: 2021-0535-PWS-E; IDENTIFIER: RN101250439; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(K), by failing to seal the wellhead by a gasket or sealing compound and provide a well casing vent for Well Number 1 that is covered within 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(b)(1) and (c)(3), by failing to provide continuous and effective disinfection that can be secured under all conditions; and 30 TAC §290.43(d)(2), by failing to provide the facility's pressure tanks with a pressure release device and an easily readable pressure gauge; PENALTY: \$12,450; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

TRD-202200829

Gitanjali Yadav

Acting Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 8, 2022



Enforcement Orders

An agreed order was adopted regarding Sandlot Sports, Inc, Docket No. 2019-1319-PWS-E on March 8, 2022, assessing \$4,060 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Megan Grace, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aly Hussein Ezzedine, Docket No. 2020-0242-PST-E on March 8, 2022, assessing \$2,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RAKAH INC. dba Quick Stop, Docket No. 2020-0598-PST-E on March 8, 2022, assessing \$4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blake Truax dba The Barn & Merri Truax dba The Barn, Docket No. 2020-1299-PWS-E on March 8, 2022, assessing \$7,121 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jess Robinson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202200848

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 9, 2022



Enforcement Orders

An agreed order was adopted regarding DANAM ENTERPRISES INC. dba Hildebrand Grocery, Docket No. 2018-0728-PST-E on March 9, 2022, assessing \$12,396 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Michael Avalos dba ARA Transportation, Docket No. 2018-1035-MSW-E on March 9, 2022, assessing \$1,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Barrett Hollingsworth, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Starr County, Docket No. 2019-0587-AIR-E on March 9, 2022, assessing \$14,250 in administrative penalties with \$2,850 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding FIGURE FOUR PARTNERS, LTD., Docket No. 2019-1405-WQ-E on March 9, 2022, assessing \$15,183 in administrative penalties with \$3,036 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Joe Gonzales and Louise Hutson, Docket No. 2020-0115-MSW-E on March 9, 2022, assessing \$7,875 in administrative penalties with \$1,575 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Richardson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Zapata County, Docket No. 2020-0444-MWD-E on March 9, 2022, assessing \$11,987 in administrative penalties with \$2,397 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding G & W Water Supply Corporation, Docket No. 2020-1164-PWS-E on March 9, 2022, assessing \$3,450 in administrative penalties with \$3,450 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding VADHWANI ENTERPRISES INC., Docket No. 2020-1183-PWS-E on March 9, 2022, assessing \$13,914 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lone Star NGL Fractionators LLC, Docket No. 2020-1439-AIR-E on March 9, 2022, assessing \$14,250 in administrative penalties with \$2,850 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Westpark Properties, LLC, Docket No. 2020-1563-PWS-E on March 9, 2022, assessing \$51,736 in administrative penalties with \$10,347 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding STX Beef Company, LLC, Docket No. 2020-1565-AIR-E on March 9, 2022, assessing \$7,625 in administrative penalties with \$1,525 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Gator's Fuel Stop, LLC dba Gators 2, Docket No. 2021-0228-PST-E on March 9, 2022, assessing \$18,514 in administrative penalties with \$3,702 deferred. Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DOLPHIN WORLD, INC., Docket No. 2021-0265-PST-E on March 9, 2022, assessing \$8,223 in administrative penalties with \$1,644 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Kenneth Cecil Gifford, Docket No. 2021-0361-MSW-E on March 9, 2022, assessing \$3,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Grand Harbor Water Supply Corporation, Docket No. 2021-0404-PWS-E on March 9, 2022, assessing \$5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202200852

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 9, 2022



Notice of a Proposed Renewal with Amendment of General Permit TXG340000 Authorizing the Discharge of Wastewater

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to renew and amend Texas Pollutant Discharge Elimination System General Permit TXG340000. This general permit authorizes discharges of facility wastewater, contact stormwater, and stormwater associated with industrial activities into or adjacent to water in the state from petroleum bulk stations and terminals. The draft general permit applies to the entire state of Texas. General permits are authorized by Texas Water Code, §26.040.

DRAFT GENERAL PERMIT. The executive director has prepared a draft general permit renewal with amendments of an existing general permit that authorizes discharges of facility wastewater, contact stormwater, and stormwater associated with industrial activities into or adjacent to water in the state from petroleum bulk stations and terminals. No significant degradation of high quality waters is expected and existing uses will be maintained and protected. The executive director proposes to require regulated entities to submit a Notice of Intent to obtain authorization under the general permit.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) according to General Land Office regulations and has determined that the action is consistent with applicable CMP goals and policies.

On the date that this notice is published, a copy of the draft general permit and fact sheet will be available for a minimum of 30 days for viewing and copying at the TCEQ Office of the Chief Clerk located at the TCEQ Austin office, at 12100 Park 35 Circle, Building F. These documents will also be available at the TCEQ's 16 regional offices and on the TCEQ website at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting about this draft general permit. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the draft general permit. Generally, the TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the draft general permit or if requested by a state legislator. A public meeting is not a contested case hearing.

Written public comments must be received by the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> within 30 days from the date this notice is published.

APPROVAL PROCESS. After the comment period, the executive director will consider all the public comments and prepare a written response. The response will be filed with the TCEQ Office of the Chief Clerk at least 10 days before the scheduled commission meeting when the commission will consider approval of the general permit. The commission will consider all public comment in making its decision and will either adopt the executive director's response or prepare its own response. The commission will issue its written response on the general permit at the same time the commission issues or denies the general permit. A copy of any issued general permit and response to comments will be made available to the public for inspection at the agency's Austin office. A notice of the commissioners' action on the draft gen-

eral permit and a copy of its response to comments will be mailed to each person who submitted a comment. Also, a notice of the commission's action on the draft general permit and the text of its response to comments will be published in the *Texas Register*.

MAILING LISTS. In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the TCEQ Office of the Chief Clerk. You may request to be added to: 1) the mailing list for this specific general permit; 2) the permanent mailing list for a specific county; or 3) both. Clearly specify the mailing lists to which you wish to be added and send your request to the TCEQ Office of the Chief Clerk at the address previously mentioned. Unless you otherwise specify, you will be included only on the mailing list for this specific general permit.

INFORMATION. If you need more information about this general permit or the permitting process, please call the TCEQ Public Education Program, toll free, at 1-800-687-4040. General information about the TCEQ can be found at our website at: <https://www.tceq.texas.gov>.

Further information may also be obtained by calling Shannon Gibson, TCEQ Water Quality Division, at (512) 239-4284.

Si desea información en español, puede llamar 1-800-687-4040.

TRD-202200844

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 9, 2022



Notice of District Petition

Notice issued March 3, 2022

TCEQ Internal Control No. D-02022022-003; HM Parkside LP, a Texas limited partnership (Petitioner) filed a petition for creation of Parkside on the River Municipal Utility District No. 2 (District) of Williamson County with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, First United Bank and Trust Company, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 539.542 acres located within Williamson County, Texas; and (4) all of the land within the proposed District is within the extraterritorial jurisdiction of the City of Georgetown. By Resolution No. 121421-I, passed and approved on December 14, 2021, the City of Georgetown, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) design, construct, acquire, improve, extend, finance, issue bonds, maintain, operate, and convey an adequate and efficient water works and sanitary sewer system for domestic and commercial purposes; (2) design, construct, acquire, improve, extend, finance, issue bonds, maintain, operate, and convey works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; (4) design, construct, acquire, improve, extend, finance, issue bonds, maintain, operate, and convey park and recreational facilities; and (5) design, construct, acquire, improve, extend, finance, issue bonds, maintain, operate, and convey such other

additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$57,210,000 (\$35,700,000 for utilities, \$15,785,000 for roads, and \$5,725,000 for recreational).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202200769

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 3, 2022



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Shutdown/Default Order (S/DO). Texas Water Code (TWC), §26.3475, authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown Order after the owner or operator of a UST facility fails to perform re-

quired corrective actions within 30 days after receiving notice of the release detection, spill, and overflow prevention, and/or after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations, the proposed penalty, the proposed technical requirements necessary to bring the entity back into compliance, and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. In accordance with TWC, §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 18, 2022**. The commission will consider any written comments received and the commission may withdraw or withhold approval of an S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed S/DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed S/DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the S/DO shall be sent to the attorney designated for the S/DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 18, 2022**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the S/DO and/or the comment procedure at the listed phone number; however, comments on the S/DO shall be submitted to the commission in **writing**.

(1) COMPANY: Naveen Bains and Rozy Bains dba Lucky Stop & Go; DOCKET NUMBER: 2019-1355-PST-E; TCEQ ID NUMBER: RN101549590; LOCATION: 830 South Crockett Avenue, Denison, Grayson County; TYPE OF FACILITY: UST system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST system; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; and TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$6,809; STAFF ATTORNEY: Megan Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202200827

Gitanjali Yadav

Acting Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 8, 2022



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, or commission) staff is providing an opportunity for written public comment on

the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 18, 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 A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 18, 2022**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: IMMANUEL ENTERPRISE, INC. dba Fast Trac Food Mart; DOCKET NUMBER: 2020-0230-PST-E; TCEQ ID NUMBER: RN102055076; LOCATION: 1702 West Main Street, Grand Prairie, Dallas County; TYPE OF FACILITY: underground storage tank (UST) system; RULES VIOLATED: TWC, §26.3475(c)(1), 30 TAC §334.50(b)(1)(A), and TCEQ Agreed Order, Docket Number 2017-0585-PST-E, Ordering Provisions Numbers 2.b.i. and 2.c., by failing to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a), 30 TAC §334.50(b)(2), and TCEQ Agreed Order, Docket Number 2017-0585-PST-E, Ordering Provisions Numbers 2.b.ii. and 2.c., by failing to provide release detection for the pressurized piping associated with the UST system; 30 TAC §334.10(b)(1)(B) and TCEQ Agreed Order, Docket Number 2017-0585-PST-E, Ordering Provision Numbers 2.a. and 2.c., by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; and 30 TAC §334.605(a) and (b), by failing to ensure that a certified Class A, Class B, and Class C operator is re-trained within 3 years of their last training date; PENALTY: \$42,067; STAFF ATTORNEY: Jess Robinson, Litigation, MC 175, (512) 239-0455; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: City of Roscoe; DOCKET NUMBER: 2019-1550-PWS-E; TCEQ ID NUMBER: RN101430924; LOCATION: 115 East Cypress Street, Roscoe, Nolan County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.46(f)(2), (f)(3)(A)(i)(II), (f)(3)(A)(iv), and (f)(3)(B)(iv), by failing to maintain water works operations and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the facility's Wells Numbers 2, 3, 4, 5, and 6; 30 TAC §290.46(j), by failing to complete a Customer Service Inspection certificate prior to providing continuous water service to new construction or any existing service when the

water purveyor has no reason to believe cross-connections or other potential contamination hazards exist; 30 TAC §290.46(s)(1), by failing to calibrate flow measuring devices at least once every 12 months; 30 TAC §290.43(c)(4), by failing to provide all water storage tanks with a liquid level indicator located at the tank site; 30 TAC §290.110(c)(4)(B), by failing to monitor the disinfectant residual at representative locations in the distribution system at least once per day; 30 TAC §290.46(m)(1)(A) and TCEQ Agreed Order Docket Number 2016-0374-PWS-E, Ordering Provision Number 2.a.iii., by failing to inspect the facility's ground storage tank annually; Texas Health and Safety Code, §341.033(a) and 30 TAC §290.46(e)(4)(B), by failing to operate the facility under the direct supervision of a water works operator who holds a minimum of a Class C or higher groundwater license; and 30 TAC §290.46(e)(2)(D), by failing to have an operator that has successfully completed at least one executive director-approved training course or even specific to the operations and maintenance of reverse osmosis; PENALTY: \$2,285; Supplemental Environmental Project offset amount of \$2,285 applied to Nolan County, Water Treatment Plant Improvements; STAFF ATTORNEY: Jess Robinson, Litigation, MC 175, (512) 239-0455; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

TRD-202200828

Gitanjali Yadav

Acting Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 8, 2022



Notice of Opportunity to Request a Public Meeting for a Development Permit Application for Construction Over a Closed Municipal Solid Waste Landfill: Proposed Permit No. 62042

Application. CHI/Acquisitions L.P., 3819 Maple Avenue, Dallas, Texas 75219, has applied to the Texas Commission on Environmental Quality (TCEQ) for a development permit for construction over a closed municipal solid waste landfill (Proposed Permit No. 62042). The proposed development concerns a tract of land of approximately 39.73 acres located at 5323 Lawnview Avenue, Dallas, Texas 75227, and consists of an enclosed office/warehouse facility comprised of two, single-story buildings with a total footprint of about 511,000 square feet, and associated concrete drive, parking areas, right of way, sidewalks, landscaping, and support utilities. The development permit application is available for viewing and copying at Skyline Branch Public Library located at 6006 Everglade Road, Dallas, Texas 75227, and may be viewed online at <https://clientportal.vertex-eng.com/fl/n0NnDvhN0I>. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <https://arcg.is/1u0OD9>. For exact location, refer to application.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application to the Office of Chief Clerk at the address included in the information section below. TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the application or if requested by a local legislator. The purpose of the public meeting is for the public to provide input for consideration by the commission, and for the applicant and the commission staff to provide information to the public. A public meeting is not a contested case hearing. The comment period shall begin on the date this notice is published and end 30 calendar days after this notice is published. The comment period shall be extended to

the close of any public meeting. The executive director is not required to file a response to comments.

If a public meeting is to be held, a public notice shall be published in a newspaper that is generally circulated in the county in which the proposed development is located. All the individuals on the adjacent landowners list shall also be notified at least 15 calendar days prior to the meeting.

Executive Director Action. The executive director shall, after review of the application, issue his decision to either approve or deny the development permit application. Notice of decision will be mailed to the owner and to each person that requested notification of the executive director's decision.

Information Available Online. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments, requests, and petitions must be submitted either electronically at <http://www14.tceq.texas.gov/epic/eComment/> or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Further information may also be obtained from CHI/Acquisitions, L.P. at the address stated above or by calling The Vertex Companies, Inc at (214) 499-9234.

TRD-202200768

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 3, 2022



Notice of Public Meeting on Proposed Remedial Action

Notice of a virtual public meeting on April 28, 2022, concerning the proposed remedial action at the Bailey Metal Processors, Inc. Proposed state Superfund site near Brady, McCulloch County, Texas (the site).

The public meeting will be held for the purpose of obtaining additional information concerning the facility and the identification of additional potentially responsible parties and to invite public comment concerning the proposed remedy for the site. The public meeting is not a contested case hearing under the Texas Government Code, Chapter 2001.

The executive director of the Texas Commission on Environmental Quality (TCEQ or agency) issues this public notice of the proposed remedy for the site. In accordance with Texas Health and Safety Code, §361.187 and 30 Texas Administrative Code §335.349(a), a public meeting concerning the TCEQ's proposed remedy for the site shall be held. This notice will also be published in *The Brady Standard-Herald* newspaper on March 23, 2022.

The public meeting will be held at 6:30 p.m. on April 28, 2022. The public meeting can be accessed through a Microsoft Teams Live event link. Public meeting information and other site information

will be available on the TCEQ's site webpage, prior to the meeting, at <https://www.tceq.texas.gov/remediation/superfund/state/baileymetal.html>.

The site is located on a 5-acre property owned by BMP Metals Inc. at 509 San Angelo Highway, northwest of Brady, McCulloch County, Texas. Another related business entity, Bailey Metal Processors, Inc., (BMP) operated at the site.

From approximately 1987 through 1999, BMP accepted and purchased scrap metal for recycling. Two furnaces and special wire stripping and cutting facilities were installed to recover metal, primarily lead and copper, from wiring, cables, and other scrap metals. The site was proposed for listing on the state registry of Superfund sites and non-residential land use was proposed for the site property in the April 1, 2005, issue of the *Texas Register* (30 TexReg 1974).

The TCEQ conducted a Remedial Investigation to evaluate the nature and extent of contamination in soil and groundwater at the site. Based on the findings of that investigation, TCEQ conducted a Focused Feasibility Study to identify and evaluate appropriate remedial alternatives. The TCEQ also completed a Proposed Remedial Action Document that presents the proposed remedy and documents the process used to evaluate the proposed remedy, which is the lowest cost remedy that is feasible to implement, effectively protects human health and the environment, and complies with applicable regulatory requirements.

Based on the calculated volume of contaminated soil and the contaminant levels, the proposed remedial alternative for soil includes off-site treatment and off-site disposal. All soil that exceeds protective concentration limits will be excavated and removed from the site for off-site treatment and disposal. Excavated areas will be filled with clean soil to restore the site. Institutional controls in the form of deed restrictions or deed notices will be required to notify current and future landowners that site conditions are protective for commercial/industrial use but not for residential use of the site property and the adjacent railway right-of-way.

Based on the extent of groundwater contamination, and the stability of the groundwater contaminant plume, the proposed remedial alternative for groundwater is to establish a Plume Management Zone (PMZ). Institutional controls will restrict future use of groundwater from the site to reduce potential exposure to contaminants.

All persons desiring to comment may do so prior to or at the public meeting. All comments submitted prior to the public meeting **must be received by 5:00 p.m. on April 27, 2022, and should be sent in writing** to Eric White, P.E., Project Manager, TCEQ, Remediation Division, MC-136, P.O. Box 13087, Austin, Texas 78711-3087, by email at superfnd@tceq.texas.gov or by facsimile at (512) 239-2450. The public comment period for this action will end at the close of the public meeting on April 28, 2022.

A portion of the record for this site, including documents pertinent to the proposed remedial action, are available for review during regular business hours at the McCulloch County Library, 401 E. Commerce, Brady, Texas 76825, (325) 597-2617. Please contact the library directly for its hours of operations. Complete copies of the TCEQ's public records concerning the site may be obtained during regular business hours at the TCEQ's Central File Room (CFR), located at 12100 Park 35 Circle, Building E, First Floor, in Austin, Texas, (512) 239-2900. Currently, the CFR customer viewing area is open 9:00 a.m. to 3:00 p.m. on weekdays. Appointment and information requests can be submitted through e-mail at cfr-req@tceq.texas.gov. Central File Room Records are also accessible online at <https://www.tceq.texas.gov/agency/data/records-services>. Additional files may be obtained by contacting the TCEQ project manager for the site, Eric White, P.E., at (512) 239-2009. Also,

for additional assistance obtaining site documents, you may contact Crystal Taylor, community relations liaison, at (800) 633-9363 or email your request to superfnd@tceq.texas.gov.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (800) 633-9363 or (512) 239-3844. Requests should be made at least 14 days prior to the meeting.

For further information about the site or the public meeting, please call Crystal Taylor, TCEQ Community Relations Liaison, at (800) 633-9363.

TRD-202200830

Gitanjali Yadav

Acting Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 8, 2022

Texas Ethics Commission

List of Late Filers

February 24, 2022

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Scarlett Scalzo at (512) 463-5800.

Deadline: Lobby Activities Report due June 10, 2020

Frank R. Santos, 6905 Crosby Cir. #31, Austin, Texas 78746

Deadline: Lobby Activities Report due November 10, 2020

Marissa Patton, 204 Verrado Path, Austin, Texas 78748

Deadline: Lobby Activities Report due December 10, 2020

Stephen W. Greenberg, 1510 West Loop South, Houston, Texas 77027

Deadline: Lobby Activities Report due January 11, 2021

Beth Cubriel, 620 Congress Ave. Ste. 200, Austin, Texas 78701

John Heal, 500 W. 13th, Austin, Texas 78701

Paul J. Sugg, 1210 San Antonio, Austin, Texas 78701

Deadline: Monthly Committees Report due July 6, 2021

Anthony Heath Wester, Grand Prairie Police Association PAC, P.O. Box 531184, Grand Prairie, Texas 75053

Deadline: Monthly Committees Report due August 5, 2021

Sally A. McFeron, Better Together Project, P.O. Box 722, Liberty Hill, Texas 78642

Steve Oglesby, Bowie County Patriots, P.O. Box 55, Nash, Texas 75569

Anthony Heath Wester, Grand Prairie Police Association PAC, P.O. Box 531184, Grand Prairie, Texas 75053

Angelo P. Zottarelli, Texas Assn. Of Pawnbrokers PAC, 405 W. 14th Street, Austin, Texas 78701

Deadline: Monthly Committees Report due September 7, 2021

Sally A. McFeron, Better Together Project, P.O. Box 722, Liberty Hill, Texas 78642

Steve Oglesby, Bowie County Patriots, P.O. Box 55, Nash, Texas 75569

Anthony Heath Wester, Grand Prairie Police Association PAC, P.O. Box 531184, Grand Prairie, Texas 75053

Deadline: Lobby Activities Report due September 10, 2021

Allen Blakemore, 1 E. Greenway Plz. Ste. 225, Houston, Texas 77046

JT Edwards, 601 23rd St. Rear Ste. 1047, Galveston, Texas 77550

Kym Nicole Olson, 1406 Eva St. Ste. 410, Austin, Texas 78704

Deadline: Lobby Activities Report due October 12, 2021

Dustin Cox, 105 W. 8th St. Ste. 2B, Austin, Texas 78701

Stephen W. Greenberg, 1510 West Loop South, Houston, Texas 77027

Colin Parrish, 1122 Colorado St. Ste. 320, Austin, Texas 78701

Deadline: Lobby Activities Report due November 10, 2021

Dustin Cox, 105 W. 8th St. Ste. 2B, Austin, Texas 78701

Thomas C. Holloway, 504 W. 12th St., Austin, Texas 78701

Dallas S. Jones, 5445 Almeda St. Ste. 307, Houston, Texas 77004

Jackie Lee Schlegel, 1321 W. Randoll Miss Rd., Ste. 2006, Arlington, Texas 76012

Deadline: Lobby Activities Report due December 10, 2021

Lorena I. Campos, 1005 Congress Ave. Ste. 152, Austin, Texas 78701

Kalynn Cook, 611 Pennsylvania Ave SE, Ste. 201, Washington, District of Columbia 20003

James J. Dow, 504 W. 12th St., Austin, Texas 78701

Thomas I. Kennedy, 1106 Lavaca St. #201, Austin, Texas 78701

Richard J. Ybarra, 1902 Pease, Harlingen, Texas 78550

TRD-202200853

Anne Temple Peters

Executive Director

Texas Ethics Commission

Filed: March 9, 2022



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of February 22, 2022 to March 4, 2022. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, March 11, 2022. The public comment period for this project will close at 5:00 p.m. on Sunday, April 10, 2022.

FEDERAL AGENCY ACTIVITIES:

Applicant: Environmental Protection Agency

Location: The project alternatives are located along the coast of Texas.

Project Description: The Texas Trustee Implementation Group (Texas TIG) is responsible for restoring natural resources and their services that were injured by the Deepwater Horizon (DWH) oil spill within the Texas Restoration Area. In the Draft Restoration Plan/Environmental Assessment (RP/EA) #2, the Texas TIG presents to the public the Texas TIG's most recent plan to restore natural resources and ecological services injured or lost as a result of the DWH oil spill. The Draft RP/EA #2 evaluates a total of eighteen restoration project alternatives within the Texas Restoration Area. Of those, the thirteen listed below are identified as preferred alternatives. The Draft RP/EA #2 also evaluates a no-action alternative. One or more alternatives may be selected for implementation by the Texas TIG. The Draft RP/EA #2 proposes the following preferred project alternatives for each restoration type:

Wetlands, Coastal, and Nearshore Habitats

- Bird Island Cove Habitat Restoration-Construction;
- Bahia Grande Channel F Hydrologic Restoration;
- Follets Island Habitat Acquisition Phase 2; and
- Galveston Island Habitat Acquisition.

Nutrient Reduction

- Petronila Creek Constructed Wetlands Planning; and
- Petronila Creek Watershed Nutrient Reduction Initiative.

Oysters

- Landscape Scale Oyster Restoration in Galveston Bay.

Sea Turtles

- Upper Texas Coast Sea Turtle Rehabilitation Facility; and
- Lancha Sea Turtle Mitigation Plan.

Birds

- Laguna Vista Rookery Island Habitat Protection;
- Jones Bay Oystercatcher Habitat Restoration;
- San Antonio Bay Bird Island; and
- Texas Breeding Shorebird and Seabird Stewardship.

Type of Application: Draft Restoration Plan/Environmental Assessment titled: Deepwater Horizon Oil Spill Texas Trustee Implementation Group Draft RP/EA #2: Restoration of Wetlands, Coastal, and Nearshore Habitats; Nutrient Reduction; Oysters; Sea Turtles; and Birds. The purpose of the RP/EA #2 is to 1) inform the public about DWH Natural Resource Damage Assessment restoration planning efforts, 2) analyze projects that address specific restoration types, and 3) seek public comment on proposed restoration projects.

CMP Project No: 22-1192-F2

FEDERAL AGENCY ACTIONS:

Applicant: VLS Recovery Services, LLC

Location: The project site is located in Sabine Neches Canal, at 8700 Old Yacht Club Road, in Port Arthur, Jefferson County, Texas.

Latitude & Longitude (NAD 83): 29.961706, -93.859892

Project Description: The applicant proposes to modify their current authorization to incorporate mechanical and/or hydraulic dredging, installation of a bulkhead and monopiles, discharge of fill (clean and/or

dredged) material behind the bulkhead, and placement of the hydraulically dredged material. Specifically, the project components are:

1. Zones 1 and 3: Dredge a 15.1-acre area in Zone 1 to remove 103,700 cubic yards of material. Dredge a 6.1-acre area in Zone 3 to remove 30,500 cubic yards of material. Both areas will be dredged to a depth of -12 feet mean low lower water (mllw) plus 2 feet overdredge.
2. Zone 2: Dredge a 2.1-acre area to a depth of -22 feet mllw plus 2 feet overdredge to remove 44,600 cubic yards of material from Zone 2.
3. Zone 4: Dredge a 2.1-acre area to a depth of -20 feet mllw plus 2 feet overdredge to remove 39,900 cubic yards of material from Zone 4.
4. Zones 5 and 6: Remove 250 linear feet of an existing bulkhead within Zone 6. Install a new 877.5 linear feet of bulkhead. Discharge a total of 11,300 cubic yards of (clean and/or dredged) fill material, with 2,460 cubic yards below mean high tide (mht), within a 1.0-acre area behind the bulkhead. Install 6 new monopiles.
5. Placement of the hydraulically dredged material into Placement areas 11, 12, 13, 14, or the Texas Parks and Wildlife Department Nelda Starks beneficial use site.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2016-00744. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 22-1209-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202200800

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: March 7, 2022



Texas Health and Human Services Commission

Public Notice - Texas State Plan Amendment to Allow Advance Telecommunications for Physicians' and Dentists' Services and Targeted Case Management for Individuals with Chronic Mental Illness

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan to allow the use of advance telecommunications for Physicians' and Dentists' Services and Targeted Case Management for individuals with Chronic Mental Illness under Title XIX of the Social Security Act. The proposed amendment is effective February 1, 2022.

The purpose of this amendment, Transmittal Number 22-0005, seeks to ensure that Medicaid recipients, child health plan program enrollees, and other individuals receiving benefits under a public benefits program administered by HHSC, regardless of the delivery model, have the option to receive certain services using advanced telecommunications.

Rate Hearing - No rate hearing will be needed as the rates will not change.

Copy of Proposed Amendment - Interested parties may obtain additional information and/or a free copy of the proposed amendments by contacting Shae James, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of proposed amendment will be available for review at the local county offices of HHSC, (which were formerly the local offices of Texas Department of Aging and Disability Services).

Written Comments - Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Medical Benefits Office of Policy

Mail Code H-310

P.O. Box 149030

Austin, Texas 78756

Overnight Mail, special Deliver mail, or hand delivery

Texas Health and Human Services Commission

Attention: Medical Benefits Office of Policy

John H. Winters Building

Mail Code H-310

701 W. 51st St.

Austin, Texas 78751

Fax

Attention: Office of Policy at (512) 730-7474

Email

MedicaidBenefitRequest@hhsc.state.tx.us

Preferred Communication - During the current state of disaster due to COVID-19, physical forms of communication are checked with less frequency than normal business operations. For the quickest response, and to help curb the possible transmission of infection, please use email or phone if possible for communication with HHSC related to this state plan amendment.

TRD-202200793

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 7, 2022



Public Notice - Texas State Plan for Medical Assistance Amendment Effective April 1, 2022

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendment is effective April 1, 2022.

The purpose of the amendment is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for the following services:

Clinical Laboratory Services and

Family Planning Services.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$16,672 for federal fiscal year (FFY) 2022, consisting of \$10,137 in federal funds and \$6,535 in state general revenue. For FFY 2023, the estimated annual aggregate expenditure is \$36,498, consisting of \$21,851 in federal funds and \$14,647 in state general revenue. For FFY 2024, the estimated annual aggregate expenditure is \$35,866, consisting of \$21,473 in federal funds and \$14,393 in state general revenue.

Further detail on specific reimbursement rates and percentage changes is available on the HHSC Provider Finance website under the proposed effective date at: <https://pfd.hhs.texas.gov/rate-packets>.

Rate Hearings. A rate hearing was conducted online on February 14, 2022, at 1:00 p.m. Information about the proposed rate changes and the hearing was published in the February 4, 2022, issue of the *Texas Register* (47 TexReg 552). The notice of hearing can be found at <http://www.sos.state.tx.us/texreg/index.shtml>.

Copy of Proposed Amendment. Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Shaneqwea James, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhs.state.tx.us. Copies of the proposed amendment will be available for review at the local county offices of HHSC, (which were formerly the local offices of the Texas Department of Aging and Disability Services).

Written Comments. Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance Department

Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance Department

North Austin Complex

Mail Code H-400

4601 West Guadalupe Street

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFDAcuteCare@hhs.texas.gov

Preferred Communication. During the current state of disaster due to COVID-19, physical forms of communication are checked with less frequency than during normal business operations. For quickest response, and to help curb the possible transmission of infection, please use e-mail or phone if possible, for communication with HHSC related to this state plan amendment.

TRD-202200824

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 7, 2022



Department of State Health Services

Licensing Actions for Radioactive Materials

During the second half of January 2022, 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
DALLAS	TEXAS ONCOLOGY PA	L07148	DALLAS	00	01/18/22

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
BAYTOWN	COVESTRO LLC	L01577	BAYTOWN	69	01/31/22
BEAUMONT	TOTALENERGIES PETROCHEMICALS & REFINING USA INC	L06751	BEAUMONT	02	01/21/22
CLEVELAND	EMERGENCY HOSPITAL SYSTEMS LLC	L06886	CLEVELAND	07	01/24/22
CYPRESS	KPH CONSOLIDATION INC	L06988	CYPRESS	06	01/31/22
DALLAS	NORTH CENTRAL SURGICAL CENTER LLP	L07115	DALLAS	01	01/18/22
DENISON	TEXAS ONCOLOGY PA DBA TEXAS CANCER CENTER SHERMAN	L05019	DENISON	40	01/18/22
DENTON	D&S ENGINEERING LABS LLC	L06677	DENTON	22	01/24/22
DENTON	D&S ENGINEERING LABS LLC	L06677	DENTON	23	01/26/22
EL PASO	TEXAS ONCOLOGY PA	L05774	EL PASO	17	01/25/22
FANNIN	COLETO CREEK POWER LLC	L06950	FANNIN	03	01/25/22
FLOWER MOUND	FLOWER MOUND HOSPITAL PARTNERS LLC	L06310	FLOWER MOUND	13	01/24/22
FORT WORTH	BAYLOR ALL SAINTS MEDICAL CENTER	L02212	FORT WORTH	116	01/21/22
HOUSTON	PHOENIX MECHANICAL INTEGRITY SERVICES	L06787	HOUSTON	12	01/25/22
HOUSTON	RICE UNIVERSITY	L01772	HOUSTON	31	01/26/22

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT DBA HARRIS HEALTH SYSTEM	L04412	HOUSTON	54	01/24/22
HOUSTON	AMERICAN DIAGNOSTIC TECH LLC	L05514	HOUSTON	153	01/24/22
HUMBLE	RADIOMEDIX INC	L06990	HOUSTON	08	01/25/22
IRVING	BAYLOR MEDICAL CENTER AT IRVING	L02444	IRVING	121	01/28/22
LONGVIEW	KING TOOL COMPANY	L05142	LONGVIEW	15	01/26/22
PARIS	TEXAS ONCOLOGY PA	L04664	PARIS	33	01/26/22
PORT ARTHUR	TOTALENERGIES PETROCHEMICALS & REFINING USA INC	L03498	PORT ARTHUR	35	01/21/22
RICHMOND	NRG TEXAS POWER LLC	L02063	THOMPSONS	78	01/31/22
SAN ANGELO	SHANNON MEDICAL CENTER	L02174	SAN ANGELO	82	01/21/22
SWEENY	CHEVRON PHILLIPS CHEMICAL COMPANY LP	L06771	SWEENY	02	01/24/22
THROUGHOUT TX	BAKER HUGHES OILFIELD OPERATIONS LLC	L00446	HOUSTON	199	01/24/22
THROUGHOUT TX	CALIBRATION SOLUTIONS LLC	L06447	PFLUGERVILLE	05	01/27/22
THROUGHOUT TX	WATER REMEDIATION TECHNOLOGY LLC	L06316	SAN ANGELO	14	01/24/22
THROUGHOUT TX	RADIATION TECHNOLOGY INC	L04633	WACO	39	01/20/22
TOMBALL	NORTHWEST HOUSTON HEART CENTER PA	L05958	TOMBALL	23	01/24/22
YOAKUM	YOAKUM COMMUNITY HOSPITAL	L05913	YOAKUM	09	01/18/22

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
THROUGHOUT TX	BLAZER INSPECTION	L04619	TEXAS CITY	69	01/21/22

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
DEER PARK	RADIATION CONSULTANTS INC	L02179	DEER PARK	43	01/24/22
KATY	GI ENCORE PETROLEUM ENGINEERING CO LTD	L07058	KATY	01	01/25/22

TRD-202200846
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: March 9, 2022

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 Licensing Actions for Radioactive Materials

During the first half of February 2022, 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.

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
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP DBA ST DAVIDS SOUTH AUSTIN MEDICAL CENTER	L03273	AUSTIN	125	02/14/22
BAYTOWN	LANXESS CORPORATION	L05810	BAYTOWN	08	02/10/22
DALLAS	PIPELINE EAST DALLAS LLC	L06955	DALLAS	01	02/04/22
DALLAS	ALPHA TESTING LLC	L03411	DALLAS	39	02/02/22
DEER PARK	SHELL CHEMICAL LP	L04933	DEER PARK	35	02/01/22
HOUSTON	HOTWELL US LLC	L06552	HOUSTON	10	02/01/22
HOUSTON	MEMORIAL HERMANN MEDICAL GROUP	L06430	HOUSTON	46	02/09/22
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L00439	HOUSTON	258	02/07/22
LONGVIEW	TEXAS ONCOLOGY PA	L05017	LONGVIEW	24	02/02/22
LUBBOCK	COVENANT MEDICAL CENTER	L06993	LUBBOCK	06	02/01/22
LUBBOCK	METHODIST CHILDRENS HOSPITAL	L06852	LUBBOCK	07	02/02/22
LUBBOCK	METHODIST CHILDRENS HOSPITAL DBA JOE ARRINGTON CANCER CENTER	L06900	LUBBOCK	14	01/31/22
MIDLAND	TCC SANDBLASTING & COATING LLC	L07079	MIDLAND	03	02/01/22
PASADENA	EQUISTAR CHEMICALS LP	L01854	PASADENA	55	02/03/22
PASADENA	CHEVRON PHILLIPS CHEMICAL COMPANY LP	L00230	PASADENA	97	02/01/22
PLANO	HEALTHTEXAS PROVIDER NETWORK	L06582	PLANO	12	02/09/22

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

SAN ANTONIO	PERIPHERAL VASCULAR ASSOCIATES PA DBA CADIOVASCULAR & HYPERTENSION CLINIC OF SAN ANTONIO PLLC	L07112	SAN ANTONIO	01	02/07/22
SPRING	ADVANCED NUCLEAR CONSULTANTS LLC		HOUSTON	11	02/02/22
STAFFORD	ALOKI ENTERPRISE INC	L06257	STAFFORD	58	02/11/22
SUGAR LAND	METHODIST HEALTH CENTERS	L05788	SUGAR LAND	52	02/01/22
SUGAR LAND	SCHLUMBERGER TECHNOLOGY CORPORATION	L01833	SUGAR LAND	224	02/02/22
THROUGHOUT TX	JRB ENGINEERING LLC	L06689	HOUSTON	08	02/03/22
THROUGHOUT TX	SENTINEL INTEGRITY SOLUTIONS INC	L06735	HOUSTON	10	02/10/22
THROUGHOUT TX	KLEINFELDER INC	L06960	IRVING	08	02/14/22
THROUGHOUT TX	XCEL NDT LLC	L07039	LONGVIEW	02	02/07/22
THROUGHOUT TX	AMERICAN PIPING INSPECTION INC	L06835	LONGVIEW	11	02/15/22
THROUGHOUT TX	ATLAS TECHNICAL CONSULTANTS LLC	L06407	LUBBOCK	25	02/02/22
THROUGHOUT TX	PRECISION NDT LLC	L07054	MIDLAND	05	02/10/22
THROUGHOUT TX	PRECISION NDT LLC	L07054	PASADENA	04	02/03/22
THROUGHOUT TX	TECHCORR USA MANAGEMENT LLC	L05972	PASADENA	132	02/14/22
THROUGHOUT TX	TAM CONSULTING SERVICES LLC	L07104	PLANO	02	02/11/22
THROUGHOUT TX	RABA-KISTNER CONSULTANTS INCDBA RABA-KISTNER-BRYTEST CONSULTANTS INC	L01571	SAN ANTONIO	98	02/01/22
TYLER	TEXAS ONCOLOGY PA	L04788	TYLER	37	02/01/22

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
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L06439	HOUSTON	21	02/09/22

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
BURNET	ZETEX ENTERPRISE LLC	L06295	BURNET	05	02/07/22

TRD-202200847
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: March 9, 2022



Schedules of Controlled Substances

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure is not included in the print version of the Texas Register. The figure is available in the on-line version of the March 18, 2022, issue of the Texas Register.)

TRD-202200849
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: March 9, 2022



Texas Lottery Commission

Scratch Ticket Game Number 2388 "MATCH 3 TRIPLER"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2388 is "MATCH 3 TRIPLER". The play style is "other".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2388 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2388.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 1 SYMBOL, 2 SYMBOL, 3 SYMBOL, 4 SYMBOL, 5 SYMBOL, 6 SYMBOL, 7 SYMBOL, 8 SYMBOL, 9 SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$30.00, \$100, \$500, \$1,500 and \$30,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2388 - 1.2D

PLAY SYMBOL	CAPTION
1 SYMBOL	ONE
2 SYMBOL	TWO
3 SYMBOL	THR
4 SYMBOL	FOR
5 SYMBOL	FIV
6 SYMBOL	SIX
7 SYMBOL	SVN
8 SYMBOL	EGT
9 SYMBOL	NIN
\$2.00	TWO\$
\$4.00	FOR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$100	ONHN
\$500	FVHN
\$1,500	15HN
\$30,000	30TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2388), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2388-0000001-001.

H. Pack - A Pack of the "MATCH 3 TRIPLER" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the Packs will be in an A, B, C and D configuration.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "MATCH 3 TRIPLER" Scratch Ticket Game No. 2388.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "MATCH 3 TRIPLER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose thirty-two (32) Play Symbols. If the player reveals two "3" Play Symbols in the same GAME, the player wins the prize for that GAME. If the player reveals three "3" Play Symbols in the same GAME, the player wins TRIPLE the prize for that GAME. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly thirty-two (32) 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 thirty-two (32) 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 thirty-two (32) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the thirty-two (32) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers

must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. A Ticket can win up to eight (8) times in accordance with the approved prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. There will be no matching GAMES on a Ticket, unless restricted by other parameters, play action or prize structure. Matching GAMES are defined as two (2) or more GAMES that have the same three (3) Play Symbols, regardless of order.

E. GAMES that win a non-multiplied prize will contain two (2) "3" Play Symbols and one (1) different Play Symbol as dictated by the prize structure.

F. GAMES that win a tripled prize will contain three (3) "3" Play Symbols as dictated by the prize structure.

G. There will never be a GAME that contains two (2) or three (3) identical non-winning Play Symbols.

H. No more than three (3) matching non-winning Play Symbols will appear on a Ticket.

I. Non-winning Prize Symbols will never appear more than two (2) times.

J. Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

2.3 Procedure for Claiming Prizes.

A. To claim a "MATCH 3 TRIPLER" Scratch Ticket Game prize of \$2.00, \$4.00, \$5.00, \$6.00, \$10.00, \$12.00, \$15.00, \$30.00, \$100 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, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "MATCH 3 TRIPLER" Scratch Ticket Game prize of \$1,500 or \$30,000, 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 "MATCH 3 TRIPLER" 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 "MATCH 3 TRIPLER" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "MATCH 3 TRIPLER" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2388. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2388 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	691,200	10.42
\$4.00	460,800	15.63
\$5.00	115,200	62.50
\$6.00	115,200	62.50
\$10.00	115,200	62.50
\$12.00	57,600	125.00
\$15.00	57,600	125.00
\$30.00	57,600	125.00
\$100	1,800	4,000.00
\$500	90	80,000.00
\$1,500	20	360,000.00
\$30,000	6	1,200,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.31. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2388 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. 2388, 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-202200851

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 9, 2022



Scratch Ticket Game Number 2389 "TRIPLE TRIPLER"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2389 is "TRIPLE TRIPLER". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2389 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2389.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 04, 05, 06, 07, 08, 09, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 3 SYMBOL, BAR SYMBOL, BELL SYMBOL, CLOVER SYMBOL, CROWN SYMBOL, DIAMOND SYMBOL, MOON SYMBOL, NECKLACE SYMBOL, RING SYMBOL, STAR SYMBOL, STACK OF BILLS SYMBOL, CHERRY SYMBOL, CHIP SYMBOL, COWBOY HAT SYMBOL, FLAME SYMBOL,

RABBIT FOOT SYMBOL, HEART SYMBOL, POT OF GOLD SYMBOL, RAINBOW SYMBOL, SUN SYMBOL, 3 SYMBOL, 3X SYMBOL, 6X SYMBOL, 9X SYMBOL, \$5.00, \$10.00, \$15.00, \$30.00, \$60.00, \$90.00, \$100, \$300, \$500, \$1,000 and \$100,000.

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. 2389 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
3 SYMBOL	WIN\$

BAR SYMBOL	BAR
BELL SYMBOL	BELL
CLOVER SYMBOL	CLOVER
CROWN SYMBOL	CROWN
DIAMOND SYMBOL	DIAMND
MOON SYMBOL	MOON
NECKLACE SYMBOL	NECKLACE
RING SYMBOL	RING
STAR SYMBOL	STAR
STACK OF BILLS SYMBOL	BILLS
CHERRY SYMBOL	CHERRY
CHIP SYMBOL	CHIP
COWBOY HAT SYMBOL	COWBOYHAT
FLAME SYMBOL	FLAME
RABBIT FOOT SYMBOL	FOOT
HEART SYMBOL	HEART
POT OF GOLD SYMBOL	POTGOLD
RAINBOW SYMBOL	RAINBOW
SUN SYMBOL	SUN
3 SYMBOL	WINPRZ
3X SYMBOL	WINX3
6X SYMBOL	WINX6
9X SYMBOL	WINX9
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$30.00	TRTY\$
\$60.00	SXTY\$
\$90.00	NITY\$

\$100	ONHN
\$300	THHN
\$500	FVHN
\$1,000	ONTH
\$100,000	100TH

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 (2389), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2389-0000001-001.

H. Pack - A Pack of the "TRIPLE TRIPLER" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "TRIPLE TRIPLER" Scratch Ticket Game No. 2389.

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 "TRIPLE TRIPLER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-eight (48) Play Symbols. GAME 1: 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 "3" Play Symbol, the player wins the prize for that symbol instantly. GAME 2: If the player reveals 3 matching Play Symbols in any one row, column or diagonal line, the player wins the prize for that line. GAME 3: If the player reveals 3 matching prize amounts, the player wins that amount. GAME 4: If the player reveals a "3" Play Symbol, the player wins the PRIZE for that symbol. MULTIPLIER BOX: The player scratches the MULTIPLIER BOX to reveal 2 MULTIPLIER PLAY SYMBOLS. If the player reveals 2 matching MULTIPLIER PLAY SYMBOLS, the player multiplies the total prize won on the Ticket by that amount. For example, if the player reveals 2 "3X" MULTIPLIER PLAY SYMBOLS, the player

will multiply the total prize won by 3 TIMES. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly forty-eight (48) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly forty-eight (48) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the forty-eight (48) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the forty-eight (48) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to sixteen (16) times in accordance with the approved prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. GENERAL: The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

D. GAME 1: Each Ticket will have three (3) different WINNING NUMBERS Play Symbols.

E. GAME 1: Non-winning YOUR NUMBERS Play Symbols will all be different.

F. GAME 1: The "3" (WIN\$) Play Symbol will never appear in the WINNING NUMBERS Play Symbol spots.

G. GAME 1: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 15 and \$15).

H. GAME 1: Non-winning Prize Symbols will never appear more than two (2) times.

I. GAME 1: Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

J. GAME 2: Non-Winning Tickets will never contain more than four (4) matching Play Symbols.

K. GAME 2: Non-Winning Tickets will contain two (2) matching Play Symbols in at least one (1) row, column or diagonal line.

L. GAME 2: Winning Tickets will only have one (1) occurrence of three (3) matching Play Symbols in any one (1) row, column or diagonal line.

M. GAME 3: No more than three (3) matching Prize Symbols.

N. GAME 3: No more than one (1) set of three (3) matching Prize Symbols on a Ticket (i.e., three (3) \$100 Prize Symbols or three (3) \$15 Prize Symbols).

O. GAME 3: On winning Tickets, all non-winning Prize Symbols will be different from the winning Prize Symbols.

P. GAME 3: Non-Winning Tickets will never have more than two (2) matching Prize Symbols.

Q. GAME 4: The "3" (WINPRZ) Play Symbol will only appear on winning Tickets as dictated by the prize structure.

R. GAME 4: The "3" (WINPRZ) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

S. GAME 4: Non-winning Play Symbols will be different.

T. GAME 4: Non-winning Prize Symbols will never appear more than two (2) times.

U. GAME 4: Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

V. MULTIPLIER BOX: Tickets that do not win in the MULTIPLIER BOX play area will display two (2) different MULTIPLIER SYMBOLS Play Symbols.

W. MULTIPLIER BOX: Two (2) matching MULTIPLIER SYMBOLS Play Symbols of "3X" (WINX3), "6X" (WINX6) or "9X" (WINX9) will only appear on winning Tickets as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "TRIPLE TRIPLER" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$30.00, \$45.00, \$60.00, \$90.00, \$100, \$300 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$45.00, \$60.00, \$90.00, \$100, \$300 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TRIPLE TRIPLER" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TRIPLE TRIPLER" 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 "TRIPLE TRIPLER" 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 "TRIPLE TRIPLER" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2389. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2389 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	864,000	8.33
\$10.00	576,000	12.50
\$15.00	192,000	37.50
\$30.00	96,000	75.00
\$45.00	48,000	150.00
\$60.00	48,000	150.00
\$90.00	24,000	300.00
\$100	9,000	800.00
\$300	300	24,000.00
\$500	40	180,000.00
\$1,000	30	240,000.00
\$100,000	4	1,800,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.88. 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. 2389 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. 2389, 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-202200845

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 9, 2022



Scratch Ticket Game Number 2409 "50X SPEEDWAY RICHES"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2409 is "50X SPEEDWAY RICHES". The play style is "other".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2409 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2409.

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: 10 SYMBOL, 11 SYMBOL, 12 SYMBOL, 13 SYMBOL, 14 SYMBOL, 15 SYMBOL, 16 SYMBOL, 17 SYMBOL, 18 SYMBOL, 19 SYMBOL, 20 SYMBOL, 21 SYMBOL, 22 SYMBOL, 23 SYMBOL, 24 SYMBOL, 25 SYMBOL, 26 SYMBOL, 27 SYMBOL, 28 SYMBOL, 29 SYMBOL, 30 SYMBOL, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100,

\$500, \$1,000 and \$50,000. The possible green Play Symbols are: 10 SYMBOL, 11 SYMBOL, 12 SYMBOL, 13 SYMBOL, 14 SYMBOL, 15 SYMBOL, 16 SYMBOL, 17 SYMBOL, 18 SYMBOL, 19 SYMBOL, 20 SYMBOL, 21 SYMBOL, 22 SYMBOL, 23 SYMBOL, 24 SYMBOL, 25 SYMBOL, 26 SYMBOL, 27 SYMBOL, 28 SYMBOL, 29 SYMBOL and 30 SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2409 - 1.2D

PLAY SYMBOL	CAPTION
10 SYMBOL (BLACK)	TEN (BLACK)
11 SYMBOL (BLACK)	ELV (BLACK)
12 SYMBOL (BLACK)	TLV (BLACK)
13 SYMBOL (BLACK)	TRN (BLACK)
14 SYMBOL (BLACK)	FTN (BLACK)
15 SYMBOL (BLACK)	FFN (BLACK)
16 SYMBOL (BLACK)	SXN (BLACK)
17 SYMBOL (BLACK)	SVT (BLACK)
18 SYMBOL (BLACK)	ETN (BLACK)
19 SYMBOL (BLACK)	NTN (BLACK)
20 SYMBOL (BLACK)	TWY (BLACK)
21 SYMBOL (BLACK)	TWON (BLACK)
22 SYMBOL (BLACK)	TWTO (BLACK)
23 SYMBOL (BLACK)	TWTH (BLACK)
24 SYMBOL (BLACK)	TWFR (BLACK)
25 SYMBOL (BLACK)	TWV (BLACK)
26 SYMBOL (BLACK)	TWSX (BLACK)
27 SYMBOL (BLACK)	TWSV (BLACK)
28 SYMBOL (BLACK)	TWET (BLACK)
29 SYMBOL (BLACK)	TWNI (BLACK)
30 SYMBOL (BLACK)	TRTY (BLACK)
10 SYMBOL (GREEN)	TEN (GREEN)
11 SYMBOL (GREEN)	ELV (GREEN)
12 SYMBOL (GREEN)	TLV (GREEN)
13 SYMBOL (GREEN)	TRN (GREEN)
14 SYMBOL (GREEN)	FTN (GREEN)
15 SYMBOL (GREEN)	FFN (GREEN)

16 SYMBOL (GREEN)	SXN (GREEN)
17 SYMBOL (GREEN)	SVT (GREEN)
18 SYMBOL (GREEN)	ETN (GREEN)
19 SYMBOL (GREEN)	NTN (GREEN)
20 SYMBOL (GREEN)	TWY (GREEN)
21 SYMBOL (GREEN)	TWON (GREEN)
22 SYMBOL (GREEN)	TWTO (GREEN)
23 SYMBOL (GREEN)	TWTH (GREEN)
24 SYMBOL (GREEN)	TWFR (GREEN)
25 SYMBOL (GREEN)	TWV (GREEN)
26 SYMBOL (GREEN)	TWSX (GREEN)
27 SYMBOL (GREEN)	TWSV (GREEN)
28 SYMBOL (GREEN)	TWET (GREEN)
29 SYMBOL (GREEN)	TWNI (GREEN)
30 SYMBOL (GREEN)	TRTY (GREEN)
\$5.00 (BLACK)	FIV\$ (BLACK)
\$10.00 (BLACK)	TEN\$ (BLACK)
\$20.00 (BLACK)	TWY\$ (BLACK)
\$25.00 (BLACK)	TWV\$ (BLACK)
\$50.00 (BLACK)	FFTY\$ (BLACK)
\$100 (BLACK)	ONHN (BLACK)
\$500 (BLACK)	FVHN (BLACK)
\$1,000 (BLACK)	ONTH (BLACK)
\$50,000 (BLACK)	50TH (BLACK)

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2409), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2409-0000001-001.

H. Pack - A Pack of "50X SPEEDWAY RICHES" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show

the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning 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 - A Texas Lottery "50X SPEEDWAY RICHES" Scratch Ticket Game No. 2409.

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 "50X SPEEDWAY RICHES" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose nineteen (19) Play Symbols. If a player's YOUR CAR NUMBER Play Symbol is closer to the FINISH LINE than the other car in that RACE, the player wins the PRIZE for that RACE. If the player's YOUR CAR NUMBER Play Symbol wins and has a GREEN number, the player wins 50 TIMES the PRIZE for that RACE. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly nineteen (19) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly nineteen (19) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the nineteen (19) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the nineteen (19) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. YOURS BEAT THEIRS: A non-winning Prize Symbol will never match a winning Prize Symbol.

D. YOURS BEAT THEIRS: A Ticket may have up to two (2) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

E. YOURS BEAT THEIRS: The YOUR CAR NUMBER Play Symbol will appear in every RACE, regardless of color, on a Ticket.

F. YOURS BEAT THEIRS: The opponent's car number Play Symbols will never match the YOUR CAR NUMBER Play Symbol, regardless of color, in any RACE.

G. YOURS BEAT THEIRS: The YOUR CAR NUMBER Play Symbol and the opponent's car number Play Symbol will never be the same distance from the finish line. There will not be any ties.

H. YOURS BEAT THEIRS: Non-Winning Tickets will contain at least three (3) RACES with a GREEN RACES 1-6 Play Symbol.

I. YOURS BEAT THEIRS: No matching opponent's car number Play Symbols, regardless of color, on a Ticket.

J. YOURS BEAT THEIRS: The YOUR CAR NUMBER Play Symbol will always be BLACK. The Play Symbols in RACES 1-6 can be BLACK or GREEN.

2.3 Procedure for Claiming Prizes.

A. To claim a "50X SPEEDWAY RICHES" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100 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 "50X SPEEDWAY RICHES" Scratch Ticket Game prize of \$1,000 or \$50,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "50X SPEEDWAY RICHES" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "50X SPEEDWAY RICHES" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "50X SPEEDWAY RICHES" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket Game prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "50X SPEEDWAY RICHES" Scratch Ticket may be entered into one (1) of four (4) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 6,000,000 Scratch Tickets in the Scratch Ticket Game No.

2409. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2409 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	680,000	8.82
\$10.00	540,000	11.11
\$20.00	160,000	37.50
\$25.00	50,000	120.00
\$50.00	50,000	120.00
\$100	22,050	272.11
\$500	2,900	2,068.97
\$1,000	20	300,000.00
\$50,000	5	1,200,000.00

*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 3.99. 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. 2409 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 Game 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. 2409, 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-202200837

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 8, 2022



Scratch Ticket Game Number 2428 "BINGO TIMES 20"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2428 is "BINGO TIMES 20". The play style is "bingo".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2428 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2428.

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: CHERRY SYMBOL, DIAMOND SYMBOL, HORSESHOE SYMBOL, BOAT SYMBOL, ANCHOR SYMBOL, WATERMELON SYMBOL, BAG OF MONEY SYMBOL, GOLD BAR SYMBOL, HEART SYMBOL, STAR SYMBOL, B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63,

O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 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, FREE SYMBOL and X20 SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2428 - 1.2D

PLAY SYMBOL	CAPTION
CHERRY SYMBOL	CHERRY
DIAMOND SYMBOL	DIAMND
HORSESHOE SYMBOL	HRSHOE
BOAT SYMBOL	BOAT
ANCHOR SYMBOL	ANCHOR
WATERMELON SYMBOL	WTRMLN
BAG OF MONEY SYMBOL	BAG
GOLD BAR SYMBOL	BAR
HEART SYMBOL	HEART
STAR SYMBOL	STAR
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
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G47	
G48	
G49	
G50	
G51	
G52	
G53	
G54	
G55	
G56	
G57	
G58	
G59	
G60	
O61	
O62	
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FREE SYMBOL	
X20 SYMBOL	

E. Serial Number - A unique 13 (thirteen) 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 24 (twenty-four) 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 14 (fourteen) digit number consisting of the four (4) digit game number (2428), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2428-0000001-001.

H. Pack - A Pack of the "BINGO TIMES 20" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BINGO TIMES 20" Scratch Ticket Game No. 2428.

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 "BINGO TIMES 20" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose the Play Symbols as indicated per the game instructions from the total one hundred eighty-one (181) Play Symbols. BINGO TIMES 20 PLAY INSTRUCTIONS: The player completely scratches the "CALLER'S CARD" area and the "5 BONUS NUMBERS" area to reveal a total of twenty-nine (29) Bingo Numbers. The player scratches only those Bingo Numbers on the six (6) "BINGO CARDS" that match the "CALLER'S CARD" Bingo Numbers and the "5 BONUS NUMBERS" Bingo Numbers. The player also scratches the "X20" spaces and the "FREE" spaces on the six (6) "BINGO CARDS". If a player matches all Bingo Numbers in a complete vertical, horizontal or diagonal line (five (5) Bingo Numbers, four (4) Bingo Numbers + "FREE" space, four (4) Bingo Numbers + "X20" space, or three (3) Bingo Numbers + "X20" space + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". If the player matches all Bingo Numbers in all four (4) corners, the player wins the prize in the corresponding prize

legend for that "BINGO CARD". If the player matches all Bingo Numbers to complete an "X" (eight (8) Bingo Numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". X20 PLAY INSTRUCTIONS: If a completed LINE pattern in any of the six (6) "BINGO CARDS" contains a "X20" symbol, the player wins 20 TIMES the LINE prize in the corresponding prize legend for that "BINGO CARD". Note: Only the highest prize per "BINGO CARD" will be paid. BONUS GAME PLAY INSTRUCTIONS: If the player reveals 2 matching Play Symbols, the player wins \$20. 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 eighty-one (181) 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. Crossword and Bingo style games do not typically have Play Symbol captions;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly one hundred eighty-one (181) 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 eighty-one (181) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the one hundred eighty-one (181) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to six (6) times.

D. BONUS GAME: Winning Tickets will contain two (2) matching Play Symbols in the "BONUS GAME" play area and will win as per the prize structure.

E. BINGO: The number range used for each letter (B, I, N, G, O) will be as follows: B (1-15), I (16-30), N (31-45), G (46-60) and O (61-75).

F. BINGO: On winning and Non-Winning Tickets, there will be no matching "CALLER'S CARD" or "BONUS NUMBERS" Play Symbols.

G. BINGO: Each of the "CALLER'S CARD" and "BONUS NUMBERS" Play Symbols will appear on at least one of the six (6) "BINGO CARDS".

H. BINGO: Each "BINGO CARD" will contain twenty-three (23) numbers, one (1) "FREE" Play Symbol fixed in the center of the CARD and one (1) "X20" Play Symbol.

I. BINGO: The "I20" CALLER'S CARD and 5 BONUS NUMBERS Play Symbols will never appear in the "CALLER'S CARD" or the "5 BONUS NUMBERS" play areas.

J. BINGO: The "20" BINGO CARDS Play Symbol will never appear on a "BINGO CARD".

K. BINGO: There will be no matching Play Symbols on each "BINGO CARD" play area.

L. BINGO: The "X20" Play Symbol will appear once per "BINGO CARD" but will never appear in a corner or inside the "X" pattern of a "BINGO CARD".

M. BINGO: The "X20" Play Symbol will win 20 TIMES the prize and will win as per the prize structure.

N. BINGO: Prize for "BINGO CARDS" 1-6 are as follows:

CARD 1: LINE=\$5. 4 CORNERS=\$20. X=\$100.

CARD 2: LINE=\$10. 4 CORNERS=\$25. X=\$200.

CARD 3: LINE=\$15. 4 CORNERS=\$50. X=\$400.

CARD 4: LINE=\$20. 4 CORNERS=\$100. X=\$500.

CARD 5: LINE=\$25. 4 CORNERS=\$300. X=\$1,000.

CARD 6: LINE=\$50. 4 CORNERS=\$500. X=\$100,000.

O. BINGO: Each "BINGO CARD" on a Ticket will be different. Two (2) cards match if they have the same number Play Symbols in the same spots.

P. BINGO: Non-winning "BINGO CARDS" will match a minimum of three (3) number Play Symbols.

Q. BINGO: There can only be one (1) winning pattern on each "BINGO CARD".

2.3 Procedure for Claiming Prizes.

A. To claim a "BINGO TIMES 20" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$200, \$300, \$400 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$30.00, \$50.00, \$100, \$200, \$300, \$400 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BINGO TIMES 20" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BINGO TIMES 20" 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 "BINGO TIMES 20" 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 "BINGO TIMES 20" 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 Ticket Prizes. There will be approximately 23,040,000 Scratch Tickets in Scratch Ticket Game No. 2428. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2428 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	2,304,000	10.00
\$10	1,075,200	21.43
\$15	537,600	42.86
\$20	460,800	50.00
\$25	460,800	50.00
\$30	153,600	150.00
\$50	199,680	115.38
\$100	77,120	298.76
\$200	4,800	4,800.00
\$300	2,688	8,571.43
\$400	2,304	10,000.00
\$500	1,920	12,000.00
\$1,000	512	45,000.00
\$100,000	8	2,880,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.36. The individual odds of winning for a particular prize level may vary based on sales, distribution, 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. 2428 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 Instant 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. 2428, 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-202200838
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 8, 2022



Public Utility Commission of Texas

Notice of Application to Relinquish Designation as an Eligible Telecommunications Carrier

Notice is given to the public of an application filed with the Public Utility Commission of Texas on March 3, 2022, to relinquish a designation as an eligible telecommunications carrier (ETC) in Texas under 47 U.S.C. § 214(e) and 16 Texas Administrative Code §26.418.

Docket Title and Number: Petition of Gtek Computers and Wireless, LLC to Relinquish its Eligible Telecommunications Carrier Designation, Docket Number 53305.

The Petition: Gtek Computers and Wireless LLC requests to relinquish its eligible telecommunications carrier (ETC) designation in Texas. Gtek also requests that the Commission waive requirements under 16 Texas Administrative Code §26.418(j)(1)(A), to permit Gtek to relinquish its ETC designation without requiring 90 days prior notice.

Persons who wish to file a motion to intervene or comments on the application should contact the commission no later than April 15, 2022, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 53305.

TRD-202200825

◆ ◆ ◆
School Land Board

Notice of Funds Availability-Texas Coastal Management Program

The General Land Office (GLO) and the Coastal Coordination Advisory Committee (CCAC) file this Notice of Funds Availability to announce upcoming federal grant funds provided by the National Oceanic and Atmospheric Administration and state grant funds provided by the Gulf of Mexico Energy Security Act to the Texas Coastal Management Program (CMP). The purpose of the CMP is to improve the management of the state's coastal resources and ensure the long-term ecological and economic productivity of the coast.

A federal award from NOAA to the CMP, approximating \$2 million, is expected in October 2022 and state GOMESA funds are expected in April 2022. The GLO, which oversees the implementation of the CMP with the advice of the CCAC, will pass through the funding to eligible entities to support projects that implement and/or advance the CMP goals and policies. Projects must be located within the coastal zone boundary established by the Texas Legislature in 1995.

- The following entities are eligible to receive grants under the CMP.
- Incorporated cities within the coastal zone boundary
- County governments within the coastal zone boundary
- Texas state agencies
- Texas public colleges/universities
- Subdivisions of the state with jurisdiction within the coastal zone boundary (e.g., navigation districts, port authorities, river authorities, and soil and water conservation districts)
- Councils of governments and other regional governmental entities within the coastal zone boundary
- The Galveston Bay Estuary Program
- The Coastal Bend Bays and Estuaries Program
- Nonprofit Organizations that are registered as a 501(c)(3) or 501(c)(4) and have an office located in Texas. Nonprofit organizations must be nominated by one of the eligible entities listed above. (A nomination must take the form of a resolution or letter from an official representative of the entity. The nominating entity is not expected to contribute financially or administratively to the management and implementation of the proposed project.)

The GLO and the CCAC will accept applications for NOAA funding through a competitive pre-proposal process followed by an invitation-only final application submission. Projects applying for GOMESA funds must submit a final application and will be selected based on the merits of the project proposed therein. Projects must address at least one of the following funding categories:

- Public access enhancements to coastal natural resource areas;
- Coastal hazards;
- Coastal habitat creation, restoration or enhancements;
- Community dependent uses; or

- GOMESA funded Projects of Special Merit that showcase regional collaboration and large-scale improvements to coastal resources.

The GLO will hold two in-person grant workshops and one virtual workshop to provide information on the funding opportunities, outline application requirements and give potential applicants the opportunity to discuss specific project ideas with GLO staff. Applicants are not required to attend a workshop, but attendance is strongly encouraged. Identical information will be presented at all three workshops.

Workshop 1 - Galveston

Tuesday, April 12, 2022
10:00 a.m. - 12:00 p.m.
Rosenberg Library - Fox Room
2310 Sealy Ave.
Galveston, Texas 77550

Workshop 2 - Corpus Christi

Wednesday, April 13, 2022
10:00 a.m. - 12:00 p.m.
Port of Corpus Christi Headquarters - Cape Conference Room
400 Harbor Drive
Corpus Christi, Texas 78401

Workshop 3- Virtual Workshop

Wednesday, April 20, 2022
10:00 a.m. - 12:00 p.m.
Zoom Meeting Link: <https://txglo.zoom.us/j/82385144164?pwd=NXFTQXAzU1FibHpZRMVWdXRBN0k0dz09>
Meeting ID: 823 8514 4164
Passcode: 218326
Dial by your location: +1 346 248 7799 US (Houston)

Registration is required to attend the workshops. Registration for the Galveston and Corpus Christi workshops will close on Friday, April 8, 2022, at 5:00 p.m. Registration for the virtual workshop will close on Tuesday, April 19, 2022, at 5:00 p.m. Workshop registration links are shown below.

- Galveston: <https://www.eventbrite.com/e/271145582737>
- Corpus Christi: <https://www.eventbrite.com/e/271150888607>
- Virtual: <https://www.eventbrite.com/e/271155462287>

The requirements to receive federal or state grant funds are outlined in the CMP Cycle 28 Guidance document. This document along with the online application portal, financial guidance and other useful information can be found here: <http://www.glo.texas.gov/coast/grant-projects/funding/>.

Submission of a pre-proposal is required for all projects requesting NOAA-based funds. **Pre-proposals are due by 5:00 p.m. on June 8, 2022.** Written comments will be provided to enhance the quality of the project for the final application or better align the project with CCAC member agency needs for future cycles. Applicants for NOAA funding must be invited to submit a final application. **Upon invitation, NOAA funding final applications with supporting documentation are due by 5:00 p.m. on October 5, 2022.**

If applying for a GOMESA funded Project of Special Merit, final applications are due by 5:00 p.m. on June 8, 2022. Pre-proposals

are not required for a Project of Special Merit. To be considered for funding, pre-proposals and final applications must be submitted electronically in the online application portal.



TRD-202200774

Mark Havens

Deputy Land Commissioner and Chief Clerk

School Land Board

Filed: March 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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