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THE GOVERNOR

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

Appointments

Appointments for January 2, 2023

Appointed to the OneStar Foundation for a term to expire March 15, 2023, Marlene S. McMichael of Georgetown, Texas (replacing Shelley R. Rayburn of Fort Worth, who resigned).

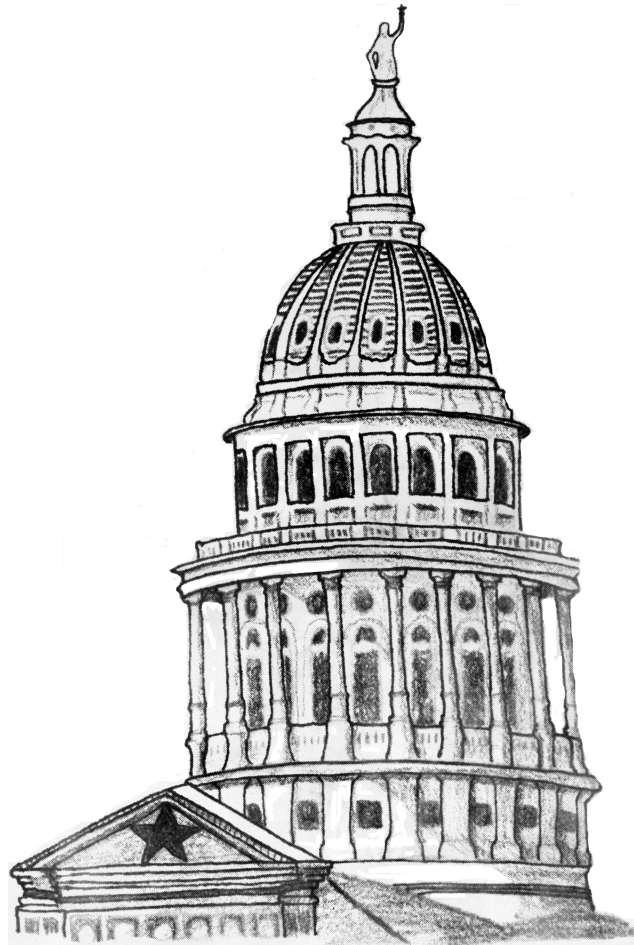
Appointed as Commissioner of the Department of Family and Protective Services for a term to expire August 31, 2023, Stephanie B. Muth

of Austin, Texas (replacing Kezeli A. "Kez" Wold of New Braunfels, who resigned).

Greg Abbott, Governor

TRD-202300036





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 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 133. HOSPITAL LICENSING SUBCHAPTER J. HOSPITAL LEVEL OF CARE DESIGNATIONS FOR NEONATAL ~~[AND MATERNAL]~~ CARE

25 TAC §§131.181 - 131.191

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes amendments to §133.181, concerning Purpose; §133.182, concerning Definitions; §133.183, concerning General Requirements; §133.184, concerning the Designation Process; §133.185, concerning Program Requirements; §133.186, concerning Neonatal Designation Level I; §133.187, concerning Neonatal Designation Level II; §133.188, concerning Neonatal Designation Level III; §133.189, concerning Neonatal Designation Level IV; §133.190, concerning the Survey Team; and new §133.191, concerning the Perinatal Care Regions (PCRs).

BACKGROUND AND PURPOSE

The purpose of this proposal is to update the content and processes with the advances and practices since these rules were adopted in 2016. Senate Bill (S.B.) 749, 86th Legislature, Regular Session, 2019, amended the Texas Health and Safety Code, Chapter 241.

In addition, the Perinatal Advisory Council (PAC) provided DSHS with rule language recommendations designed to clarify specific subsections of the rules. The recommendations include the use of prearranged consultative agreements using telemedicine technology, and consideration of a waiver agreement for facilities that cannot meet a specific designation requirement. The recommendations further define the process for the three-person appeal panel, pediatric echocardiography with pediatric cardiology interpretation and consultation to be completed in a time period consistent with standards of professional practice, and include national accredited organizations providing resuscitation courses.

DSHS integrated the subcommittee's recommended language in the proposed rules. DSHS presented the rule changes to the PAC during their February 7, 2022, meeting. The PAC formed a workgroup to collaborate with DSHS staff to review all feedback received during the informal comment period which ended on February 28, 2022. The PAC workgroup met with DSHS on March 2, 2022, to consider all comments and determine the most

appropriate language to ensure the health and safety of neonatal patients and prevent unnecessary burden for the facilities providing neonatal care.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §133.181 adds the word "Texas" for clarity in the Texas Health and Safety Code.

The proposed amendment to §133.182, concerning Definitions, revises definitions for "attestation," "birth weight," "CAP," "department," "designation," "EMS," "gestational age," "high-risk infant," "immediately," "infant," "maternal," "neonate," "NRP," "PCR," "POC," "QAPI Program," "RAC," "TSA," and "urgent." New definitions include "available," "contingent designation," "contingent probationary designation," "focused survey," "inter-facility transport," "Neonatal Program Oversight," "on-site," "telehealth service," and "telemedicine medical service." The definitions "commission," "Executive Commissioner," "immediate supervision," "office," and "postpartum" were removed as these definitions are no longer necessary. The revised and new definitions provide clarity to the rule language and ensure consistency in interpretation of the rules.

The proposed amendment to §133.183, concerning General Requirements, clarifies language and the expectations for facilities seeking neonatal designation. Subsection (d) clarifies that DSHS determines requirements for the levels of neonatal designation. Subsection (e) removes PCRs from this subsection and is located in new §133.191. Subsection (f)(3)(E) clarifies outreach education language for the Level III Neonatal facilities. Subsection (f)(4)(E) clarifies outreach education language for the Level IV Neonatal facilities. Subsection (g)(5) defines the expectations for access to the QAPI (Quality Assessment and Performance Improvement) Plan documentation by DSHS and surveyors during a neonatal designation site review. Subsection (h)(1) - (2) outlines the surveyor conflict of interest and expectations. Subsection (i) defines that DSHS may appoint an observer to accompany the survey team. Subsection (j) defines that the surveyors' role is to validate the hospital's processes to meet the designation requirements.

The proposed amendment to §133.184, concerning the Designation Process, clarifies designation and process language and expectations for facilities seeking neonatal designation. Subsection (a)(2)(B) defines the process required to complete the attestation and self-survey report for hospitals seeking Level I designation. This section also defines that Level II, Level III, and Level IV facilities must submit the completed neonatal survey report documenting that the designation requirements are met and that medical record reviews are in their designation application. Subsection (a)(1)(C) outlines the expectations for developing the "Plan of Correction" if designation requirements are not met. Subsections (c) - (k) define the process for designating

at a different level of care. Subsection (d) defines that the facility must submit the required documents described in subsection (a)(1) and (2) no later than 90 days before the facility's current neonatal designation expiration date. Subsection (e) states that a facility has the right to withdraw its application for neonatal designation any time before being approved for designation by DSHS. Subsection (f) outlines that the facility's neonatal designation will expire if the facility fails to provide a complete neonatal designation application renewal packet to DSHS. Subsection (k) defines the expectations of the site survey summary and that it is to be submitted to the facility by the survey organization no later than 30 days after completing the survey. Subsection (n)(1) and (2) defines the Corrective Action Plan expectations. Subsection (o) outlines the appeal process to include a three-person appeal panel. Subsection (p)(2) defines the requirements and process for a waiver agreement. Subsection (r) outlines steps for a neonatal facility that is relinquishing their designation status. Subsection (v) defines that DSHS may deny, suspend, or revoke the designation if a designated neonatal facility ceases to provide services to meet or maintain designation requirements defined in this section.

The proposed amendment to §133.185, concerning Program Requirements, addresses advances in care since the rules were adopted in 2016, integrates telemedicine, and integrates recommendations from the PAC. Subsection (b)(2) defines the requirements for the Neonatal Program Plan. Subsection (b)(2)(D) outlines the requirements for telemedicine and telehealth care for neonatal programs. Subsection (b)(3) defines the requirements for the QAPI Plan. Subsection (b)(3)(D) requires Level III and Level IV facilities to participate in quality benchmarking programs and to integrate the benchmarking reports into the QAPI Plan. Subsection (b)(3)(E) defines that the Neonatal Medical Director must have the authority to make referrals to peer review, receive feedback from the peer review process, and ensure a neonatal physician representation in the peer review process for neonatal cases. Subsection (d)(1) defines the requirements for the Neonatal Medical Director. Subsection (d)(2) defines the requirements for the Transport Medical Director. Subsection (e) clarifies the requirements and expectations for the Neonatal Program Manager.

The proposed amendment to §133.186, concerning Neonatal Designation Level I, reflects the advances and current practices since the adoption of the rules in 2016. Subsection (c)(4) defines the written guidelines for the availability of appropriate anesthesia, laboratory, radiology, respiratory, ultrasonography, and blood bank services on a 24-hour basis.

The proposed amendment to §133.187, concerning Neonatal Designation Level II, reflects the advances and current neonatal practices. Subsection (c)(1) defines the requirement for the neonatal program's collaboration with the maternal program, consulting physicians, and nursing leadership to ensure pregnant patients who are at high risk of delivering a neonate that requires a higher-level of care be transported to a higher-level facility before delivery, unless the transfer would be unsafe.

The proposed amendment to §133.188, concerning Neonatal Designation Level III, reflects the advances and current neonatal practices. Subsection (a)(5) clarifies the requirements for outreach education.

The proposed amendment to §133.189, concerning Neonatal Designation Level IV, reflects the advances and current neonatal practices. Subsection (d) clarifies the program requirements for the Level IV facilities.

The proposed amendment to §133.190, concerning the Survey Team, provides clarification regarding the survey team requirements. Subsection (c) provides clarification specific to survey team members' conflict of interest. Subsection (e) requires the survey team to evaluate the use of telehealth/telemedicine utilization for neonatal care.

New §133.191, concerning PCRs, includes rule language to reflect the expectations of the PCR. Subsection (f) clarifies the requirement that the PCR may define data needs for regional collaborations.

FISCAL NOTE

Donna Sheppard, DSHS Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing and administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS 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 DSHS 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 DSHS;
- (5) the proposed rules will create a new rule;
- (6) the proposed rules will expand existing rules by providing the facility options for telemedicine and telehealth, and allowing the facility to request a waiver to assist in reaching designation;
- (7) the proposed rules will not change the number of facilities 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

Donna Sheppard has determined that there will not be an adverse impact on small business, micro businesses, rural communities, or persons if they operate a hospital since the neonatal designation process began in 2016 and there is no projected increase in the fees.

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 implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Timothy Stevenson, Associate Commissioner of Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption of the sections. The public benefit anticipated as a result of administering the sections is the designation of hospitals

will enhance neonatal care capabilities and capacity necessary to improve neonatal outcomes in all regions of Texas.

Donna Sheppard 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 the neonatal designation process began in 2016. The facilities are continuing their designation status. The designation fees will remain the same with no projected increase in fees.

REGULATORY ANALYSIS

DSHS has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule with specific intent of which is to protect the environment or reduce risk to the human health from the environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or public health and safety of a state or sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environment exposure.

TAKING IMPACT ASSESSMENT

DSHS 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 Jorie Klein, MSN, MHA, BSN, RN, Director of EMS-Trauma Systems Section by P.O. Box 149347, Austin, Texas 78714-9347, or street address 1100 W. 49th Street, Austin, Texas 78754 or by email to DSHS.EMS-Trauma@dshs.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 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 20R002 Neonatal Rules" in the subject line.

STATUTORY AUTHORITY

The amendments and new rule are authorized by Texas Health and Safety Code, Chapter 241, which provides DSHS with authority to recommend rules establishing the levels of care for neonatal care, establish a process of assignment or amendment of the levels of care to hospitals, divide the state into PCRs, and facilitate transfer agreements through regional coordination; and by Texas Government Code §531.0055, and Texas Health and Safety Code, §1001.075, which authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

The amendments and new rule are authorized by Texas Health and Safety Code, Chapters 241 and 1001; and Texas Government Code, Chapter 531.

§133.181. Purpose.

The purpose of this section is to implement Texas Health and Safety Code, Chapter 241, Subchapter H, Hospital Level of Care Designations for Neonatal and Maternal Care, which requires a level of care designation of neonatal services to be eligible to receive reimbursement through the Medicaid program for neonatal services.

§133.182. Definitions.

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

(1) Attestation--A written statement, signed by the chief executive officer [~~Chief Executive Officer~~] of the facility, verifying the results of a self-survey represent a complete [~~true~~] and accurate assessment of the facility's capabilities required in this subchapter.

(2) Available--Relating to staff who can be contacted for consultation at all times without delay.

(3) [(2)] Birth weight--The weight of the neonate recorded at time of birth.

(A) Low birth weight--Birth weight less than 2500 grams (5 lbs., 8 oz.);

(B) Very low birth weight (VLBW)--Birth weight less than 1500 grams (3 lbs., 5 oz.); and

(C) Extremely low birth weight (ELBW)--Birth weight less than 1000 grams [~~1000grams~~] (2 lbs., 3 oz.).

(4) [(3)] CAP--Corrective Action [~~Action(s)~~] Plan. A plan for the facility developed by the department [~~Office of EMS/Trauma Systems Coordination~~] that describes the actions required of the facility to correct identified deficiencies to ensure [~~compliance with~~] the applicable designation requirements are met.

[(4)] Commission--The Health and Human Services Commission.

(5) Contingent designation--A designation awarded to a facility with one to three requirements not met. The department develops a CAP for the facility and the facility must complete this plan and meet requirements to remain designated. Contingent designations may require a focused survey to validate requirements are met.

(6) Contingent probationary designation--A designation awarded to a facility with four or more requirements not met. The department develops a CAP for the facility and the facility must complete this plan and meet requirements to remain designated. The facility may be required to submit documentation reflecting the CAP to the department at defined intervals. Contingent probationary designation requires a full survey between twelve and eighteen months after the contingent probationary designation is awarded, and the facility must demonstrate requirements are met to maintain designation.

(7) [(5)] Department--The Texas Department of State Health Services.

(8) [(6)] Designation--A formal recognition by the department [~~executive commissioner~~] of a facility's neonatal [~~or maternal~~] care capabilities and commitment[;] for a period of three years.

(9) [(7)] EMS--Emergency medical services. Services used to respond to an individual's perceived need for immediate medical care.

[(8)] Executive commissioner--The executive commissioner of the Health and Human Services Commission.

(10) Focused survey--A department-defined, modified facility survey by a department-approved survey organization or the department. The specific goal of this survey is to review designation requirements identified as not met to resolve a contingent designation or requirement deficiencies.

(11) [(9)] Gestational age--The age of a fetus or embryo determined by the amount of time that has elapsed since the first day of the mother's last menstrual period or the corresponding age of the gestation as estimated by a physician through a more accurate method [at a specific point during a woman's pregnancy].

(12) [(10)] High-risk infant [Infant]--A newborn that has a greater chance of complications because of conditions that occur during fetal development, pregnancy conditions of the mother, or problems that may occur during labor or [and/or] birth.

~~[(11) Immediate supervision--The supervisor is actually observing the task or activity as it is performed.]~~

(13) [(12)] Immediately--Able to respond without [Without] delay, commonly referred to as STAT or near.

(14) [(13)] Infant--A child from birth to one [1] year of age.

(15) Inter-facility transport--Transfer of a patient from one health care facility to another health care facility.

(16) [(14)] Lactation consultant--A health care professional who specializes in the clinical management of breastfeeding.

(17) [(15)] Maternal--Pertaining to the mother.

(18) [(16)] NCPAP--Nasal continuous positive airway pressure.

(19) Neonatal Program Oversight--A multidisciplinary process responsible for the administrative oversight of the neonatal program and having the authority for approving the defined neonatal program's policies, procedures, and guidelines for all phases of neonatal care provided by the facility, to include defining the necessary staff competencies, monitoring to ensure neonatal designation requirements are met, and the aggregate review of the neonatal QAPI initiatives and outcomes. Neonatal Program Oversight may be performed through the neonatal program's performance improvement committee, multidisciplinary oversight committee, or other structured means.

(20) [(17)] Neonate--An infant from birth through 28 completed days [after].

(21) [(18)] NMD--Neonatal Medical Director.

(22) [(19)] NPM--Neonatal Program Manager.

(23) [(20)] NRP--Neonatal Resuscitation Program [NRP-], A resuscitation course [that was] developed and [is] administered jointly by the American Heart Association/American Academy of Pediatrics.

~~[(21) Office--Office of Emergency Medical Services (EMS)/Trauma Systems Coordination.]~~

(24) On-site--At the facility and able to arrive at the patient bedside for urgent requests.

(25) [(22)] PCR--Perinatal Care Region. The PCRs are established for descriptive and regional planning purposes. The PCRs are geographically divided by counties and are integrated into the existing 22 Trauma Service Areas (TSAs) and the applicable Regional Advisory Council (RAC) of the TSA provided in §157.122 of this title (relating to Trauma Services Areas) and §157.123 of this title (relating to Regional Emergency Medical Services/Trauma Systems).

(26) [(23)] Perinatal--Of, relating to, or being the period around childbirth, especially the five months before and one month after birth.

(27) [(24)] POC--Plan of Correction. A report submitted to the department [office] by the facility detailing how the facility will correct any deficiencies cited in the neonatal designation site survey summary [report] or documented in the self-attestation.

(28) [(25)] Premature/prematurity--Birth at less than 37 weeks of gestation.

~~[(26) Postpartum--The six-week period following delivery.]~~

(29) [(27)] QAPI Plan [Program]--Quality Assessment and Performance Improvement Plan [Program]. QAPI is a data-driven and proactive approach to quality improvement. It combines two approaches - Quality Assessment (QA) and Performance Improvement (PI). QA is a process used to ensure services are meeting quality standards and assuring care reaches a defined level. PI is the continuous study and improvement process designed to improve system and patient outcomes.

(30) [(28)] RAC--Regional Advisory Council as described in §157.123 of this title [(relating to Regional Emergency Medical Services/Trauma Systems)].

(31) [(29)] Supervision--Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

(32) Telehealth service--A health service, other than telemedicine medical service, delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology as defined in Texas Occupations Code §111.001.

(33) Telemedicine medical service--A health care service delivered by a physician licensed in this state, or health professional acting under the delegation and supervision of a physician licensed in this state, and acting within the scope of the physician's or health professional's license to a patient at a different physical location than the physician or health professional using telecommunications or technology as defined in Texas Occupations Code §111.001.

(34) [(30)] TSA--Trauma Service Area as described in §157.122 of this title [relating to (Trauma Service Areas)].

(35) [(31)] Urgent--Requiring [immediate] action or attention within 30 minutes of notification.

§133.183. *General Requirements.*

(a) The department reviews the applicant documents and approves the appropriate level of facility designation [Office of Emergency Medical Services (EMS)/Trauma Systems Coordination (office) shall recommend to the Executive Commissioner of the Health and Human Services Commission (executive commissioner) the designation of an applicant/healthcare facility as a neonatal facility at the level for each location of a facility, which the office deems appropriate].

(b) A [healthcare] facility is defined under this subchapter as a single location where inpatients receive hospital services or each location if there are multiple buildings where inpatients receive hospital services and are covered under a single hospital license.

(c) Each location must [shall] be considered separately for designation and the department determines [office will determine] the des-

ignation level for each [that] location[,], based on the facility's ability to demonstrate that designation requirements are met[, but not limited to, the location's own resources and level of care capabilities; Perinatal Care Region (PCR) capabilities; compliance with Chapter 133 of this title, concerning Hospital Licensing. A stand-alone children's facility that does not provide obstetrical services is exempt from obstetrical requirements. The final determination of the level of designation may not be the level requested by the facility].

(d) The department determines requirements for the levels of neonatal designation. Facilities seeking Levels II, III, and IV neonatal designation must demonstrate compliance with department-approved requirements and have the compliance validated by a department-approved survey organization.

(e) Facilities seeking Level I neonatal designation must submit a self-survey attesting to compliance with department-approved requirements.

(f) The four levels of neonatal designation are:

(1) Level I (Well Care [Nursery]). The Level I neonatal designated facility must [will]:

(A) provide care for mothers and their infants generally of ≥ 35 [≥ 35] weeks gestational age who have routine, transient perinatal problems;

(B) have skilled medical staff and personnel with documented training, competencies, and annual continuing education specific for the patient population served; and

(C) [if an infant < 35 weeks gestational age is retained, the facility shall] provide the same level of care that the neonate would receive at a higher-level [higher level] designated neonatal facility and [shall, through the QAPI Program,] complete an in-depth [in depth] critical review and assessment of the care provided to these infants through the QAPI Plan and process if an infant < 35 weeks gestational age is retained.

(2) The Level II (Special Care [Nursery]). The Level II neonatal designated facility must [will]:

(A) provide care for mothers and their infants of generally ≥ 32 [≥ 32] weeks gestational age and birth weight ≥ 1500 [≥ 1500] grams who have physiologic immaturity or [who have] problems that are expected to resolve rapidly and are not anticipated to require subspecialty services on an urgent basis; [and]

(B) [either] provide care, either by including assisted endotracheal ventilation for less than 24 hours or nasal continuous positive airway pressure (NCPAP) until the infant's condition improves, or arrange for appropriate transfer to a higher-level [higher level] designated facility; and

(C) have [provide] skilled medical staff and personnel with [that have] documented training, competencies, and annual continuing education specific for the patient population served.

(3) Level III (Neonatal Intensive Care [Unit (ICU)]). The Level III neonatal designated facility must [will]:

(A) provide care for mothers and comprehensive care for [of] their infants of all gestational ages with mild to critical illnesses or requiring sustained life support;

(B) ensure access to [provide for] consultation to a full range of pediatric medical subspecialists and pediatric surgical specialists, and the capability to perform major pediatric surgery on-site or at another appropriate neonatal designated facility;

(C) have skilled medical staff and personnel with documented training, competencies, and annual continuing education specific for the patient population served;

(D) facilitate neonatal transports; and

(E) provide outreach education to lower-level neonatal [lower level] designated facilities, and as appropriate and applicable, to non-designated facilities, birthing centers, independent midwife practices, and prehospital providers based on findings in the QAPI Plan and process.

(4) Level IV (Advanced Neonatal Intensive Care [ICU]). The Level IV neonatal designated facility must [will]:

(A) provide care for mothers and comprehensive care for [of] their infants of all gestational ages with the most complex and critical medical and surgical conditions or [critically ill neonates/infants and/or] requiring sustained life support;

(B) ensure access to [have] a comprehensive range of pediatric medical subspecialists and pediatric surgical subspecialists available to arrive on-site, in person for [face to face] consultation and care, and the capability to perform major pediatric surgery, including the surgical repair of complex conditions on-site;

(C) have skilled medical staff and personnel with documented training, competencies, and annual continuing education specific for the patient population served;

(D) facilitate neonatal transports; and

(E) provide outreach education to lower-level neonatal [lower level] designated facilities, and as appropriate and applicable, to non-designated facilities, birthing centers, independent midwife practices, and prehospital providers based on findings in the QAPI Plan and process.

(g) [~~(d)~~] Facilities seeking neonatal [facility] designation must undergo an on-site or virtual survey as outlined in this section and: [shall be surveyed through an organization approved by the office to verify that the facility is meeting office-approved relevant neonatal facility requirements. The facility shall bear the cost of the survey.]

(1) schedule a neonatal designation survey through a department-approved survey organization;

(2) notify the department of the neonatal designation survey date;

(3) pay for expenses associated with the neonatal designation survey;

(4) not accept surveyors with any conflict of interest; and

(5) provide the survey team access to records and documentation regarding the QAPI Plan and process related to neonatal patients. The department may determine that failure by a facility to provide access to these records does not meet the requirements of this subchapter.

(h) If a conflict of interest is present, the facility seeking neonatal designation must decline the assigned surveyor through the surveying organization. A conflict of interest exists when a surveyor has a direct or indirect financial, personal, or other interest which would limit or could reasonably be perceived as limiting the surveyor's ability to serve in the best interest of the public. The conflict of interest may include a surveyor who, in the past four years, has personally trained a key member of the facility's leadership in residency or fellowship, collaborated with a key member of the facility's leadership team professionally, participated in a designation consultation with the facility, or conducted a designation survey for the facility.

(1) Surveyors cannot be from the same PCR or TSA region or a contiguous region of the facility's location.

(2) If a designation survey occurs with a surveyor who has an identified conflict of interest, the department, in its sole discretion, may refuse to accept the neonatal designation site survey summary and medical record review conducted by a surveyor with a conflict of interest.

(i) The department, at its sole discretion, may appoint an observer to accompany the survey team with the observer costs borne by the department.

(j) The survey team evaluates the facility's evidence that department-approved designation requirements are met and documents all requirements that are not met in the neonatal designation site survey summary and medical record reviews.

[(e) PCRs.]

[(1) The PCRs are established for descriptive and regional planning purposes and not for the purpose of restricting patient referral.]

[(2) The PCR will consider and facilitate transfer agreements through regional coordination.]

[(3) A written plan identifies all resources available in the PCRs for perinatal care including resources for emergency and disaster preparedness.]

[(4) The PCRs are geographically divided by counties and are integrated into the existing 22 TSAs and the applicable Regional Advisory Council (RAC) of the TSA provided in §157.122 and §157.123 of this title; will be administratively supported by the RAC; and will have fair and equitable representation on the board of the applicable RAC.]

[(5) Multiple PCRs can meet together for the purposes of mutual collaboration.]

§133.184. Designation Process.

(a) A facility seeking neonatal designation or renewal of designation must submit a completed [Designation] application packet. [The applicant shall submit the packet, inclusive of the following documents to the Office of EMS/Trauma Systems Coordination (office) within 120 days of the facility's survey date:]

(1) A complete application packet must contain the following:

(A) [(4)] neonatal [an accurate and complete] designation application [form] for the requested [appropriate] level of designation[, including full payment of the designation fee as listed in subsection (d) of this section];

[(2)] [any subsequent documents submitted by the date requested by the office;]

(B) [(3)] [a completed] neonatal attestation and self-survey report for Level I applicants or the documented neonatal designation site survey summary that includes the requirement compliance findings and the medical record reviews for Levels II, III, and IV applicants, submitted to the department no later than 90 days after the neonatal designation site survey date [a designation survey report, including patient care reviews if required by the office, for Level II, III and IV applicants];

(C) [(4)] Plan of Correction (POC), if required by the department, that addresses all designation requirements defined as "not met" in the neonatal designation site survey summary. The POC must include: [a plan of correction (POC), detailing how the facility will

correct any deficiencies cited in the survey report, to include: the corrective action; the title of the person responsible for ensuring the correction(s) is implemented; how the corrective action will be monitored; and the date by which the POC will be completed; and]

(i) a statement of the cited designation requirement not met;

(ii) a statement describing the corrective action taken by the facility seeking neonatal designation to meet the requirement;

(iii) the title of the individuals responsible for ensuring the corrective actions are implemented;

(iv) the date the corrective actions were implemented;

(v) a statement on how the corrective action will be monitored; and

(vi) documented evidence that the POC was implemented within 90 days of the designation survey;

(D) [(5)] written evidence of annual participation in the applicable PCRs; and [Perinatal Care Region (PCR).]

(E) any subsequent documents submitted by the date requested by the department.

(2) The application includes full payment of the non-refundable, non-transferrable designation fee listed:

(A) Level I neonatal facility applicants, the fees are as follows:

(i) ≤100 licensed beds, the fee is \$250.00; or

(ii) >100 licensed beds, the fee is \$750.00.

(B) Level II neonatal facility applicants, the fee is \$1,500.00.

(C) Level III neonatal facility applicants, the fee is \$2,000.00.

(D) Level IV neonatal facility applicants, the fee is \$2,500.00.

(b) The application will not be processed if a facility seeking neonatal designation fails to submit the required application documents and designation fee. [Renewal of designation. The applicant shall submit the documents described in subsection (a)(1) - (5) of this section to the office not more than 180 days prior to the designation expiration date and at least 60 days prior to the designation expiration date.]

(c) A facility requesting to designate at a different level of care, experiencing a change in ownership, or a change in physical address must notify the department and submit a complete designation application packet outlined in subsection (a)(1) and (2) of this section [If a facility seeking designation fails to meet the requirements in subsection (a)(1) - (5) of this section, the application shall be denied].

(d) The facility must submit the required documents described in subsection (a)(1) and (2) of this section to the department no later than 90 days before the facility's current neonatal designation expiration date for all renewal designations. [Non-refundable application fees for the three year designation period are as follows:]

[(1) Level I neonatal facility applicants, the fees are as follows:]

[(A) ≤100 licensed beds, the fee is \$250.00; or]

[(B) >100 licensed beds, the fee is \$750.00.]

~~[(2) Level II neonatal facility applicants, the fee is \$1,500.00.]~~

~~[(3) Level III neonatal facility applicants, the fee is \$2,000.00.]~~

~~[(4) Level IV neonatal facility applicants, the fee is \$2,500.00.]~~

~~[(A) All completed applications, received on or before July 1, 2018, including the application fee, evidence of participation in the PCR, an appropriate attestation if required, survey report, and that meet the requirements of the requested designation level, will be issued a designation for the full three-year term.]~~

~~[(B) Any facility that has not completed an on-site survey to verify compliance with the requirements for a Level II, III or IV designation at the time of application must provide a self-survey and attestation and will receive a Level I designation. The office, at its sole discretion may recommend a designation for less than the full three-year term. A designation for less than the full three-year term will have a pro-rated application fee consistent with the one, two or three-year term length.]~~

~~[(C) A facility applying for Level I designation requiring an attestation may receive a shorter term designation at the discretion of the office. A designation for less than the full three-year term will have a pro-rated application fee.]~~

~~[(D) The office, at its discretion, may designate a facility for a shorter term designation for any application received prior to September 1, 2018.]~~

~~[(E) An application for a higher or lower level designation may be submitted at any time.]~~

~~(c) The facility has the right to withdraw its application for neonatal designation any time before being approved for designation by the department.~~

~~[(e) If a facility disagrees with the level(s) determined by the office to be appropriate for initial designation or re-designation, it may make an appeal in writing not later than 60 days to the director of the office. The written appeal must include a signed letter from the facility's governing board with an explanation of how the facility meets the requirements for the designation level.]~~

~~[(1) If the office upholds its original determination, the director of the office will give written notice of such to the facility not later than 30 days of its receipt of the applicant's complete written appeal.]~~

~~[(2) The facility may, not later than 30 days of the office's sending written notification of its denial, submit a written request for further review. Such written appeal shall then go to the Assistant Commissioner of the Division for Regulatory Services (assistant commissioner).]~~

~~(f) The facility's neonatal designation will expire if the facility fails to provide a timely and complete neonatal designation application packet to the department.~~

~~(g) The neonatal designation application packet in its entirety, including any recommendations or follow-up from the department and any opportunities for improvement, must be a written element of the facility's neonatal QAPI Plan and must be reviewed through this process, which is all subject to confidentiality as described in Texas Health and Safety Code, §241.184, Confidentiality; Privilege and all relevant laws related to the confidentiality of such records.~~

(h) The department reviews the application packet to determine and approve the facility's level of neonatal designation.

(i) The department defines the final neonatal designation level awarded to the facility, which may be different than the level requested based on the neonatal designation site survey summary.

(j) If the department determines the facility meets the requirements for neonatal designation, the department provides the facility with a designation award letter and a designation certificate.

(1) The facility must display its neonatal designation certificate in a public area of the licensed premises that is readily visible to patients, employees, and visitors.

(2) The facility must not alter the neonatal designation certificate. Any alteration voids neonatal designation for the remainder of that designation period.

(k) [(f)] The survey organization must [surveyor(s) shall] provide the facility with a written, signed neonatal designation site survey summary, including medical record reviews, [report] regarding their evaluation and validation of the facility's demonstration that [compliance with] neonatal designation [program] requirements are met. The neonatal designation site survey summary must [This survey report shall] be forwarded to the facility no later than 30 days after [of] the completion date of the survey. The facility is responsible for submitting [forwarding] a copy of the neonatal designation site survey summary, medical record reviews, and required documents [this report] to the department within 90 days of completion of the site survey to continue the designation process [office if it intends to continue the designation process].

[(g) The office shall review the findings of the survey report and any POC submitted by the facility, to determine compliance with the neonatal program requirements.]

(l) [(1)] The department reviews and approves designation of a facility that demonstrated the requirements are met [A recommendation for designation shall be made to the executive commissioner based on compliance with the requirements].

(m) [(2)] A neonatal level of care designation must [shall] not be denied to a facility that meets the minimum level of care designation requirements [for that level of care designation].

[(3) If a facility does not meet the requirements for the level of designation requested, the office shall recommend designation for the facility at the highest level for which it qualifies and notify the facility of the requirements it must meet to achieve the requested level of designation.]

(n) [(4)] If the department determines a facility does not meet the [a facility does not comply with] requirements for the level of designation requested, the department must [office shall] notify the facility of the requirements not met and may: [deficiencies and required corrective action(s) plan (CAP).]

(1) designate at the highest level for which requirements are met and notify the facility of the requirements it must meet to achieve the requested level of designation; or

(2) designate with a Corrective Action Plan (CAP) developed by the department to guide the facility in correcting the identified deficiencies, and the CAP may include requiring the facility to have a focused survey.

(A) The facility must [shall] submit to the department [office] reports as required and outlined in the CAP. The department [office] may require a second survey to ensure the facility meets

[~~compliance with~~] the ~~designation~~ requirements. The cost of the second survey will be at the expense of the facility.

(B) If the department [~~office~~] substantiates actions taken by [~~action that brings~~] the facility demonstrating documented evidence that designation requirements in the CAP are met [~~into compliance with the requirements~~], the department will remove the designation contingencies [~~office shall recommend designation to the executive commissioner~~].

[(C) If a facility disagrees with the office's decision regarding its designation application or status, it may request a secondary review by a designation review committee. Membership on a designation review committee will:]

[(i) be voluntary;]

[(ii) be appointed by the office director;]

[(iii) be representative of neonatal care providers and appropriate levels of designated neonatal facilities; and]

[(iv) include representation from the office and the Perinatal Advisory Council.]

(o) If a facility disagrees with the designation level determined by the department, it may request an appeal in writing to the EMS/Trauma Systems Section Director not later than 30 days after the designation award. The written appeal must be from the facility's Chief Executive Officer, Chief Medical Officer, or Chief Nursing Officer with documented evidence of how the facility meets the requirements for the requested designation level.

(1) The EMS/Trauma Systems Section will establish a three-person appeal panel and follow approved appeal panel guidelines to assess the facility's designation appeal as referenced in Texas Health and Safety Code §241.1836.

(2) If the designation appeal panel upholds the original designation determination, the EMS/Trauma Systems Section Director will give written notice of the upheld designation determination to the facility not later than 30 days after the appeal panel's decision.

(3) [(D)] If the designation appeal panel [a designation review committee] disagrees with the department's original designation determination [office's recommendation for corrective action], the appropriate level of neonatal designation will be awarded [records shall be referred to the assistant commissioner for recommendation to the executive commissioner].

(4) [(E)] If a facility disagrees with the designation appeal panel's decision regarding its designation level, the facility may request a second appeal review with the department's Associate Commissioner of the Consumer Protection Division. If the Associate Commissioner upholds the designation appeal panel's decision, the designation status will remain the same. If the Associate Commissioner disagrees with the designation appeal panel's decision, the Associate Commissioner will define the appropriate level of designation. The department will send a notification letter of the second appeal decision within 30 days of receiving the second appeal request. [office's recommendation at the end of the secondary review, the facility has a right to a hearing, in accordance with a hearing request referenced in §133.121(9) of this title (relating to Enforcement Action); and Government Code, Chapter 2001.]

(5) If the facility continues to disagree with the second level of appeal decision, the facility has a right to a hearing in the manner referenced in §133.121 of this title (relating to Enforcement Action).

(p) Exceptions and Notifications.

(1) A designated neonatal facility must provide written or electronic notification of any significant change to the neonatal program impacting patient care. The notification must be provided to the following:

(A) all emergency medical services (EMS) providers that transfer neonatal patients to or from the designated neonatal facility;

(B) the hospitals to which it customarily transfers out or transfers in neonatal patients;

(C) applicable PCRs and RACs; and

(D) the department.

(2) If the designated neonatal facility is unable to meet the requirements to maintain its current designation, it must submit to the department a POC as described in subsection (a)(1)(C) of this section, and a request for a temporary exception to the designation requirements. Any request for an exception must be submitted in writing from the facility's Chief Executive Officer and define the facility's timeline to meet the designation requirements. The department reviews the request and the POC, and either grants the exception with a specific timeline based on the public interest, geographic maternal care capabilities, and access to care, or denies the exception. If the facility is not granted an exception or it does not meet the designation requirements at the end of the exception period, the department will elect one of the following:

(A) re-designate the facility at the level appropriate to its revised capabilities;

(B) outline an agreement with the facility to satisfy all designation requirements for the level of care designation within a time specified under the agreement, which may not exceed the first anniversary of the effective date of the agreement; or

(C) may waive one specific designation requirement for a level of care designation if the department determines the waiver is justified considering:

(i) the expected impact on accessibility of neonatal care in the geographic area served by the facility if the waiver is not granted;

(ii) the expected impact on the quality of care and patient safety;

(iii) whether these services can be met by other facilities in the area or with telehealth/telemedicine services; and

(iv) whether the facility met all other designation requirements for the level of care designation that are not waived in the agreement.

(3) Waivers expire with the expiration of the current designation but may be renewed. The department may specify any conditions for ongoing reporting during this time.

(4) The department maintains a current list on its internet website of facilities that have contingency agreements or an approved waiver with the department and an aggregated list of the designation requirements conditionally met or waived.

(5) Facilities that have contingency agreements or an approved waiver with the department must post on the facility's internet website the nature and general terms of the agreement.

(q) An application for a higher or lower level of neonatal designation may be submitted to the department at any time.

(1) A designated neonatal facility that is increasing its neonatal capabilities may choose to apply for a higher-level of desig-

nation at any time. The facility must follow the designation process as described in subsection (a)(1) and (2) of this section to apply for the higher-level.

(2) A designated neonatal facility that is unable to maintain the facility's current level of neonatal designation may choose to apply for a lower level of designation at any time.

(r) If the facility is relinquishing its neonatal designation, the facility must provide 30 days written, advance notice of the relinquishment to the department, the applicable PCR/RACs, EMS providers, and facilities it customarily transfers out or are transfers in neonatal patients. The facility is responsible for continuing to provide neonatal care services or ensuring a plan for neonatal care continuity for the 30 days following the written notice of relinquishing its neonatal designation.

(s) A hospital providing neonatal services must not use the terms "designated neonatal facility" or similar terminology in its signs, advertisements, facility internet website, social media, or in the printed materials and information it provides to the public unless the facility is currently designated at that level of neonatal care.

(t) During a virtual, on-site, or focused designation review conducted by the department or a survey organization, the department or surveyor has the right to review and evaluate neonatal patient records, neonatal multidisciplinary QAPI Plan documents, peer review documentation demonstrating why the case was referred, the date reviewed, pertinent discussion, and any action specific to improving neonatal care and outcomes, as well as any other documents relevant to neonatal care in a designated neonatal facility or facility seeking neonatal facility designation to validate evidence that designation requirements are met.

(u) The department complies with all relevant laws related to the confidentiality of such records.

(v) The department may deny, suspend, or revoke designation if a designated neonatal facility ceases to provide services to meet or maintain the designation requirements of this section.

§133.185. Program Requirements.

(a) Neonatal Program Philosophy. Designated facilities must ~~shall~~ have a family-centered ~~family centered~~ philosophy. Parents must ~~shall~~ have reasonable access to their infants at all times and be encouraged to participate in the care of their infants. The facility environment for perinatal care must ~~shall~~ meet the physiologic and psychosocial needs of the mothers, infants, and families.

(b) Neonatal Program Plan. The facility must ~~shall~~ develop a written neonatal operational plan for ~~of~~ the neonatal program that includes a detailed description of the scope of services and clinical resources available for ~~to~~ all ~~maternal and~~ neonatal patients, mothers, and families. The plan must define ~~defines~~ the neonatal patient population evaluated, ~~and/or~~ treated, transferred, or transported by the facility~~, that is~~ consistent with clinical guidelines based on current ~~accepted professional~~ standards of neonatal practice ensuring ~~for neonatal and maternal care, and ensures~~ the health and safety of patients.

(1) The written Neonatal Program Plan must ~~plan and the program policies and procedures shall~~ be reviewed and approved by the Neonatal Program Oversight and then submitted to the facility's governing body for review. The governing body must ~~shall~~ ensure ~~that~~ the requirements of this section are implemented and enforced.

(2) The written Neonatal Program Plan must ~~neonatal program plan shall~~ include~~, at a minimum~~:

(A) clinical guidelines based on current standards of neonatal practice, and ~~that the program~~ policies and procedures ~~are based upon~~ that are adopted, implemented, and enforced by the neonatal program ~~for the neonatal services it provides~~;

(B) a process to ensure and validate that these clinical guidelines based on current standards of neonatal practice, policies, and procedures are reviewed and revised a minimum of every three years ~~periodic review and revision schedule for all neonatal care policies and procedures~~;

(C) written triage, stabilization, and transfer guidelines for neonatal patients ~~neonates and/or pregnant/postpartum women~~ that include consultation and transport services;

(D) the role and scope of telehealth/telemedicine practices, if utilized, including:

(i) documented and approved written policies and procedures that outline the use of telehealth/telemedicine for inpatient hospital care or for consultation, including appropriate situations, scope of care, and documentation that is monitored through the QAPI Plan and process; and

(ii) written and approved procedures to gain informed consent from the patient or designee for the use of telehealth/telemedicine that are monitored for compliance;

(E) ~~(D)~~ written guidelines for discharge planning instructions and ~~ensure~~ appropriate follow-up appointments ~~follow up~~ for all neonates/infants;

(F) ~~(E)~~ written guidelines for the hospital's ~~provisions for~~ disaster response, including a defined neonatal ~~to include~~ evacuation plan and process to relocate ~~of~~ mothers and infants to appropriate levels of care with identified resources, which must be evaluated annually to ensure neonatal care can be sustained and adequate resources are available;

~~(F)~~ a QAPI Program as described in §133.41~~(F)~~ of this title (relating to Hospital Functions and Services). The facility shall demonstrate that the neonatal program evaluates the provision of neonatal care on an ongoing basis; identify opportunities for improvement, develop and implement improvement plans, and evaluate the implementation until a resolution is achieved. The neonatal program shall measure, analyze, and track quality indicators or other aspects of performance that the facility adopts or develops that reflect processes of care and is outcome based Evidence shall support that aggregate patient data is continuously reviewed for trends and data is submitted to the department as requested;

(G) written ~~requirements for~~ minimal education and credentialing requirements ~~credentials~~ for all staff participating in the care of neonatal patients, which are documented and monitored by the managers who have oversight of staff;

(H) written requirements ~~provisions~~ for providing continuing staff education~~,;~~ including annual competency and skills assessment that is appropriate for the patient population served, which are documented and monitored by the managers who have oversight of staff;

(I) documentation of compliance with the requirement for a perinatal staff registered nurse to serve as a representative on the nurse staffing committee under §133.41 ~~§133.41(e)(2)(F)~~ of this title (relating to Hospital Functions and Services);

(J) measures to monitor the availability of all necessary equipment and services required to provide the appropriate level of care and support for ~~of~~ the patient population served; and

(K) documented guidelines for consulting [the availability of] personnel with knowledge and skills in breastfeeding, which includes expected response times, defined roles, responsibilities, and expectations.

(3) The facility must have a documented and approved QAPI Plan.

(A) The Chief Executive Officer, Chief Medical Officer, and Chief Nursing Officer must implement a culture of safety for the facility and ensure adequate resources are available to support a concurrent, data-driven QAPI Plan.

(B) The facility must demonstrate that the neonatal QAPI Plan consistently assesses the provision of neonatal care provided. The assessment must identify variances in care, the impact to the patient, and the appropriate levels of review. The process must identify opportunities for improvement and develop a plan of correction to address the variances in care or the system response and monitor until the needed change is sustained.

(C) The neonatal program must measure, analyze, and track performance through defined quality indicators, core performance measures, and other aspects of performance that the facility adopts or develops to evaluate processes of care and patient outcomes. Summary reports of these findings are reported through the Neonatal Program Oversight.

(D) Level III and IV neonatal facilities must participate in benchmarking programs to assess their outcomes as an element of the QAPI Plan.

(E) The Neonatal Medical Director (NMD) must have the authority to make referrals for peer review, receive feedback from the peer review process, and ensure neonatal physician representation in the peer review process for neonatal cases.

(F) The NMD and Neonatal Program Manager (NPM) must participate in PCR meetings, QAPI regional initiatives, and regional collaboratives and submit requested data to assist with data analysis to evaluate regional outcomes as an element of the facility's neonatal QAPI Plan.

(G) The facility must have documented evidence of neonatal QAPI summary reports that monitor compliance to the telehealth and telemedicine standards of care and are reported through the Neonatal Program Oversight.

(H) The facility must have documented evidence of neonatal QAPI summary reports to support that aggregate neonatal data are consistently reviewed to identify developing trends, opportunities for improvement, and necessary corrective actions. Summary reports must be provided to the Neonatal Program Oversight, available for site surveyors, and submitted to the department as requested.

(c) Medical Staff. The facility must [shall] have an organized, effective neonatal program that is recognized by the medical staff bylaws [and] approved by the facility's governing body.

(1) The credentialing of the neonatal medical staff must [shall] include a process for the delineation of privileges for neonatal care.

(2) The neonatal medical staff must participate in ongoing staff and team-based education and training in the care of the neonatal patient.

(d) Medical Director. There must be an identified NMD and an identified Transport Medical Director (TMD), if the facility has its own transport program. The NMD and TMD must be credentialed by

the facility for treatment of neonatal patients and have their responsibilities and authority defined in a job description. The NMD and TMD must maintain a current status of successful completion of the Neonatal Resuscitation Program (NRP) or a department-approved equivalent course. [There shall be an identified Neonatal Medical Director (NMD) and/or Transport Medical Director (TMD) as appropriate, responsible for the provision of neonatal care services and credentialed by the facility for the treatment of neonatal patients.]

~~[(1)]~~ The NMD and/or TMD shall have the authority and responsibility to monitor neonatal patient care from admission, stabilization, operative intervention(s) if applicable, through discharge, inclusive of the QAPI Program.]

(1) ~~[(2)]~~ The NMD is responsible for the provision of neonatal care services and must [The responsibilities and authority of the NMD and/or TMD shall include but are not limited to]:

(A) examine [examining] qualifications of medical staff and advanced practice providers requesting [neonatal] privileges to participate in neonatal/infant care, and make [makes] recommendations to the appropriate committee for such privileges;

(B) ensure neonatal medical [assuring] staff and advanced practice provider competency in managing neonatal emergencies, complications, and resuscitation techniques;

(C) monitor neonatal patient care from transport if applicable, to admission, through to discharge, and review variations in care through the QAPI Plan;

(D) ~~[(C)]~~ participate [participating] in ongoing neonatal staff and team-based education and training in the care of the neonatal patient;

(E) ~~[(D)]~~ oversee [oversight of] the inter-facility neonatal transport as appropriate;

~~[(E)]~~ participating in the development, review and assurance of the implementation of the policies, procedures and guidelines of neonatal care in the facility including written criteria for transfer, consultation or higher level of care;]

(F) collaborate with the NPM, maternal teams, consulting physicians, and nursing leaders and units providing neonatal care to include developing, implementing, or revising:

(i) written policies, procedures, and guidelines for neonatal care that are implemented and monitored for compliance;

(ii) the neonatal QAPI Plan, specific reviews, and data initiatives;

(iii) criteria for transfer, consultation, or higher-level of care; and

(iv) staff competencies, education, and training;

(G) ~~[(F)]~~ participate as a clinically active and practicing physician [regular and active participation] in neonatal care at the facility where medical director services are provided;

(H) ~~[(G)]~~ ensure [ensuring] that the QAPI Plan [Program] is specific to neonatal/infant care, is ongoing, data driven, and outcome based; [and regularly participates in the neonatal QAPI meeting; and]

(I) co-chair the Neonatal Program Oversight with the NPM and other neonatal QAPI meetings as appropriate;

(J) ~~[(H)]~~ maintain [maintaining] active staff privileges as defined in the facility's medical staff bylaws; and[-]

(K) maintain collaborative relationships with other NMDs of designated neonatal facilities within the applicable Perinatal Care Region.

(2) The TMD is responsible for the facility neonatal transport program and must:

(A) collaborate with transport team to develop, revise, and implement written policies, procedures, and guidelines for neonatal care that are implemented and monitored for compliance;

(B) participate in ongoing transport staff competencies, education, and training;

(C) review and evaluate transports from initial activation of the transport team through delivery of patient, resources, quality of patient care provided, and patient outcomes; and

(D) integrate review findings into the overall neonatal QAPI Plan and process.

(3) The NMD may also serve as the TMD.

(c) NPM [Neonatal Program Manager (NPM)]. The facility must identify an NPM who has the authority and oversight responsibilities, written in his or her job description, [responsible] for the provision of neonatal [care] services through all phases of care, including discharge, and identifying variances in care for inclusion in the QAPI Plan. [shall be identified by the facility and:]

(1) The NPM must be a registered nurse with defined education and credentials for neonatal care applicable to the level of care being provided.[:]

(2) The NPM must maintain a current status of successful completion of [have successfully completed and is current in] the Neonatal Resuscitation Program (NRP) or a department-approved [an office-approved] equivalent course.[:]

(3) The NPM must: [have the authority and responsibility to monitor the provision of neonatal patient care services from admission, stabilization, operative intervention(s) if applicable, through discharge, inclusive of the QAPI Program as defined in subsection (b)(2)(E) of this section.]

(A) ensure staff competency in resuscitation techniques;

(B) participate in ongoing staff and team-based education and training in the care of the neonatal patient;

(C) track utilization of telehealth/telemedicine, if used;

(D) [(4)] collaborate with the NMD, maternal program, consulting physicians, and nursing leaders and units providing neonatal care [in areas] to include developing, implementing, or revising;[: but not limited to: developing and/or revising policies, procedures and guidelines; assuring staff competency, education, and training; the QAPI Program; and regularly participates in the neonatal QAPI meeting; and]

(i) written policies, procedures, and guidelines for neonatal care that are implemented and monitored for compliance;

(ii) the neonatal QAPI Plan, specific reviews, and data initiatives;

(iii) criteria for transfer, consultation, or higher-level of care; and

(iv) staff competencies, education, and training;

(E) regularly and actively participate in neonatal care at the facility where program manager services are provided;

(F) consistently review the neonatal care provided and ensure the QAPI Plan is specific to neonatal/infant care, data driven, and outcome-based;

(G) co-chair the Neonatal Program Oversight with the NMD and other neonatal QAPI meetings as appropriate; and

(H) [(5)] maintain [develop] collaborative relationships with other NPMs [NPM(s)] of designated neonatal facilities within the applicable PCR [Perinatal Care Region].

§133.186. Neonatal Designation Level I.

(a) Level I (Well Care [Nursery]). The Level I neonatal designated facility must [will]:

(1) provide care for mothers and their infants generally of ≥ 35 [≥ 35] weeks gestational age who have routine, transient perinatal problems;

(2) have skilled medical staff and personnel with documented training, competencies, and continuing education specific for the patient population served; and

(3) [if an infant <35 weeks gestational age is retained, the facility shall] provide the same level of care that the neonate would receive at a higher-level [higher level] designated neonatal facility and [shall, through the QAPI Plan Program] complete an in-depth [in depth] critical review and assessment of the care provided to these infants through the QAPI Plan and process, if an infant <35 weeks gestational age is retained.

(b) Neonatal Medical Director (NMD). The NMD must [shall] be a physician who:

(1) is a currently practicing pediatrician, family medicine physician, or physician specializing in obstetrics and gynecology with experience in the care of neonates/infants;

(2) maintains [demonstrates] a current status of [on] successful completion of the Neonatal Resuscitation Program (NRP) or a department-approved equivalent course;

(3) maintains [demonstrates] effective administrative skills and oversight of the QAPI Plan [Program]; and

(4) completes [has completed] continuing medical education [annually] specific to the care of neonates annually.

(c) Program Functions and Services.

(1) The neonatal program must collaborate with the maternal program, consulting physicians, and nursing leadership to ensure [Triage and assessment of all patients admitted to the perinatal service with identification of] pregnant mothers [patients] who are at high risk of delivering a neonate that requires a higher-level [higher level] of care are [who will be] transferred to a higher-level [higher level] facility before [prior to] delivery unless the transfer would be unsafe.

(2) The facility provides appropriate, supportive, [Supportive] and emergency care delivered by [appropriately] trained personnel[:] for unanticipated maternal-fetal or neonatal problems that occur during labor and delivery through the disposition of the patient.

[(3) The ability to perform an emergency cesarean delivery.]

(3) [(4)] The on-call [primary] physician, advanced practice nurse, or [and/or] physician assistant must have documented [with] special competence in the care of neonates, privileges and [whose] credentials to participate in neonatal/infant care [have been] reviewed and approved by the NMD [and is on-call], and:

(A) maintain [shall demonstrate] a current status of [on] successful completion of the [American Heart Association/American Academy of Pediatrics for the resuscitation of all infants] NRP or a department-approved equivalent course;

(B) complete [has completed] continuing education [annually,] specific to the care of neonates annually;

(C) [shall] arrive at the patient bedside within 30 minutes of an urgent request;

(D) if not immediately available to respond or is covering more than one facility, ensure [be provided] appropriate back-up [backup] coverage is [who shall be] available, back-up call providers are documented in the neonatal on-call [an on call] schedule and must be readily available to respond to the facility staff; and

(E) [if] the back-up call physician, advanced practice nurse, or [and/or] physician assistant must [is providing backup coverage, shall] arrive at the patient bedside within 30 minutes of an urgent request.

(4) ~~[(5)]~~ Written guidelines defining the availability [Availability] of appropriate anesthesia, laboratory, radiology, respiratory, ultrasonography, and blood bank services on a 24-hour [24 hour] basis as described in §133.41 [§133.41(a), (h), and (s)] of this title (relating to Hospital Functions and Services);, respectively].

(A) If preliminary reading of imaging studies pending formal interpretation is performed, the preliminary findings must be documented in the medical record.

(B) The facility must ensure [There must be] regular monitoring and comparison of the preliminary and [versus] final readings through [reading in] the radiology QAPI Plan [Program]. Summary reports of activities must be presented at the Neonatal Program Oversight.

(5) Pharmacy services must be in compliance with the requirements in §133.41 of this title and must have a pharmacist available at all times.

~~[(6)]~~ A pharmacist shall be available for consultation on a 24 hour basis.

(A) If medication compounding is done by a pharmacy technician for neonates/infants, a pharmacist must [will] provide immediate supervision of the compounding process.

(B) When medication compounding is done for neonates/infants, the pharmacist must implement guidelines to ensure the accuracy of the compounded final product and ensure:

(i) the process is monitored through the QAPI Plan; and

(ii) summary reports of activities are presented to the Neonatal Program Oversight.

~~[(B)]~~ If medication compounding is done for neonates/infants, the pharmacist will develop and implement checks and balances to ensure the accuracy of the final product.

(6) ~~[(7)]~~ [Resuscitation.] The facility must [shall] have personnel with appropriate training for managing neonates/infants, written [appropriately trained staff,] policies, [and] procedures, and guidelines specific to the facility for the stabilization and resuscitation of neonates based on current standards of professional practice. The facility must[; shall] ensure the availability of personnel who can stabilize distressed neonates, including those <35 weeks gestation until they are [can be] transferred to a higher-level [higher level]

facility. Variations from these standards are monitored through the QAPI Plan and process.

(A) Each birth must [shall] be attended by at least one person who maintains [demonstrates] a current status of successful completion of the NRP or a department-equivalent course, whose primary focus [responsibility] is [for the] management of the neonate and initiating resuscitation.

(B) At least one person must be immediately available on-site with the skills to perform a complete neonatal resuscitation including endotracheal intubation, establishment of vascular access, and administration of medications.

(C) Additional personnel [providers] with current status of successful completion of the NRP, or a department-equivalent course, must [shall] be on-site and immediately available upon request for the following[;:]

(i) multiple birth deliveries, to care for each neonate;

(ii) deliveries with unanticipated maternal-fetal problems that occur during labor and delivery; and

(iii) deliveries determined or suspected to be high-risk for the pregnant patient or neonate.

(D) Compliance to this staffing requirement is monitored through the QAPI Plan and reported at the Neonatal Program Oversight.

(E) ~~[(D)]~~ Neonatal resuscitative [Basic NRP] equipment, [and] supplies, and medications must [shall] be immediately available for trained personnel [staff] to perform resuscitation and stabilization on any neonate/infant.

(7) ~~[(8)]~~ [Perinatal Education.] A registered nurse with experience in neonatal or [and/or] perinatal care must [shall] provide supervision and coordination of staff education.

(8) ~~[(9)]~~ The neonatal program ensures [Ensures] the availability of support personnel with knowledge and skills in breastfeeding to assist and counsel [meet the needs of new] mothers.

(9) ~~[(10)]~~ Social services, supportive spiritual [and pastoral] care, and counseling must [shall] be provided as appropriate to meet the needs of the patient population served.

§133.187. Neonatal Designation Level II.

(a) Level II (Special Care [Nursery]).

~~[(1)]~~ The Level II neonatal designated facility must [will]:

(1) [(A)] provide care for mothers and their infants of generally ≥32 [≥=32] weeks gestational age and birth weight ≥1500 [≥=1500] grams who have physiologic immaturity or [who have] problems that are expected to resolve rapidly and are not anticipated to require subspecialty services on an urgent basis; and

(A) if a facility is located more than 75 miles from the nearest Level III or IV designated neonatal facility and retains a neonate <32 weeks of gestation or having a birth weight of <1500 grams, the facility must provide the same level of care that the neonate would receive at a higher-level designated neonatal facility; and

(B) any facility that retains a neonate <32 weeks of gestation or a birth weight <1500 grams, must through the QAPI Plan, complete an in-depth critical review and assessment of the care provided;

(2) [(B)] [either] provide care, either by including assisted endotracheal ventilation for less than 24 hours or nasal continuous positive airway pressure (NCPAP) until the infant's condition improves or

arrange for appropriate transfer to a higher-level [higher level] designated facility. If the facility performs neonatal surgery, the facility shall provide the same level of care that the neonate would receive at a higher level designated facility. The facility must, through the QAPI Program, complete an in depth critical review of the care provided; and

(A) if the facility performs neonatal surgery, it must provide the same level of care that the neonate would receive at a higher-level designated facility; and

(B) the neonatal surgical procedure and follow-up must be reviewed through the QAPI Plan; and

(3) [(C)] have [provide] skilled medical staff and personnel with [that have] documented training, competencies, and annual continuing education specific for the patient population served.

(2) If a facility is located more than 75 miles from the nearest Level III or IV designated neonatal facility and retains a neonate < between 30 and 32 weeks of gestation having a birth weight of < between 1250 1500 grams, the facility shall provide the same level of care that the neonate would receive at a higher-level designated neonatal facility. The facility must through the QAPI Program, complete an in depth critical review of the care provided.]

(b) Neonatal Medical Director (NMD). The NMD must [shall] be a physician who is:

(1) a board eligible/certified neonatologist, with experience in the care of neonates/infants and maintains [demonstrates] a current status of [on] successful completion of the Neonatal Resuscitation Program (NRP) or a department-approved equivalent course; or

(2) [by the effective date of this rule, a] pediatrician or neonatologist by the effective date of this section who:

(A) [has] continuously provided neonatal care for the last consecutive two years and[;] has experience and training in the care of neonates/infants, including assisted endotracheal ventilation and NCPAP management;

(B) maintains a consultative relationship with a board eligible/certified neonatologist;

(C) maintains [demonstrates] effective administrative skills and oversight of the QAPI Plan [Program];

(D) maintains [demonstrates] a current status of [on] successful completion of the NRP or a department-approved equivalent course; and

(E) completes [has completed] continuing medical education [annually] specific to the care of neonates annually.

(c) Program Functions and Services.

(1) The neonatal program must collaborate with the maternal program, consulting physicians, and nursing leadership to ensure pregnant patients who are at high risk of delivering a neonate that requires a higher-level of care are transferred to a higher-level facility before delivery unless the transfer would be unsafe. [Triage and assessment of all patients admitted to the perinatal service with the identification of pregnant women with a high likelihood of delivering a neonate requiring a higher level of care be transferred prior to delivery unless the transfer is unsafe.]

(2) The facility provides appropriate, supportive, [Supportive] and emergency care delivered by [appropriately] trained personnel, for unanticipated maternal-fetal or neonatal problems that occur during labor and delivery through the disposition of the patient.

[(3) The ability to perform an emergency cesarean delivery.]

(3) [(4)] The on-call physician, advanced practice nurse, or [and/or] physician assistant must have documented [with] special competence in the care of neonates, privileges and [whose] credentials to participate in neonatal/infant care [have been] reviewed and approved by the NMD [and is on-call], and must:

(A) maintain [shall demonstrate] a current status of [on] successful completion of the NRP or a department-approved equivalent course;

(B) complete [shall have completed] continuing education [annually] specific to the care of neonates annually;

(C) [shall] arrive at the patient bedside within 30 minutes of an urgent request;

(D) if not immediately available to respond or is covering more than one facility, ensure appropriate back-up coverage is [shall be] available, back-up call providers are documented in the neonatal on-call [an on call] schedule and must be readily available to respond to the facility staff;

(i) [(E)] the back-up call physician, advanced practice nurse, or [and/or] physician assistant must [providing backup coverage shall] arrive at the patient bedside within 30 minutes of an urgent request; and

(ii) [(F)] the on-call staff must [shall] be on-site to provide ongoing care and to respond to emergencies when a neonate/infant is maintained on endotracheal ventilation.

(4) The neonatal program ensures if surgeries are performed for neonates/infants, a surgeon privileged and credentialed to perform surgery on a neonate/infant is on-call and must arrive at the patient bedside within 30 minutes of an urgent request.

(5) Anesthesia providers [services] with pediatric experience and competence must provide services [will be provided] in compliance with the requirements [found] in §133.41 [§133.41(a)] of this title (relating to Hospital Functions and Services).

(6) A dietitian [Dietitian] or nutritionist with sufficient training and experience in neonatal and maternal nutrition, appropriate to meet the needs of the population served, must [shall] be available and in compliance with the requirements [found] in §133.41 [§133.41(d)] of this title.

(7) Laboratory services must [shall] be in compliance with the requirements [found] in §133.41 [§133.41(h)] of this title and must [shall] have:

(A) personnel on-site at all times as defined by written management guidelines, which may include when a neonate/infant is maintained on endotracheal ventilation; and

(B) a blood bank capable of providing blood and blood component therapy within the timelines defined in approved blood transfusion guidelines.]; and

(8) [(C)] The facility must provide neonatal/infant blood gas monitoring capabilities.

(9) [(8)] Pharmacy services must [shall] be in compliance with the requirements [found] in §133.41 [§133.41(q)] of this title and must [shall] have a pharmacist with experience in neonatal/pediatric [neonatal/perinatal] pharmacology available at all times.

(A) If medication compounding is done by a pharmacy technician for neonates/infants, a pharmacist must [will] provide immediate supervision of the compounding process.

(B) When medication compounding is done for neonates/infants, the pharmacist must implement guidelines to ensure the accuracy of the compounded final product and ensure:

(i) the process is monitored through the QAPI Plan; and

(ii) summary reports of activities are presented to the Neonatal Program Oversight.

~~[(B) If medication compounding is done for neonates/infants, the pharmacist shall develop and implement checks and balances to ensure the accuracy of the final product.]~~

(C) Total parenteral nutrition appropriate for neonates/infants must [shall] be available, if requested.

(10) ~~[(9) A speech, [An] occupational, or physical therapist with sufficient neonatal expertise~~ must [shall] be available to meet the needs of the population served.

(11) ~~[(10) [Medical Imaging.] Radiology services~~ must [shall] be in compliance with the requirements ~~[found] in §133.41 [§133.41(s)] of this title, [and will]~~ incorporate the "As Low as Reasonably Achievable" principle when obtaining imaging in neonatal ~~[and maternal] patients, [;] and~~ must [shall] have:

(A) personnel appropriately trained~~;~~ in the use of x-ray and ultrasound equipment;

(B) personnel at the bedside within 30 minutes of an urgent request;

(C) personnel, appropriately trained ~~[personnel shall be]~~ available on-site to provide ongoing care and to respond to emergencies when an infant is maintained on endotracheal ventilation; ~~[and]~~

(D) interpretation capability of neonatal and perinatal x-rays and ultrasound studies are available at all times~~;~~[-]

(E) preliminary findings documented in the medical record, if preliminary reading of imaging studies pending formal interpretation is performed; and

(F) regular monitoring and comparison of preliminary and final readings through the radiology QAPI Plan and provide summary reports of activities to the Neonatal Program Oversight.

(12) ~~[(11) A respiratory therapist, with experience and specialized training in the respiratory support of neonates/infants, whose credentials have been reviewed and approved by the NMD, must~~ [shall] be immediately available on-site when:

(A) a neonate/infant is on a respiratory ventilator to provide ongoing care and to respond to emergencies; or

(B) a neonate/infant is on a Continuous Positive Airway Pressure (CPAP) apparatus.

(13) ~~[(12) [Resuscitation.] The facility~~ must [shall] have staff with appropriate training for managing neonates/infants, written policies, ~~[and] procedures, and guidelines specific to the facility for the stabilization and resuscitation of neonates based on current standards of professional practice. Variances from these standards are monitored through the QAPI Plan.~~

(A) Each birth must [shall] be attended by at least one person ~~[provider]~~ who maintains a ~~[demonstrates]~~ current status of suc-

cessful completion of the NRP or a department-approved equivalent course, whose primary focus ~~[responsibility]~~ is ~~[the]~~ management of the neonate and initiating resuscitation.

(B) At least one person must be immediately available on-site with the skills to perform a complete neonatal resuscitation including endotracheal intubation, establishment of vascular access, and administration of medications.

(C) Additional personnel who maintain a ~~[providers with]~~ current status of successful completion of the NRP or a department-approved equivalent course must [shall] be on-site and immediately available upon request for the following~~;~~[-]

(i) multiple birth deliveries, to care for each neonate;

(ii) deliveries with unanticipated maternal-fetal problems that occur during labor and delivery; and

(iii) deliveries determined or suspected to be high-risk for the pregnant patient or neonate.

(D) Compliance to this staffing requirement is monitored through the QAPI Plan and reported at the Neonatal Program Oversight ~~[Additional providers who demonstrate current status of successful completion of the NRP shall attend each neonate in the event of multiple births].~~

(E) Neonatal resuscitative ~~[A full range of NRP]~~ equipment, ~~[and] supplies, and medications~~ must [shall] be immediately available for trained staff to perform resuscitation and stabilization on any neonate/infant.

(14) ~~[(13) [Perinatal Education.] A registered nurse with experience in neonatal care, including special care, or [nursery, and/or] perinatal care~~ must [shall] provide supervision and coordination of staff education.

(15) ~~[(14) Social services, supportive spiritual [and pas- toral] care, and counseling~~ must [shall] be provided as appropriate to meet the needs of the patient population served.

(16) ~~[(15) Written and implemented policies and procedures to ensure [Ensure] the timely evaluation of retinopathy of prematurity, documented [monitoring,] referral for treatment, and follow-up [follow up, in the ease] of an at-risk infant, which must be monitored through the QAPI Plan.~~

(17) ~~[(16) The neonatal program ensures [Ensure] the availability of support personnel with knowledge and expertise in breastfeeding [lactation] to assist and counsel [meet the needs of new] mothers [while breastfeeding].~~

(18) ~~[(17) The neonatal program ensures [Ensure] provisions for follow-up [follow up] care at discharge for infants at high risk for neurodevelopmental, medical, or psychosocial complications.~~

§133.188. Neonatal Designation Level III.

(a) Level III (Neonatal Intensive Care ~~[Unit (ICU)]~~). The Level III neonatal designated facility must [will]:

(1) provide care for mothers and comprehensive care for ~~[of]~~ their infants of all gestational ages with mild to critical illnesses or requiring sustained life support;

(2) ensure access to ~~[provide for]~~ consultation to a full range of pediatric medical subspecialists and pediatric surgical specialists, and the capability to perform major pediatric surgery on-site or at another appropriate neonatal designated facility;

(3) have skilled medical staff and personnel with documented training, competencies, and annual continuing education specific for the patient population served;

(4) facilitate neonatal transports; and

(5) provide outreach education to lower-level neonatal [lower level] designated facilities, and as appropriate and applicable, to non-designated facilities, birthing centers, independent midwife practices, and prehospital providers based on findings in the QAPI Plan and process.

(b) Neonatal Medical Director (NMD). The NMD must [shall] be a physician who is a board eligible/certified neonatologist with experience in the care of neonates/infants and maintains [demonstrates] a current status of [on] successful completion of the Neonatal Resuscitation Program (NRP) or a department-approved equivalent course.

(c) If the facility has its own transport program, there must [shall] be an identified Transport Medical Director (TMD). The TMD or Transport Medical Co-Director must [shall] be a physician who is a board eligible/certified neonatologist or pediatrician with expertise and experience in neonatal/infant transport.

(d) Program Functions and Services.

(1) The neonatal program must collaborate with the maternal program, consulting physicians, and nursing leadership to ensure pregnant patients who are at high risk of delivering a neonate that requires a higher-level of care are transferred to a higher-level facility before delivery unless the transfer would be unsafe [Triage and assessment of all patients admitted to the perinatal service with identification of pregnant patients who are at high risk of delivering a neonate that requires a higher level of care who will be transferred to a higher level facility prior to delivery unless the transfer is unsafe].

(2) The facility provides appropriate, supportive, [Supportive] and emergency care [shall be] delivered by [appropriately] trained personnel[;] for unanticipated maternal-fetal or neonatal problems that occur during labor and delivery through the disposition of the patient.

{(3) The ability to perform an emergency cesarean delivery within 30 minutes.}

(3) [(4)] At least one of the following neonatal providers must [shall] be on-site and available at all times: [and includes] pediatric hospitalists, neonatologists, [and/or] neonatal nurse practitioners, or neonatal physician assistants, as appropriate, who must have documented [demonstrated] competence in the management of severely ill neonates/infants, and privileges and [whose] credentials to participate in neonatal/infant care [have been] reviewed and approved by the NMD and must [is on call, and]:

(A) maintain [has] a current status of successful completion of the NRP or a department-approved equivalent course;

(B) complete [has completed] continuing education [annually;] specific to the care of neonates annually;

(C) have [if the on-site provider is not a neonatologist, a] a neonatologist [shall be] available for consultation at all times that arrives [and shall arrive] on-site within 30 minutes of an urgent request, if the on-site provider is not a neonatologist; and

(D) ensure [if the neonatologist is covering more than one facility;] the facility has [must ensure that] a back-up neonatologist [be] available, the back-up neonatologist is documented in the neonatal on-call [an on call] schedule, and readily available to respond to the facility staff and arrive at the patient bedside within 30 minutes of an urgent request.[; and]

{(E) ensure that the neonatologist providing back-up coverage shall arrive on-site within 30 minutes.}

(4) The neonatal program that performs surgeries for neonates/infants must have a surgeon privileged and credentialed to perform surgery on a neonate/infant on-call. The surgeon on-call must be available to arrive at the patient bedside within 30 minutes of an urgent request.

(5) Anesthesiologists with pediatric expertise and competence must direct and evaluate[; shall directly provide the] anesthesia care provided to neonates [the neonate;] in compliance with the requirements [found] in §133.41 [§133.41(a)] of this title [(relating to Hospital Functions and Services)].

(6) A dietitian or nutritionist who has special training in [perinatal and] neonatal nutrition and can plan diets that meet the special needs of neonates/infants is available at all times, in compliance with the requirements [found] in §133.41 [§133.41(d)] of this title.

(7) Laboratory services must [shall] be in compliance with the requirements in §133.41 [found at §133.41(h)] of this title and must [shall] have:

(A) laboratory personnel on-site at all times;

(B) neonatal and pediatric [perinatal] pathology services available for the population served;

(C) neonatal and pediatric surgical pathology available in the operative suite at the request of the operating surgeon; and

(D) [(C)] a blood bank capable of providing blood and blood component therapy within the timelines defined in approved blood transfusion guidelines.[; and]

(8) [(D)] The facility must provide neonatal/infant [neonatal] blood gas monitoring capabilities.

(9) [(8)] Pharmacy services must [shall] be in compliance with the requirements [found] in §133.41 [§133.41(q)] of this title and must [will] have a pharmacist[;] with experience in neonatal/pediatric [and perinatal] pharmacology[;] available at all times.

(A) If medication compounding is done by a pharmacy technician for neonates/infants, a pharmacist must [will] provide immediate supervision of the compounding process;

(B) When medication compounding is done for neonates/infants, the pharmacist must implement guidelines to ensure the accuracy of the compounded final product and ensure:

(i) the process is monitored through the QAPI Plan; and

(ii) summary reports of activities are presented to the Neonatal Program Oversight.

{(B) If medication compounding is done for neonates/infants, the pharmacist shall develop checks and balances to ensure the accuracy of the final product.}

(C) Total parenteral nutrition appropriate for neonates/infants must [shall] be available.

{(9) An occupational or physical therapist with sufficient neonatal expertise shall be available to meet the needs of the population served.}

(10) [Medical Imaging-] Radiology services must [shall] be in compliance with the requirements [found] in §133.41 [§133.41(s)] of this title.[; will] incorporate the "As Low as Reason-

ably Achievable" principle when obtaining imaging in neonatal [and maternal] patients, and must [shall] have:

(A) personnel appropriately trained in the use of x-ray equipment [shall be] on-site and available at all times; [personnel appropriately trained in ultrasound, computed tomography, magnetic resonance imaging, echocardiography, and/or cranial ultrasound equipment shall be on-site within one hour of an urgent request; fluoroscopy shall be available;]

(B) personnel appropriately trained in ultrasound, computed tomography, magnetic resonance imaging, and cranial ultrasound equipment available on-site within 30 minutes of an urgent request;

(C) fluoroscopy available at all times;

(D) ~~(B)~~ neonatal diagnostic imaging studies and [interpretation of neonatal and perinatal diagnostic imaging studies by] radiologists with pediatric expertise to interpret the neonatal diagnostic imaging studies, available at all times; [and]

(E) a radiologist with pediatric expertise to interpret within 30 minutes from receipt of images for an urgent request; and

(F) regular monitoring and comparison of the preliminary and final readings through the radiology QAPI Plan and provide summary reports of activities at the Neonatal Program Oversight.

(11) ~~(C)~~ Pediatric [pediatric] echocardiography with pediatric cardiology interpretation and consultation completed within a time period consistent with current standards of professional practice [within one hour of an urgent request].

(12) ~~(11)~~ Speech [language pathologist], [an] occupational [therapist], or a physical therapist with neonatal/infant expertise and experience must [shall] be available to: [evaluate and manage feeding and/or swallowing disorders.]

(A) evaluate and manage feeding or swallowing disorders; and

(B) provide therapy services to meet the needs of the population served.

(13) ~~(12)~~ A respiratory therapist, with experience and specialized training in the respiratory support of neonates/infants, whose credentials have been reviewed and approved by the NMD, must [shall] be on-site and immediately available [on-site].

(14) ~~(13)~~ The facility must have staff with appropriate training for managing neonates/infants and written [Resuscitation. Written] policies, [and] procedures, and guidelines [shall be] specific to the facility for the stabilization and resuscitation of neonates based on current standards of professional practice. Variances from these standards are monitored through the QAPI Plan.

(A) Each birth must [shall] be attended by at least one person [provider] who maintains a [demonstrates] current status of successful completion of the NRP or a department-approved equivalent course, and whose primary focus [responsibility] is [the] management of the neonate and initiating resuscitation.

(B) At least one person must be immediately available on-site with the skills to perform a complete neonatal resuscitation including endotracheal intubation, establishment of vascular access, and administration of medications.

(C) Additional personnel [providers] who maintain a [demonstrate] current status of successful completion of the NRP or a department-approved equivalent course must be on-site and immediately available upon request for the following: [shall attend each neonate in the event of multiple births.]

(i) multiple birth deliveries, to care for each neonate;

(ii) deliveries with unanticipated maternal-fetal problems that occur during labor and delivery; and

(iii) deliveries determined or suspected to be high-risk for the pregnant patient or neonate.

(D) Compliance to this staffing requirement is monitored through the QAPI Plan and reported at the Neonatal Program Oversight.

~~(D)~~ Each high-risk delivery shall have in attendance at least two providers who demonstrate current status of successful completion of the NRP whose only responsibility is the management of the neonate.]

(E) Neonatal resuscitative [A full range of resuscitative] equipment, supplies, and medications must [shall] be immediately available for trained staff to perform complete resuscitation and stabilization for [on] each neonate/infant.

(15) ~~(14)~~ [Perinatal education.] A registered nurse with experience in neonatal care, including neonatal intensive care, must [shall] provide supervision and coordination of staff education.

(16) ~~(15)~~ Social services, supportive spiritual care, and [Pastoral care and/or] counseling must [shall] be provided as appropriate to meet the needs of the patient population served.

~~(16)~~ Social services shall be provided as appropriate to the patient population served.]

(17) Written and implemented policies and procedures to ensure [Ensure the] timely evaluation of retinopathy of prematurity, documented [monitoring.] referral for treatment and follow-up [follow up; in the case] of an at-risk infant, which must be monitored through the QAPI Plan.

(18) The neonatal program ensures a [A] certified lactation consultant must [shall] be available at all times to assist and counsel mothers.

(19) The neonatal program ensures [Ensure] provisions for follow-up [follow up] care at discharge for infants at high risk for neurodevelopmental, medical, or psychosocial complications.

§133.189. Neonatal Designation Level IV.

(a) Level IV (Advanced Neonatal Intensive Care [Unit]). The Level IV neonatal designated facility must [will]:

(1) provide care for the mothers and comprehensive care for [of] their infants of all gestational ages with the most complex and critical medical and surgical conditions or [critically ill neonates/infants with any medical problems, and/or] requiring sustained life support;

(2) ensure access to [that] a comprehensive range of pediatric medical subspecialists and pediatric surgical subspecialists are available to arrive on-site in person for [face to face] consultation and care, and the capability to perform major pediatric surgery including the surgical repair of complex conditions on-site;

(3) have skilled medical staff and personnel with documented training, competencies, and annual continuing education specific for the patient population served;

(4) facilitate neonatal transports; and

(5) provide outreach education to lower-level neonatal [lower level] designated facilities, and as appropriate and applicable, to non-designated facilities, birthing centers, independent midwife

practices, and prehospital providers based on findings in the QAPI Plan and process.

(b) Neonatal Medical Director (NMD). The NMD must [shall] be a physician who is a board eligible/certified neonatologist and maintains [demonstrates] a current status of [on] successful completion of the Neonatal Resuscitation Program (NRP) or a department-approved equivalent course.

(c) If the facility has its own transport program, there must [shall] be an identified Transport Medical Director (TMD). The TMD or Transport Medical [and/or] Co-Director must [shall] be a physician who is a board eligible/certified neonatologist with expertise and experience in neonatal/infant transport.

(d) Program Functions and Services.

(1) The neonatal program must collaborate with the maternal program, consulting physicians, and nursing leadership to ensure pregnant patients who are at high risk of delivering a neonate that requires specialized care are transferred to a facility with specialized care capabilities before delivery unless the transfer would be unsafe. [Triage and assessment of all patients admitted to the perinatal service with identification of pregnant patients who are at high risk of delivering a neonate that requires a higher level of care who will be transferred to a higher level facility prior to delivery unless the transfer is unsafe.]

(2) The facility provides appropriate, supportive, [Supportive] and emergency care [shall be] delivered by [appropriately] trained personnel[;] for unanticipated maternal-fetal or neonatal problems that occur during labor and delivery, through the disposition of the patient.

~~[(3) The ability to perform an emergency cesarean delivery within 30 minutes.]~~

(3) ~~[(4) A board eligible/certified neonatologist, with documented competence in the management of the most complex and critically ill neonates/infants, with neonatal privileges and [Board certified/board eligible neonatologists whose] credentials [have been] reviewed and approved by the NMD, must be on-site and immediately available at the neonate/infant bedside as requested. The neonatologist must [and is on call, and who]:~~

(A) maintain [shall demonstrate] a current status of [on] successful completion of the NRP or a department-approved equivalent course; and

(B) complete [have completed] continuing education [annually;] specific to the care of neonates annually.[; and]

~~[(C) shall be on-site and immediately available at the neonate/infant bedside as requested.]~~

(4) ~~[(5) Pediatric anesthesiologists must direct and evaluate [shall directly provide] anesthesia care provided to neonates [the neonate;] in compliance with the requirements in §133.41 [§133.41(a)] of this title (relating to Hospital Functions and Services).~~

(5) A comprehensive range of pediatric medical subspecialists and pediatric surgical subspecialists privileged and credentialed to participate in neonatal/infant care must be available to arrive on-site for in-person consultation and care within 30 minutes of an urgent request.

(6) A dietitian or nutritionist who has special training in [perinatal and] neonatal nutrition and can plan diets that meet the special needs of neonates/infants is available at all times, [neonates] in compliance with the requirements in §133.41 [§133.41(d)] of this title.

~~[(7) A comprehensive range of pediatric medical subspecialists and pediatric surgical subspecialists will be immediately available to arrive on-site for face to face consultation and care for an urgent request.]~~

(7) ~~[(8)] Laboratory services must [shall] be in compliance with the requirements in §133.41 [§133.41(h)] of this title and must [shall] have:~~

(A) appropriately trained and qualified laboratory personnel on-site at all times;

(B) neonatal and pediatric [perinatal] pathology services available for the population served;

(C) neonatal and pediatric surgical pathology available in the operative suite at the request of the operating surgeon; and

(D) ~~[(E)] a blood bank capable of providing blood and blood component therapy within the timelines defined in approved blood transfusion guidelines.[; and]~~

~~[(F)] The facility must provide neonatal/infant blood gas monitoring capabilities.~~

(9) Pharmacy services must [shall] be in compliance with the requirements in §133.41 [§133.41(q)] of this title and must [shall] have a pharmacist[;] with experience in neonatal/pediatric [and perinatal] pharmacology available on-site at all times.

(A) If medication compounding is done by a pharmacy technician for neonates/infants, a pharmacist must [will] provide immediate supervision of the compounding process.

(B) When medication compounding is done for neonates/infants, the pharmacist must implement guidelines to ensure the accuracy of the compounded final product and must ensure:

(i) the process is monitored through the QAPI plan; and

(ii) summary reports of activities are presented to the Neonatal Program Oversight.

~~[(B) If medication compounding is done for neonates/infants, the pharmacist shall develop and implement checks and balances to ensure the accuracy of the final product.]~~

(C) Total parenteral nutrition appropriate for neonates/infants must [shall] be available.

~~[(10) An occupational or physical therapist with neonatal expertise shall be available to meet the needs of the population served.]~~

(10) ~~[(11)] [Medical Imaging.] Radiology services must [shall] be in compliance with the requirements in §133.41 [§133.41(s)] of this title, [will] incorporate the "As Low as Reasonably Achievable" principle when obtaining imaging in neonatal [and maternal] patients.[;] and must [shall] have:~~

(A) personnel appropriately trained in the use of x-ray equipment [shall be] on-site and available at all times [; personnel appropriately trained in ultrasound, computed tomography, magnetic resonance imaging, echocardiography, and/or cranial ultrasound equipment shall be on-site within one hour of an urgent request; fluoroscopy shall be available at all times];

(B) personnel appropriately trained in ultrasound, computed tomography, magnetic resonance imaging, and cranial ultrasound equipment be on-site within 30 minutes of an urgent request;

(C) fluoroscopy be available at all times;

(D) [(B)] neonatal [and perinatal] diagnostic imaging studies and radiologists with pediatric expertise to interpret neonatal diagnostic imaging studies, available at all times; [with interpretation by radiologists with pediatric expertise, available within one hour of an urgent request; and]

(E) a radiologist with pediatric expertise to interpret within 30 minutes from receipt of images for an urgent request; and

(F) regular monitoring and comparison of the preliminary and final readings through the radiology QAPI Plan and provide a summary report of activities at the Neonatal Program Oversight.

(11) [(C)] Pediatric [pediatric] echocardiography with pediatric cardiology interpretation and consultation completed within a time period consistent with current standards of professional practice [within one hour of an urgent request].

(12) Speech, occupational, or physical therapists with neonatal expertise and experience must be available to:

(A) evaluate and manage feeding and swallowing disorders; and

(B) provide therapy services to meet the needs of the population served.

[(12) Speech language pathologist with neonatal expertise shall be available to evaluate and manage feeding and/or swallowing disorders.]

(13) A respiratory therapist, with experience and specialized training in the respiratory support of neonates/infants, whose credentials have been reviewed and approved by the Neonatal Medical Director, must [shall] be on-site and immediately available.

(14) [Resuscitation:] The facility must [shall] have staff with appropriate training for managing neonates/infants, written policies, [and] procedures, and guidelines specific to the facility for the stabilization and resuscitation of neonates/infants based on current standards of professional practice. Variances from these standards are monitored through the QAPI Plan.

(A) Each birth must [shall] be attended by at least one person [provider] who maintains a [demonstrates] current status of successful completion of the NRP or a department-approved equivalent course and whose primary focus [responsibility] is [the] management of the neonate and initiating resuscitation.

(B) At least one person must be immediately available on-site with the skills to perform a complete neonatal resuscitation including endotracheal intubation, establishment of vascular access and administration of medications.

(C) Additional personnel [providers] who maintain a [demonstrate] current status of successful completion of the NRP or a department-approved equivalent course must be on-site and immediately available upon request for the following: [shall attend each neonate in the event of multiple births.]

(i) multiple birth deliveries, to care for each neonate;

(ii) deliveries with unanticipated maternal-fetal problems that occur during labor and delivery; and

(iii) deliveries determined or suspected to be high-risk for the pregnant patient or neonate.

(D) Compliance to this staffing requirement is monitored through the QAPI Plan and reported at the Neonatal Program Oversight.

[(D) Each high-risk delivery shall have in attendance at least two providers who demonstrate current status of successful completion of the NRP whose only responsibility is the management of the neonate.]

(E) Neonatal resuscitative [A full range of resuscitative] equipment, supplies, and medications must [shall] be immediately available for trained staff to perform complete resuscitation and stabilization for [on] each neonate/infant.

(15) [Perinatal Education:] A registered nurse with experience in neonatal care, including advanced neonatal intensive care, must [shall] provide supervision and coordination of staff education.

(16) Social services, supportive spiritual care, and [Pastoral care and/or] counseling must [shall] be provided as appropriate to meet the needs of the patient population served.

[(17) Social services shall be provided as appropriate to the patient population served.]

(17) [(18)] Written and implemented policies and procedures to [The facility must] ensure [the] timely evaluation and treatment of retinopathy of prematurity on-site by a pediatric ophthalmologist or retinal specialist with expertise in retinopathy of prematurity of [in the event that] an at-risk infant. [at risk is present, and a documented policy for the monitoring, treatment and] Patient follow-up of retinopathy of prematurity must be documented and monitored through the QAPI Plan.

(18) [(19)] The neonatal program ensures a [A] certified lactation consultant must [shall] be available at all times to assist and counsel mothers.

(19) [(20)] The neonatal program ensures [Ensure] provisions for follow-up care at discharge for infants at high risk for neurodevelopmental, medical, or psychosocial complications.

§133.190. Survey Team.

(a) The survey team composition must [shall] be as follows:

(1) Level I facilities neonatal program staff must [shall] conduct a self-survey, documenting the findings on the approved department [office] survey form. The department [office] may periodically require validation of the survey findings[;] by an on-site review conducted by department staff.

(2) Level II facilities must be surveyed by a multidisciplinary team that includes, at a minimum, one neonatologist and one neonatal nurse who:

(A) has completed a department survey training course;

(B) has observed a minimum of one neonatal survey;

(C) is currently active in the management of neonatal patients and active in the neonatal QAPI Plan and process at a facility providing the same or a higher-level of neonatal care; and

(D) meets the criteria outlined in the department survey guidelines.

(3) Level III facilities must be surveyed by a multidisciplinary team that includes, at a minimum, one neonatologist, one neonatal nurse, and a pediatric surgeon when neonatal surgery is performed who:

(A) has completed a survey training course;

(B) has observed a minimum of one neonatal survey;

(C) is currently active in the management of neonatal patients and active in the neonatal QAPI Plan and process at a facility providing the same or a higher-level of neonatal care; and

(D) meets the criteria outlined in the department survey guidelines.

(4) Level IV facilities must be surveyed by a multidisciplinary team that includes, at a minimum, one neonatologist, one neonatal nurse, and one pediatric surgeon, who:

(A) has completed a survey training course;

(B) has observed a minimum of one neonatal survey;

(C) is currently active in the management of neonatal patients and active in the neonatal QAPI Plan and process at a facility providing the same level of neonatal care; and

(D) meets the criteria outlined in the department survey guidelines.

[(2) Level II facilities shall be surveyed by a team that is multi-disciplinary and includes at a minimum of one neonatologist and one neonatal nurse, all approved in advance by the office and currently active in the management of neonatal patients at a facility providing the same or a higher level of neonatal care.]

[(3) Level III facilities shall be surveyed by a team that is multi-disciplinary and includes at a minimum of one neonatologist and one neonatal nurse, all approved in advance by the office and currently active in the management of neonatal patients at a facility providing the same or a higher level of neonatal care. An additional surveyor may be requested by the facility or at the discretion of the office.]

[(4) Level IV facilities shall be surveyed by a team that is multi-disciplinary and includes at a minimum of one neonatologist, a surgeon with pediatric expertise and one neonatal nurse, all approved in advance by the office and currently active in the management of neonatal patients at a facility providing the same level of neonatal care. If the facility holds a current pediatric surgery verification by the American College of Surgeons, the facility may be exempted from having a pediatric surgeon as a member of the survey team.]

(b) All members of the survey team, except department staff, must come from a Perinatal Care Region outside the facility's region or a contiguous region.

(c) Survey team members cannot have a conflict of interest:

(1) A conflict of interest exists when a surveyor has a direct or indirect financial, personal, or other interest which would limit or could reasonably be perceived as limiting the surveyor's ability to serve in the best interest of the public. The conflict of interest may include a surveyor who, within the past four years, has personally trained a key member of the facility's leadership in residency or fellowship, collaborated with a key member of the facility's leadership professionally, participated in a designation consultation with the facility, or conducted a designation survey for the facility.

(2) If a designation survey occurs with a surveyor who has a conflict of interest, the department, in its sole discretion, may refuse to accept the neonatal designation site survey summary conducted by a surveyor with a conflict of interest.

[(b) Office-credentialed surveyors must meet the following criteria:]

[(1) have at least three years of experience in the care of neonatal patients;]

[(2) be currently employed/practicing in the coordination of care for neonatal patients;]

[(3) have direct experience in the preparation for and successful completion of neonatal facility verification/designation;]

[(4) have successfully completed an office-approved neonatal facility site surveyor course and be successfully re-credentialed every four years; and]

[(5) have current credentials as follows:]

[(A) a registered nurse who is current in the NRP and has successfully completed an office approved site survey internship; or]

[(B) a physician who is board certified in the respective specialty, current in the NRP, and has successfully completed an office approved site survey internship; or]

[(C) a surgeon who is board certified, has demonstrated expertise in pediatric surgery, and has successfully completed an office approved site survey internship.]

[(e) All members of the survey team, except department staff, shall come from a Perinatal Care Region outside the facility's location and at least 100 miles from the facility. There shall be no business or patient care relationship or any potential conflict of interest between the surveyor or the surveyor's place of employment and the facility being surveyed.]

(d) The survey team must follow the department survey guidelines to [shall] evaluate and validate that the facility demonstrates the [facility's compliance with the] designation requirements are met. [criteria by:]

[(1) reviewing medical records; staff rosters and schedules; documentation of QAPI Program activities including peer review; the program plan; policies and procedures; and other documents relevant to neonatal care;]

[(2) reviewing equipment and the physical plant;]

[(3) conducting interviews with facility personnel; and]

[(4) evaluating appropriate use of telemedicine capabilities where applicable.]

(e) The survey team must evaluate appropriate use of telehealth/telemedicine utilization for neonatal care.

(f) [(e)] All information and materials submitted by a facility to the department [(office)] under Texas Health and Safety Code, §241.183 [§241.183(d)], are subject to confidentiality as articulated in Texas Health and Safety Code, §241.184, Confidentiality [Confidentially]; Privilege, and are not subject to disclosure under Texas Government Code, Chapter 552, or discovery, subpoena, or other means of legal compulsion for release to any person.

§133.191. Perinatal Care Regions (PCRs).

(a) The PCR must consider and facilitate transfer agreements through regional coordination.

(b) The PCR must coordinate regional perinatal system QAPI reviews.

(c) The PCRs must not restrict patient referrals.

(d) The PCR integrates with the Regional Advisory Council (RAC) system plans to ensure there is a written perinatal system plan specific to the regional area utilizing the RAC criteria and self-assessment tools.

(e) The PCRs must be administratively supported by the RAC and must have fair and equitable representation on the board of the applicable RAC.

(f) Each PCR may define data needs for regional collaboratives.

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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Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: February 12, 2023

For further information, please call: (512) 535-8538



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 1. GENERAL ADMINISTRATION

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §§1.208 - 1.210, 1.601, 1.602, 1.705, 1.804, and 1.2803. These amendments are necessary to update TDI contact information that appears in rules and forms and to ensure that the public receives updated TDI contact information.

EXPLANATION. TDI has moved from its previous location in the William P. Hobby Building at 333 Guadalupe Street in Austin, Texas 78701, to the Barbara Jordan State Office Building at 1601 Congress Avenue in Austin, Texas 78701. Because of this, amendments are necessary to update TDI's mailing address and physical address where they are listed in current rule sections in Chapter 1. As part of this update, TDI also proposes amendments to revise email addresses and other contact information, where appropriate, to ensure that the rules have TDI's current information. The amendments also update rule language for consistency with current TDI plain-language preferences and drafting practices. While the amendments relating to consumer notices build in time for compliance, nothing prevents a regulated person from providing TDI's updated contact information to consumers immediately.

The proposed amendments are described in the following paragraphs.

Section 1.208. Purpose and Applicability. The proposal removes §1.208(a), which describes the purpose of the section, because TDI believes it is no longer necessary to include it in the rule. The remaining subsection designations are changed to reflect the removal of §1.208(a). The proposal also removes "Purpose and" in the section title to reflect the proposed removal of §1.208(a). The proposal also updates implementation dates, where necessary. Documents provided to consumers or the public that include TDI contact information must be updated by July 1, 2023. Documents printed before January 1, 2023, may be used until September 1, 2023.

Nonsubstantive changes include revising references to sections, removing "(HMO)," and replacing "chapter" with "title" to conform with current agency drafting style and plain-language preferences.

Section 1.209. Telephone, Facsimile, Email Address, Website Address, and Street Address in Rules, Forms. Section 1.209 clarifies that current addresses and contact information for TDI should be used as a substitute when text in a TDI rule references outdated TDI contact information. The proposal adds 333 Guadalupe Street, Austin, Texas 78701 as an old address for TDI and provides the updated Congress Avenue address as the substitute. The proposal also adds TDI's outdated mailing address to rule text and provides the agency's new mailing address for use as the substitute.

The proposal restructures the section by deleting the subsection (a) designation and replaces subsection (b) with paragraph (3) to reflect the new section structure. The proposal amends the figure citation to "Figure: 28 TAC §1.209(2)" to reflect the proposed rule structure. The proposal also deletes §1.209(c), which references a chart listing rules and forms affected by the rule on TDI's rule website. The chart will, however, remain on TDI's website as a reference for rules containing phone numbers that changed in 2014.

The proposal makes nonsubstantive changes to replace the word "facsimile" with the word "fax" as it appears in the section title and in the text of the section for consistency with Figure: 28 TAC §1.209(2). The proposal replaces "street address" with "department addresses" as it appears in the section title to reflect the proposed inclusion of mailing addresses in the section. The proposal also updates internal citations and replaces the word "chapter" with "title" and "HMO" with "health maintenance organizations (HMOs)" to reflect current agency plain-language preferences and drafting style.

Section 1.210. Notice to Customers. Section 1.210 requires insurers and HMOs that issued policies that do not expire but are currently in effect to provide customers with an "Important Notice" in §1.601 and §1.602 by a specific date. The proposed amendments replace the reference to the "Important Notice" with "notice forms required" for accuracy with the current rule language in §1.601. The amendments also propose September 1, 2023, as the date by which regulated entities must comply with the rule.

Nonsubstantive changes include replacing "chapter" with "title" and "HMOs" with "health maintenance organizations" to reflect current agency plain-language preferences and drafting style.

Section 1.601. Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures. Section 1.601 provides insurers and HMOs with a notice they must provide to consumers that contains TDI contact information. The proposal updates TDI's mailing and email address in Figure: 28 TAC §1.601(a)(2)(B) and Figure: 28 TAC §1.601(a)(2)(C), and it provides in §1.601(e) that insurers and HMOs must begin providing the updated notice forms in information to policyholders by July 1, 2023.

The proposal also makes nonsubstantive changes to remove the statement "the following information" and replace the word "font" with "type" to conform with current agency drafting style.

Section 1.602. Notice of Internet Website. Section 1.602 specifies contact information for TDI that insurers identified in the section must provide to consumers. The proposal updates TDI's

mailing address in Figure: 28 TAC §1.602(b)(1)(C), and it provides in §1.602(b)(1)(C) that insurers must begin providing the updated notice of internet website form to policyholders by July 1, 2023.

The proposal also clarifies which implementation date applies to Figure: 28 TAC §1.602(b)(1)(C) and Figure: 28 TAC §1.602(b)(2) and that insurers must include the language in subparagraphs (A) and (B) of §1.602(b)(1) in the notice required under §1.601(a)(2) with each policy specified.

The proposed amendments make nonsubstantive changes to remove reference to the word "internet" in the section title and the word "and" in §1.602(b)(1)(A). Nonsubstantive changes also replace the word "font" with "type," "who" with "that," "Helpinsure.com" with "HelpInsure.com" and the statement "top 25" with "top-25" to conform with current agency drafting style and plain-language preferences.

Section 1.705. Review. Section 1.705 provides the process for a person affected by an action taken by an associate or deputy commissioner under 28 TAC Chapter 1, Subchapter F, to petition the Commissioner for review of the action. The proposal updates the mailing address and adds the Chief Clerk email address where any affected person may file a petition.

The proposal also capitalizes the word "Commissioner," replaces the statement "pursuant to" with "under," and replaces the word "shall" with either "must" or "will," as appropriate, to reflect current agency drafting style and plain-language preferences.

Section 1.804. Manner of Notice. Section 1.804 identifies locations where TDI and the State Fire Marshal's Office (SFMO) previously posted notices. The proposed amendments remove existing §1.804(a) because TDI and SFMO no longer post hard copy notices at the agency's physical location. Because §1.804(a) is removed, the designation "(b)" is also removed. Proposed amendments also clarify how notice under §1.804 will be delivered to applicants and provides notice through a designated email as an example.

Section 1.2803. Notice About Certain Information Laws and Practices. Section 1.2803 contains a notice regarding information TDI collects. The proposal updates the contact information provided in Figure: 28 TAC §1.2803(a) to remove the specific TDI division to contact. Instead, the proposed amendments provide the dedicated email address where individuals requesting record corrections may submit their request; updates a reference to TDI's website address; and, to promote clarity and prevent consumer confusion, removes a reference to an outdated title of the website where procedures for making corrections can be found. Finally, the proposal replaces the word "subchapter" with "section" to incorporate the notice under §1.2803 on the new effective date for the section.

Proposed nonsubstantive amendments replace the word "shall" with "will" and the words "Internet site" and "web page" with "website" to conform with current agency drafting style and plain-language preferences.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Justin Beam, chief clerk of TDI, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections. Mr. Beam made this determination because the sections as proposed do not add to or decrease state revenues or expenditures, and because local governments are not

involved in enforcing or complying with the proposed amendments.

Mr. Beam does not anticipate a measurable effect on local employment or the local economy as a result of this proposal because the proposed amendments do not make any substantive changes.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. Beam expects that administering the proposed sections will have the public benefits of ensuring that TDI's rules are transparent and accurate by reflecting TDI's current contact information.

The proposed amendments will update contact information found in Chapter 1 so consumers, insurers, HMOs, other regulated persons, and the public can effectively contact TDI. The proposed amendments will make it easier for consumers to understand where and how to get help with an insurance question or workers' compensation problem and provide accurate information on how to make a complaint. TDI might not receive mailed complaints if the forms are not updated. The updates to TDI's contact information will also provide the public with a way to effectively mail or email a petition to request a hearing and request a correction of agency-controlled information about the requesting individual.

Mr. Beam anticipates that the proposed amendments to §1.210 will impose a one-time cost on persons required to mail the updated forms required under §1.601 and §1.602 to some current policyholders. Most policyholders will receive the forms required under §1.601 and §1.602 when their policies are renewed. But this will not be the case for policyholders with plans that do not expire.

Section 1.210 requires insurers and HMOs to provide the new, updated notice forms required under §1.601 and §1.602 to their customers who have contracts, policies, or plans that are in effect and do not expire.

Mr. Beam anticipates the costs associated with §1.210 to include the costs of printing and mailing the new notices to current policyholders who possess outdated notice forms. It is not possible for TDI to estimate the total increased printing, copying, mailing, and transmitting costs related to compliance with this proposal because there are many factors involved that TDI cannot quantify. Mr. Beam believes that some printing, copying, and mailing costs may be reduced if insurers or HMOs are able to electronically transmit the notice forms to their policyholders according to the requirements outlined in Insurance Code Chapter 35.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments may have an adverse economic effect on small or micro businesses. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to these small and micro businesses. TDI estimates that the proposed amendments to §1.210 may affect approximately 45 to 75 small or micro businesses. This proposal's primary objective is to ensure policyholders have accurate and current TDI contact information so they can successfully report complaints and receive help with certain insurance issues. The previously provided notice forms contain outdated TDI mailing and physical addresses because TDI moved to the Barbara Jordan State Office Building in 2022.

TDI has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic im-

pact on rural communities because the amendments do not apply to rural communities.

TDI considered the following alternatives to minimize any adverse effect on small and micro businesses while accomplishing the proposal's objectives:

- (1) not proposing amendments to §1.210;
- (2) proposing a different requirement for small and micro businesses that issue insurance coverage described in §1.210; and
- (3) extending the small and micro business deadline for compliance under §1.210.

Not proposing amendments to §1.210. As previously noted, this proposal's primary purpose is to ensure policyholders receive updated TDI contact information. Excluding §1.210 from the scope of this proposal would result in certain policyholders failing to receive updated TDI contact information. After the old mailboxes are closed and mail forwarding expires, TDI might not receive complaints sent by mail to the old addresses. In addition, policyholders who possess outdated TDI contact information might be unable to efficiently resolve their complaints or receive help from TDI staff. For these reasons, TDI has rejected this option.

Proposing a different requirement for small and micro businesses that issue insurance coverage described in §1.210. TDI believes that proposing different standards than those included in this proposal would not provide a better option for small or micro businesses. No reasonable alternative exists that ensures policyholders who possess contracts, policies, or plans regulated under §1.210 will receive timely notice of TDI's new contact information. Imposing a different requirement would result in disparate treatment between policyholders who received updated TDI contact information and those who did not. Complaints sent to the outdated mailing and physical address might not be received by TDI. For these reasons, TDI has rejected this option.

Extending the small and micro business deadline for compliance under §1.210. TDI presumes that small and micro businesses will continue to issue policies, bonds, annuity contracts, certificates, or evidences of coverage that will be delivered, issued for delivery, or renewed in Texas in compliance with §1.601. Extending the deadline by which small and micro businesses must provide the updated notice form to current policyholders will not meaningfully change the effect on small or micro businesses because the printing and mailing costs will still exist. For these reasons, TDI has rejected this option.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that the proposed amendments to §1.210 do impose a possible cost on regulated persons, as explained above. However, no additional rule amendments are required under Government Code §2001.0045 because the proposed amendments to §1.210 are necessary to implement legislation. The proposed rule implements Insurance Code §521.005, which requires each insurance policy delivered or issued for delivery in Texas to provide a notice to policyholders that contains certain information, including TDI's name, address, and toll-free telephone number. Senate Bill 1349 and House Bill 1, 86th Legislature, 2019, Regular Session, authorized the Texas Facilities Commission to sell the William P. Hobby building where TDI's offices were located. TDI's move to the Barbara Jordan State Office Building necessitated the update of all TDI mailing and physical addresses.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the sections as proposed are in effect, the proposed rule:

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

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

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on February 13, 2023. 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.

To request a public hearing on the proposal, submit a request before the end of the comment period 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. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on February 13, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER A. RULES OF PRACTICE AND PROCEDURE

DIVISION 2. RULE MAKING PROCEDURES

28 TAC §§1.208 - 1.210

STATUTORY AUTHORITY. TDI proposes amendments to §§1.208 - 1.210 under Insurance Code §521.005(a)(2) and §36.001.

Insurance Code §521.005(a)(2) provides that each insurance policy delivered or issued for delivery in this state must include a brief written notice that includes TDI's name and address.

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

CROSS-REFERENCE TO STATUTE. The amendments to §§1.208 - 1.210 affect Insurance Code §521.005.

§1.208. *[Purpose and] Applicability.*

[(a)] TDI changed its Internet domain name and most of its telephone and fax numbers, as of 2015. TDI's 1-800 numbers did not change. Sections 1.208 - 1.210 establish requirements to ensure that the public receives updated TDI contact information.]

(a) [(b)] This section and §1.209 and §1.210 of this title [Sections 1.208 - 1.210] apply to all documents or information provided to consumers or the public that include TDI contact information, including contracts, policies, evidences of coverage, bonds, certificates of insurance, and notices[,] delivered, issued for delivery, or renewed in this state, and subject to regulation under the Insurance Code, except as specified in §1.210 of this title.

(b) [(e)] Documents and information described in subsection (a) [(b)] of this section and issued on or after July 1, 2023 [December 1, 2015], must reflect the current TDI contact information described in §1.209 of this title [chapter], except as provided by subsection (c) [(d)] of this section and §1.210 of this title.

(c) [(d)] Notwithstanding subsection (b) [(e)] of this section, insurers, health maintenance organizations [(HMOs)], and other regulated persons may continue to use and issue documents and information described in subsection (a) [(b)] of this section until September 1, 2023 [June 1, 2016], if the documents or information were printed before January 1, 2023 [June 1, 2015].

(d) [(e)] Documents and information described in subsection (a) [(b)] of this section that were approved or filed, whichever is applicable, before January 1, 2023 [June 1, 2015], may be delivered or issued for delivery without refileing.

§1.209. Telephone, Fax, [Faesimile,] Email Address, Website Address, and Department Addresses [Street Address] in Rules, Forms.

[(a)] The purpose of this section is to update TDI rules and to require insurers, health maintenance organizations (HMOs) [(HMOs)], and other regulated persons to update old references to TDI telephone numbers, fax [faesimile] numbers, email addresses, the website address, and TDI mailing addresses [the street address] with the new contact information as follows.[:]

(1) Where a section in Title 28, Part 1 references the domain name "tdi.state.tx.us" in a website or email address, this section [subsection] substitutes "tdi.texas.gov" as the new domain name. Insurers, HMOs, and other regulated persons must update all their documents and information described in §1.208(a) [§1.208(b)] of this title [chapter] to reflect the current domain name.

(2) Where a section in Title 28, Part 1 references any of the following telephone or fax numbers, this section [subsection] substitutes the new number as referenced in Figure: 28 TAC §1.209(2) [Figure: 28 TAC §1.209(a)(2)]. Insurers, HMOs, and other regulated persons must update all their documents and information described in §1.208(a) [§1.208(b)] of this title [chapter] to reflect the current telephone and fax [faesimile] numbers.
Figure: 28 TAC §1.209(2)
[Figure: 28 TAC §1.209(a)(2)]

(3) [(b)] Where a section in Title 28, Part 1 references the address at 1110 San Jacinto Boulevard, Austin, Texas 78701 or 333 Guadalupe Street, Austin, Texas 78701, this section [subsection] substitutes 1601 Congress Avenue, Austin, Texas, 78701. Where a section in Title 28, Part 1 references the Texas Department of Insurance mailing address as P.O. Box 149104, Austin, Texas 78714-9104, this section substitutes P.O. Box 12030, Austin, Texas 78711-2030 [333 Guadalupe Street, Austin, Texas 78701]. Insurers, HMOs, and other regulated persons must update all their documents and information described in §1.208(a) [§1.208(b)] to reflect the new address.

[(e)] Specific rules and forms affected by this subsection are listed on TDI's rules page at www.tdi.texas.gov/rules/index.html.]

§1.210. Notice to Customers.

For contracts, plans, or policies that are in effect but do not expire, insurers and health maintenance organizations [(HMOs)] must notify their customers by providing the applicable updated notice forms required [Important Notice] in §1.601 and §1.602 of this title [chapter], not later than September 1, 2023 [June 1, 2016]. This section does not apply to title insurance agents or title insurance companies.

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SUBCHAPTER E. NOTICE OF TOLL-FREE TELEPHONE NUMBERS AND PROCEDURES FOR OBTAINING INFORMATION AND FILING COMPLAINTS

28 TAC §1.601, §1.602

STATUTORY AUTHORITY. TDI proposes amendments to §1.601 and §1.602 under Insurance Code §§32.104(b), 521.005(a)(2), 521.005(b), and 36.001.

Insurance Code §32.104(b) provides that the Commissioner adopt appropriate wording for the notice of the internet website required by Insurance Code Chapter 32, Subchapter D.

Insurance Code §521.005(a)(2) provides that each insurance policy delivered or issued for delivery in this state must include a brief written notice that includes TDI's name and address.

Insurance Code §521.005(b) provides that the Commissioner adopt appropriate wording for the notice required by the section.

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

CROSS-REFERENCE TO STATUTE. The amendments to §1.601 affect Insurance Code §§521.005, 521.056, and 521.103. The amendments to §1.602 affect Insurance Code §32.102 and §32.104.

§1.601. Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures.

(a) Purpose and applicability.

(1) The purpose of this section is to provide the means for insurers and health maintenance organizations (HMOs) to comply with the notice requirements of Insurance Code §521.103, concerning Information Included in Evidence of Coverage or Policy; §521.005, con-

cerning Notice to Accompany Policy; and §521.056, concerning Information Bulletin to Accompany Policy. Compliance with this section is deemed compliance with these notice requirements.

(2) The notice must be provided at the time of delivery with all policies, bonds, annuity contracts, certificates, or evidences of coverage that are delivered, issued for delivery, or renewed in Texas by insurers or HMOs. When insurers add a certificate holder, annuitant, or enrollee to a group policy or group plan, insurers must also provide the notice when the certificate, annuity contract, or evidence of coverage is delivered.

(A) The notice must appear on a full, separate page with no text other than that provided in this section. The notice must be prominently placed in any package of documents it is delivered with, and it must be the first, second, or third page of the set of documents.

(B) The form of the notice must be consistent with Figure: 28 TAC §1.601(a)(2)(B) and the requirements of subsection (b) of this section. The form of notice is not required to be filed with the department.

Figure: 28 TAC §1.601(a)(2)(B)
[Figure: 28 TAC §1.601(a)(2)(B)]

(C) The form of the notice for workers' compensation must be consistent with Figure: 28 TAC §1.601(a)(2)(C) and the requirements of subsection (b) of this section. The form of notice is not required to be filed with the department.

Figure: 28 TAC §1.601(a)(2)(C)
[Figure: 28 TAC §1.601(a)(2)(C)]

(b) Notice requirements. The text may be single spaced, but it must include at least one blank line between each paragraph. The Spanish portion of the notice is required for personal automobile, homeowners, life, accident, and health policies, certificates, and evidences of coverage. The notice may include the letterhead of the insurer or HMO and any automated form identification numbers.

(1) The notice must include a title and telephone number for the insurer or HMO. At its option, the insurer or HMO may provide the name and telephone number of an agent, third-party administrator, managing general agent, or employee benefits coordinator. The telephone number must be in bold type and be preceded and followed by one blank line. The insurer or HMO must provide a toll-free telephone number, unless one of the exemptions in subparagraphs (A) - (C) of this paragraph applies. For purposes of this section, a toll-free telephone number is one that any covered person can use to get information or make a complaint without incurring long-distance calling expenses. An insurer or HMO is exempt from providing a toll-free number:

(A) when the insurer's or HMO's gross initial premium receipts collected in Texas are less than \$2 million a year;

(B) with respect to fidelity, surety, or guaranty bonds;

(C) if it is a surplus lines insurer.

(2) The notice must include a mailing address and email address for the insurer or HMO. The notice may include a company's URL address.

(3) The notice must be in a type [font] size no smaller than 10 point.

(c) Exceptions to maintenance of toll-free number. Any exception claimed under subsection (b)(1)(A) of this section must be based on gross initial premium receipts collected in Texas during the previous calendar year. This information and any other data that the company relied on to determine if it was entitled to an exception is sub-

ject to examination by the department. Failure by any insurer or HMO to maintain the information required in this paragraph, or failure to provide information to the department on request, constitutes grounds for enforcement action that may result in the cancellation, revocation, or suspension of the insurer's or HMO's certificate of authority. Any insurer or HMO claiming an exception must retain and provide to the department on request [the following information]:

(1) the statutory basis for the exception; and

(2) the amount of gross initial premium receipts collected in Texas for the calendar year immediately preceding the year for which an exception is claimed. The gross initial premium receipts collected may be documented either by:

(A) the annual statement submitted by the insurer or HMO; or

(B) records maintained for each new policy written during a calendar year that include the policy number, the effective date of the policy, and the amount of initial premium received, including any membership fees, assessments, dues, and any other considerations for that insurance.

(d) Providing notice. Insurers and HMOs will not need to refile previously approved policies, bonds, annuity contracts, certificates, or evidences of coverage, but they must provide the notice in the manner required by this section.

(e) Implementation date. Insurers and HMOs must begin using the notice form described in subsection (a)(2) of this section no later than July 1, 2023 [May 1, 2020]. Insurers and HMOs may continue using the previous notice form until that time.

§1.602. Notice of [Internet] Website.

(a) Purpose and applicability.

(1) The purpose of this section is to establish the form and content of the notice required under Insurance Code §32.104(b), concerning Duties of Insurer.

(2) This section applies to insurers that [who] comprise the top-25 [top 25] insurance groups in the national market and that [who] issue residential property insurance or personal automobile insurance policies in this state, including a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, a farm mutual insurance company, the Texas Windstorm Insurance Association, the FAIR Plan Association, and the Texas Automobile Insurance Plan Association.

(3) This section applies to all residential property insurance and personal automobile insurance policies that are delivered, issued for delivery, or renewed in this state on or after January 1, 2008.

(b) Notice requirements. Insurers must comply with either subsection (b)(1) or (b)(2) of this section[;] or may opt to comply with both.[;]

(1) Notwithstanding the requirements in §1.601(a)(2) of this title (relating to Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures), the insurer must include the text in subparagraphs (A) and (B) of this paragraph [the following text] in the notice required under §1.601(a)(2) of this title with each policy specified. The text must be in a type [font] size no smaller than 10 point. The heading "To compare policies and prices" must be in bold type. The website address "HelpInsure.com" ["Helpinsure.com"] must be in bold type and must be preceded by one blank line.

(A) "To compare policies and prices: Visit HelpInsure.com to compare prices and coverages on home and auto insurance policies. The website is a service of the Texas Department of Insurance

and the Office of Public Insurance Counsel" in the English portion. [; and]

(B) "Para comparar pólizas y precios: Visite HelpInsure.com para comparar precios y coberturas en pólizas de seguro para el hogar y automóvil. El sitio web es un servicio del Departamento de Seguros de Texas y de la Oficina del Asesor Público de Seguros (Office of Public Insurance Counsel, por su nombre en inglés)" in the Spanish portion.

(C) Insurers must begin using the notice form described in this paragraph [(b) of this section] no later than July 1, 2023 [May 1, 2020]. Insurers may continue using the previous notice form until that time.

Figure: 28 TAC §1.602(b)(1)(C)

[Figure: 28 TAC §1.602(b)(1)(C)]

(2) The insurer must provide the following notice in a conspicuous manner with each policy. The notice must be printed in type [font] size that is at least as large as the type [font] used for the main body of the policy, and it must be preceded and followed by at least one blank line. "Insurance Website Notice" and "Aviso del Sitio Web de Seguros" must be in all capital letters and bold type and "HelpInsure.com" ["Helpinsure.com"] must be in bold type. Insurers must begin using the notice described in this paragraph no later than May 1, 2020. Insurers may continue using the previous notice until that time.

Figure: 28 TAC §1.602(b)(2) (No change.)

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

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SUBCHAPTER F. SUMMARY PROCEDURES FOR ROUTINE MATTERS

28 TAC §1.705

STATUTORY AUTHORITY. TDI proposes amendments to §1.705 under Insurance Code §36.103(d) and §36.001.

Insurance Code §36.103(d) provides that the Commissioner may adopt rules relating to an application for review under Insurance Code §36.103 and consideration of the application.

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

CROSS-REFERENCE TO STATUTE. The amendments to §1.705 affect Insurance Code §36.102 and §36.103.

§1.705. *Review.*

Any person affected by any action taken by an associate or deputy commissioner under this subchapter may petition the Commissioner [commissioner] for a hearing to review the matter. The petition must [shall] contain an identification of the matter complained of

and a petitioner's statement, including a rebuttal of the associate or deputy commissioner's action, with specific particularity to inform the Commissioner [commissioner] and any interested persons of the petitioner's reasons and arguments serving as the basis of the petition. The petition must [shall] be filed with the Chief Clerk, by mail to MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030; or by email to ChiefClerk@tdi.texas.gov. [Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.] The review will [shall] be conducted under [pursuant to] the Texas Administrative Procedure Act. Any further relief sought is governed by Insurance Code §§36.201 - 36.205.

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SUBCHAPTER G. NOTICE AND PROCESSING PERIODS FOR PERMIT APPLICATIONS

28 TAC §1.804

STATUTORY AUTHORITY. TDI proposes amendments to §1.804 under Insurance Code §36.001.

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

CROSS-REFERENCE TO STATUTE. The amendments to §1.804 affect Government Code §2005.003.

§1.804. *Manner of Notice.*

[(a) Posting.]

[(1) Complete application or form. Written notice that an application or form is complete and accepted for filing may be given under this subchapter by posting, provided that required processing and disapproval information, if any, has been furnished to the applicant.]

[(2) Location. Posting requires display in a conspicuous place accessible to the public in the agency's office at 1110 San Jacinto Boulevard in Austin, except for notice under §1.812 of this title (relating to State Fire Marshal Permits) which shall be in the State Fire Marshal's Office at 7901 Cameron Road, Building 2, Austin.]

[(b) Notice. Written [Except as provided in subsection (a) of this section, written] notice that an application is complete or deficient will be [must be mailed to the applicant or] delivered to the applicant by such means as will reasonably provide actual notice, such as through a designated email address provided by the applicant under §1.1302 of this title (relating to Electronic Communications from the Texas Department of Insurance).

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SUBCHAPTER BB. FORMS PRIVACY NOTICE

28 TAC §1.2803

STATUTORY AUTHORITY. TDI proposes amendments to §1.2803 under Government Code §559.004 and Insurance Code §36.001.

Government Code §559.004 requires each state governmental body to establish a reasonable procedure through which an individual is entitled to have the state governmental body correct information about the individual the state possesses that is incorrect.

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

CROSS-REFERENCE TO STATUTE. The amendments to §1.2803 affect Government Code §559.003 and §559.004.

§1.2803. Notice About Certain Information Laws and Practices.

(a) The following notice is hereby incorporated into all forms adopted directly or by reference under this title and for which the department collects information about an individual by means of a form that the individual completes and files with the department in a paper format or in an electronic format, including on the department's website [Internet site].

Figure: 28 TAC §1.2803(a)

[Figure: 28 TAC §1.2803(a)]

(b) The notice incorporated by subsection (a) of this section will [shall] be deemed incorporated into such forms as of the effective date of this section [subchapter].

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

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CHAPTER 19. LICENSING AND REGULATION OF INSURANCE PROFESSIONALS

The Texas Department of Insurance (TDI) proposes to repeal 28 TAC §§19.703, 19.1019, 19.1303, 19.1320, 19.1905, 19.3001 - 19.3005, and 19.4001 - 19.4017.

TDI proposes to amend 28 TAC §§19.103, 19.602, 19.702, 19.704 - 19.706, 19.708, 19.709, 19.712, 19.801, 19.802, 19.805, 19.902, 19.906, 19.1002, 19.1003, 19.1012, 19.1304, 19.1308, 19.1403, 19.1407, 19.1604, 19.1605, 19.1704, 19.1810, 19.1820, 19.1902, 19.1908, and 19.2004.

EXPLANATION. The proposed repeal of §19.703 implements Senate Bill 1060, 84th Legislature, 2015. The proposed repeals of §§19.1019, 19.1905, and 19.3001 - 19.3005 implement House Bill 4030, 87th Legislature, 2021. The proposed repeal of §19.1303 eliminates the forms adopted by reference in that section that are now obsolete. The proposed repeal of §19.1320 reflects that copies of the Texas Insurance Code and Texas Administrative Code are readily available online through the Secretary of State website. The proposed repeals of §§19.4001 - 19.4017 remove Subchapter W, which implemented former Chapter 4154 of the Insurance Code. That chapter expired on September 1, 2017, rendering Subchapter W obsolete.

The proposed amendments implement HB 4030 as well as Senate Bills 1060 and 876, both of the 84th Legislature, 2015. HB 4030 removed the subagent designation, references to life and health insurance counselor and insurance service representative licenses, the affidavit requirement for nonresident public insurance adjusters, and the requirement to report and register each branch location; discontinued the registration for home office salaried employees; and increased ethics continuing education requirements. SB 1060 eliminated the trainee designation and SB 876 changed the expiration date for a license issued to an individual.

In addition to amendments to implement the referenced legislation, proposed amendments also include nonsubstantive changes to conform to plain-language standards and current TDI language preferences and drafting practices. Also, proposed amendments update citations to statutes and rules by inserting their titles, and update or eliminate obsolete email and mailing addresses.

The proposed amendments to the sections are described in the following paragraphs, organized by subchapter.

Subchapter B. Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Part D Plans.

Section 19.103. Reporting Requirement. The proposal replaces an obsolete mailing address with a reference to contact information on TDI's website. The proposal also replaces "subchapter" with "title."

Subchapter G. Licensing of Insurance Adjusters.

Section 19.602. Types of Adjuster's Licenses. The proposal updates an obsolete code reference and inserts the title of the provision cited; removes subsection (c), which addresses an expiration date for adjusters' licenses, to conform with Insurance Code §4003.001; redesignates the subsections that follow subsection (c) as appropriate to reflect removal of the subsection; replaces the words "pursuant to" with "under" and the word "shall" with "must"; and corrects the title of §19.801.

Subchapter H. Licensing of Public Insurance Adjusters.

Section 19.702. Types of Public Insurance Adjuster Licenses. The proposal updates an obsolete code reference and inserts

the title of the provision cited; and it replaces "shall" with "will" and "pursuant to" with "under."

Section 19.704. Public Insurance Adjuster Licensing. The proposal updates obsolete code references, inserts the titles of the provisions cited, removes paragraph (5) of subsection (c), which addresses an obsolete branch office registration requirement, and renumbers the paragraphs that follow paragraph (5) as appropriate to reflect its removal. The proposal also replaces "10 percent" with "10%." Finally, the proposal replaces "shall" with more appropriate words under the context of the provision and capitalizes the word "commissioner" throughout the section.

Section 19.705. Financial Responsibility Requirement. The proposal removes subsection (b) and all references to "trainee," which are now obsolete, updates an obsolete code reference, and inserts the title of the provision cited.

Section 19.706. Demonstrating Financial Responsibility. The proposal removes a reference to "trainee" and replaces "shall" with "must."

Section 19.708. Public Insurance Adjuster Contracts. The proposal replaces an obsolete mailing address in subsection (b)(10) with the current mailing address, replaces "10 percent" with "10%," replaces "prior to" with "before," and replaces "in determining" with "to determine." The proposal also removes a reference to a former Insurance Code provision, inserts the title of another Insurance Code provision, and revises notice language to remove the use of all capital letters, to improve readability.

Section 19.709. Nonresident Applicants and License Holders. The proposal removes subsection (b), which addresses a nonresident affidavit requirement that was rendered obsolete by HB 4030 and replaces the word "shall" with "will."

Section 19.712. Advertisement. The proposal updates an obsolete code reference, inserts the title of the provision cited, replaces the phrase "internet web sites" with "websites" and replaces the words "audio visual" with "audiovisual."

Subchapter I. General Provisions Regarding Fees, Applications, and Renewals.

Section 19.801. General Provisions. The proposal removes portions of the section concerning subagents and redesignates subsections as appropriate for consistency with the proposed removal of text. The proposal replaces a reference to "Texas.gov" with a reference to the department's website. The proposal also adds the titles of Administrative Code and Insurance Code provisions cited in the section.

Section 19.802. Amount of Fees. The proposal removes portions of text concerning insurance service representatives, full-time home office salaried employee registration, and life and health insurance counselors. The proposal also removes language concerning subagent appointment fees. In addition, paragraphs are renumbered as appropriate to reflect the removal of text, and the titles of cited Insurance Code provisions are added.

Section 19.805. Application for a New Individual License. The proposal inserts the titles of Insurance Code and Administrative Code provisions cited in the section, removes a paragraph concerning home office salaried employees, and it renumbers a paragraph as appropriate to reflect this change. The proposal also replaces "12 month" with "12-month," "preceding" with "before," "being" with "is," and "at the time of submitting to TDI" with "with." The proposal also deletes subsection (d), as it is now ob-

solete and anyone required to provide the information listed in the subsection would have done so by now. Finally, the proposal replaces a reference to §§19.1901 - 19.1910 with a reference to the subchapter.

Subchapter J. Standards of Conduct for Licensed Agents.

Section 19.902. One Agent One License. The proposal updates obsolete references to the State Board of Insurance, and it removes the branch office registration requirement. The proposal also removes a reference to an obsolete form and instead references instructions for registration of an agent's assumed name on TDI's website. The proposal also replaces the words "shall" with "must," "utilized" with "used," "thereunder" with "under it," "which" with "that," updates an obsolete code reference, and inserts the titles of a Business and Commerce Code provision and an Insurance Code provision cited in the section.

Section 19.906. Last Known Address. The proposal removes a reference to an obsolete mailing address, updates obsolete references to the State Board of Insurance, clarifies that an agent's address is presumed to be the most recent address on file with the department, and adds a reference to filing instructions on TDI's website. The proposal also replaces "shall" with "must" or "will," as appropriate.

Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs, and Certification Courses.

Section 19.1002. Definitions. The proposal removes references to life and health insurance counselors and insurance service representatives. The proposal also corrects improper citations to §19.1009(c) and §19.1009(d) by instead citing to §19.1009(g) and §19.1009(h), respectively. The proposal also removes nine superfluous uses of the word "the" and two unnecessary uses of a comma in statutory citations, removes an instance of the word "shall," replaces "shall be" with "is," replaces the word "subchapter" with "title," replaces "as set forth in" with "under," moves the word "only" to a more grammatically appropriate place, replaces the word "which" with "that," updates obsolete code references, and inserts titles of Insurance Code provisions and other code provisions cited in the section. Finally, for clarification the proposal replaces "and" with "or" in §19.1002(b)(17)(A) and newly numbered §19.1002(b)(17)(C) and inserts the word "or" between newly numbered §19.1002(b)(17)(D) and (E).

Section 19.1003. Licensee Hour and Completion Requirements. The proposal changes the ethics requirement specified in the section from two hours to three hours, as mandated by HB 4030. The proposal also replaces the terms "prior to" with "before," "10 hour" and "24 hour" with "10-hour" and "24-hour," and "50 percent" with "50%." Finally, the proposal inserts titles for Insurance Code and Administrative Code provisions cited within this section and cites subchapters in lieu of specific sections in §19.1003(a).

Section 19.1012. Forms and Fees. The proposal amends the section to generally refer interested persons to TDI's website for information on provider registration and courses. The proposal also removes an obsolete mailing address and obsolete email address, and it replaces "shall" with "will" where appropriate.

Subchapter N. Licensing and Regulation of Risk Managers.

Section 19.1304. Last Known Address. The proposal removes a reference to an obsolete mailing address, replaces obsolete references to the State Board of Insurance, clarifies that a risk manager's address is presumed to be the most recent address on file with the department, and removes an obsolete mailing

address and instead adds a reference to filing instructions on TDI's website. The proposal also replaces "shall" with "must" or "will," as appropriate.

Section 19.1308. Application for License. The proposal replaces obsolete references to the State Board of Insurance and removes an obsolete mailing address, adding a reference to filing instructions on TDI's website instead. The proposal also replaces "shall" with "must."

Subchapter O. Procedures and Requirements for Reinsurance Intermediaries (Brokers and Managers).

Section 19.1403. Requirements for Bond or Errors and Omissions Policy. The proposal replaces an obsolete mailing address and filing recipient with the current mailing address and recipient, capitalizes "commissioner," and replaces "shall" with "must" or "will," as appropriate.

Section 19.1407. Approval of Reinsurance Intermediary Manager's Contracts. The proposal removes an obsolete mailing address, adding a reference to filing instructions on TDI's website instead. The proposal also updates obsolete code references, inserts titles of Insurance Code provisions referenced in the section, capitalizes "commissioner," replaces "shall" with "must" or "will," as appropriate, replaces "which" with "that," and replaces "occur in the provisions set forth in" with "are made to."

Subchapter Q. Discount Health Care Program Registration and Renewal Requirements.

Section 19.1604. Renewal. The proposal amends the section to provide that TDI will send renewal notices by email rather than mail. It also clarifies that a discount health care program operator's current address is presumed to be the address on file with TDI. The proposal also clarifies the renewal submission requirements by using plain language and replacing an obsolete address with references to TDI's website. The proposal also replaces "shall" with "will" and "subchapter" and "chapter" with "title," updates the title of an Occupations Code section, and deletes five unnecessary uses of the word "the." Finally, the proposal inserts titles of Insurance Code provisions referenced in the section.

Section 19.1605. Requirements Related to Discount Health Care Program Information. The proposal clarifies filing requirements by removing an obsolete mailing address, email address, phone number, and fax number and instead referencing TDI's website. The proposal also replaces "shall" with "must," "subchapter" with "title," and deletes four unnecessary uses of the word "the." Finally, the proposal inserts the title of an Insurance Code provision referenced in the section.

Subchapter R. Utilization Reviews for Health Care Provided Under a Health Benefit Plan or Health Insurance Policy.

Section 19.1704. Certification or Registration of URAs. The proposal capitalizes "commissioner" where it appears in lowercase and replaces an obsolete mailing address with the current mailing address. The proposal also inserts titles of Insurance Code provisions referenced in the section.

Subchapter S. Forms to Request Prior Authorization.

Section 19.1810. Prior Authorization Request Form for Health Care Services, Required Acceptance, and Use. The proposal capitalizes "commissioner" where it appears in lowercase, replaces an obsolete mailing address with the current mailing address, and inserts the title of an Administrative Code section cited within the section.

Section 19.1820. Prior Authorization Request Form for Prescription Drug Benefits, Required Acceptance, and Use. The proposal capitalizes "commissioner" where it appears in lowercase and replaces an obsolete mailing address with the current mailing address. The proposal also replaces "facsimile (fax)" with "fax."

Subchapter T. Specialty Insurance License.

Section 19.1902. Definitions. The proposal removes the defined term "Registered Location" and renumbers the following paragraph as appropriate. The proposal also updates Insurance Code citations, replaces "10 percent" with "10%," and removes "shall" as appropriate. Finally, the proposal inserts titles of Insurance Code provisions referenced in the section.

Section 19.1908. Notice to Department. The proposal removes a paragraph addressing locations from which insurance sales are conducted under a specialty license and renumbers the following paragraphs as appropriate. The proposal also replaces "shall" with "must" and inserts an "or" where appropriate.

Subchapter U. Utilization Reviews for Health Care Provided Under Workers' Compensation Insurance Coverage.

Section 19.2004. Certificate or Registration of URAs. The proposal capitalizes "commissioner" where it appears in lowercase, inserts the word "and," and it replaces an obsolete mailing address with the current mailing address. The proposal also inserts titles of Insurance Code and Administrative Code provisions and referenced in the section.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Randall Evans, deputy commissioner of the Customer Operations Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering them, other than that imposed by statute. Mr. Evans made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Mr. Evans does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. Evans expects that administering them will have the public benefit of ensuring that TDI's rules are clearly written and conform to state law.

Mr. Evans expects that the proposed amendments will not increase the cost of compliance for those required to comply with the rules. Any costs for those required to comply with the proposed amendments are attributable to HB 4030, SB 876, and SB 1060 because the proposed amendments do not impose requirements beyond those in the statutes.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. The cost analysis in the Public Benefit and Cost Note section of this proposal, which explains that associated costs are attributable to HB 4030, SB 876, and SB 1060, and not the proposed amendments, also applies to these small and micro businesses and rural communities. As a result, and in accordance with Government

Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this rule proposal does not impose a possible cost on regulated persons.

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

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

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

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on February 12, 2023. 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.

To request a public hearing on the proposal, submit a request before the end of the comment period 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. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on February 12, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER B. MEDICARE ADVANTAGE PLANS, MEDICARE ADVANTAGE PRESCRIPTION DRUG PLANS, AND MEDICARE PART D PLANS

28 TAC §19.103

STATUTORY AUTHORITY. TDI proposes amendments to §19.103 under Insurance Code §36.001.

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

CROSS-REFERENCE TO STATUTE. Section 19.103 implements Insurance Code Chapter 4051 and 4054.

§19.103. Reporting Requirements.

An insurer, health maintenance organization, or insurance agent is required to report in writing any violation of §19.102 of this title [subchapter] (relating to Agent Authority to Market Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Prescription Drug Plans) within four calendar days of discovering the violation to the Fraud and Enforcement Division at the contact information provided on the department's website [by first class United States mail to the Enforcement Division, Compliance Intake Unit, Mail Code 110-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or by other method acceptable to the department].

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

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Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6555



SUBCHAPTER G. LICENSING OF INSURANCE ADJUSTERS

28 TAC §19.602

STATUTORY AUTHORITY. TDI proposes amendments to §19.602 under Insurance Code §4101.005 and §36.001.

Insurance Code §4101.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4101 and meet the minimum requirements of federal law, including regulations.

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

CROSS-REFERENCE TO STATUTE. Section 19.602 implements Insurance Code Chapter 4003 as amended by SB 876.

§19.602. Types of Adjuster's Licenses.

(a) Any references to the Act in this subchapter are references to Insurance Code Chapter 4101, concerning Insurance Adjusters [Article 21-07-4]. The following types of adjuster's licenses are approved for insurance:

(1) - (3) (No change.)

(b) Under Insurance Code Chapter 4101 [Pursuant to Insurance Code Article 21-07-4], the following are exempted from the requirement of an adjuster's license examination or reexamination administered by the department or the department's authorized testing service:

(1) - (2) (No change.)

(3) those persons who have a certificate of completion showing that within the past 12 months the applicant has completed

a certified adjuster prelicensing education program and passed an examination in compliance with Insurance Code §4101.054, concerning Examination Required, [Article 21.07-4 §10(4)] and §19.1006(b) of this title (relating to Course Criteria); and

(4) (No change.)

~~[(e) Each adjuster's license expires on the second anniversary of the date it was issued unless suspended or revoked by the commissioner.]~~

~~(c) [(d)] Adjusters must [shall] renew their licenses in the manner set forth in §19.801 of this title (relating to General Provisions [Regarding Licensing Fees and License Renewal]).~~

~~(d) [(e)] Adjusters may only renew a license that has not expired or has not been expired for more than 90 days; otherwise, the adjuster must apply to the department for a new license.~~

~~(e) [(f)] If an adjuster's license has been expired for one year or more, the adjuster applicant must submit to reexamination. The reexamination must be completed within the 12 months preceding the application unless the adjuster applicant can show that the applicant is exempt from the reexamination as set forth in subsection (b) 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.

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Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

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SUBCHAPTER H. LICENSING OF PUBLIC INSURANCE ADJUSTERS

28 TAC §§19.702, 19.704 - 19.706, 19.708, 19.709, 19.712

STATUTORY AUTHORITY. TDI proposes amendments to §§19.702, 19.704 - 19.706, 19.708, 19.709, and 19.712 under Insurance Code §§4001.005, 4102.004 and 36.001.

Insurance Code §4001.005 provides that the Commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

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

CROSS-REFERENCE TO STATUTE. Section 19.702 and §19.712 implement Insurance Code Chapter 4102. Section 19.704 implements Insurance Code Chapter 4001 as amended by HB 4030. Section 19.709 implements Insurance Code Chapter 4056 as amended by HB 4030. Section 19.705 and §19.706

implement Insurance Code Chapter 4102 as amended by SB 1060. Section 19.708 implements Insurance Code Chapter 4102.

§19.702. *Type of Public Insurance Adjuster Licenses.*

The department will [shall] issue a single public insurance license under [pursuant to] Insurance Code Chapter 4102, concerning Public Insurance Adjusters [Article 21.07-5] and the provisions of this subchapter.

§19.704. *Public Insurance Adjuster Licensing.*

(a) Any individual that desires a public adjuster license must file with the department a fully completed license application, on a form as required by the Commissioner [e~~o~~mmisioner], and otherwise meet the licensing qualification requirements of Insurance Code Chapter 4102, Subchapter B, concerning License Requirements, [Article 21.07-5 §§5 or 15] and this subchapter.

(b) Any corporation or partnership that desires a public insurance adjuster license must file with the department a fully completed license application on a form as required by the Commissioner [e~~o~~mmisioner].

(c) The department will [shall] issue a license to a resident or nonresident corporation or partnership if the department finds that:

(1) (No change.)

(2) the corporation or partnership meets the definition of that entity adopted under Insurance Code §4001.003, concerning Definitions [Article 21.07 §1A];

(3) - (4) (No change.)

~~[(5) the corporation or partnership has filed a separate registration with the department for each location from which it will conduct business as a public insurance adjuster;]~~

(5) [(6)] the corporation or partnership has submitted the application, appropriate fees, proof of financial responsibility, and any other information required by the department; and

(6) [(7)] no officer, director, member, manager, partner, or any other person who has the right or ability to control the license holder has:

(A) had a license suspended or revoked or been the subject of any other disciplinary action by a financial or insurance regulator of this state, another state, or the United States; or

(B) committed an act for which a license may be denied under Insurance Code §4005.101, concerning Grounds for License Denial or Disciplinary Action, or §4102.201, concerning Denial, Suspension, or Revocation of License [Article 21.01-2 or 21.07-5].

(d) Nothing contained in this section may [shall] be construed to permit any unlicensed employee or representative of any corporation or partnership to perform any act of a public insurance adjuster without obtaining a public insurance adjuster license.

(e) Each corporation or partnership applying for a public insurance adjuster license must [shall] file, under oath, on a form developed by the department, biographical information for each of its executive officers and directors or unlicensed partners who administer the entity's operations in this state, and shareholders who are in control of the corporation, or any other partners who have the right or ability to control the partnership. If any corporation or partnership is owned, in whole or in part, by another entity, a biographical form is required for each individual who is in control of the parent entity.

(f) Each corporation or partnership must [shall] notify the department not later than the 30th day after the date of:

(1) (No change.)

(2) an event that would require notification under Insurance Code §81.003, concerning Notification of Certain Disciplinary Actions Occurring in Other States; Civil Penalty; and

(3) (No change.)

(g) A person may not acquire in any manner any ownership interest in an entity licensed as a public insurance adjuster under this subchapter if the person is, or after the acquisition would be directly or indirectly in control of the license holder, or otherwise acquire control of or exercise any control over the license holder, unless the person has filed the following information with the department under oath:

(1) - (3) (No change.)

(4) any additional information that the Commissioner [~~eommissioner~~] may prescribe as necessary or appropriate to the protection of the insurance consumers of this state or as in the public interest.

(h) If a person required to file a statement under subsection (g) of this section is a partnership, limited partnership, syndicate, or other group, the Commissioner [~~eommissioner~~] may require that the information required by paragraphs (1) - (4) of that subsection for an individual be provided regarding each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If the partner, member, or person is a corporation or the person required to file the statement under subsection (g) of this section is a corporation, the Commissioner [~~eommissioner~~] may require that the information required by paragraphs (1) - (4) of that subsection be provided regarding:

(1) - (2) (No change.)

(3) each person who is directly or indirectly the beneficial owner of more than 10% [~~+0 percent~~] of the outstanding voting securities of the corporation.

(i) The department may disapprove an acquisition of control if, after notice and opportunity for hearing, the Commissioner [~~eommissioner~~] determines that:

(1) - (3) (No change.)

(j) (No change.)

(k) The Commissioner [~~eommissioner~~] is the corporation's or partnership's agent for service of process in the manner provided by Insurance Code Chapter 804, concerning Service of Process, in a legal proceeding against the corporation or partnership if:

(1) - (3) (No change.)

(l) If a license holder does not maintain the qualifications necessary to obtain the license, the department will [~~shall~~] revoke or suspend the license or deny the renewal of the license under Insurance Code §4005.101, concerning Grounds for License Denial or Disciplinary Action or Insurance Code §4102.201, concerning Denial, Suspension, or Revocation of License [~~Article 21.01-2 or 21.07-5~~].

(m) Each public insurance adjuster must [~~shall~~] maintain all insurance records, including all records relating to customer complaints received from customers and the department, separate from the records of any other business in which the person may be engaged and in the manner specified in Insurance Code Chapter 4102, concerning Public Insurance Adjusters [~~Article 21.07-5~~].

(n) (No change.)

§19.705. *Financial Responsibility Requirement.*

~~[(a)] Each public insurance adjuster, as a condition for being licensed, [and each trainee as a condition for receiving a temporary training certificate and as a condition for continuing the license or training certificate in force,] must maintain proof of financial responsibility by obtaining a surety bond in the principal sum of not less than \$10,000 that covers all the required perils and losses set forth under Insurance Code §4102.105, concerning Financial Responsibility [~~Article 21.07-5 §6~~].~~

~~[(b) Each public insurance adjuster and trainee must obtain separate proof of financial responsibility and may not rely on the bond of any other public insurance adjuster or trainee to demonstrate proof of financial responsibility.]~~

§19.706. *Demonstrating Financial Responsibility.*

The public insurance adjuster applicant[~~;~~] or licensee must [~~;~~ or trainee shall] demonstrate proof of financial responsibility by providing to the department the original surety bond upon application, renewal, or replacement of the bond.

§19.708. *Public Insurance Adjuster Contracts.*

(a) (No change.)

(b) A public insurance adjuster's written contract with an insured must contain:

(1) - (6) (No change.)

(7) the following separate statements in 12-point bold type on the signature page of the contract:

(A) "NOTICE: The insured may cancel this contract by written notice to the public insurance adjuster within 72 hours of signature for any reason." [~~THE INSURED MAY CANCEL THIS CONTRACT BY WRITTEN NOTICE TO THE PUBLIC INSURANCE ADJUSTER WITHIN 72 HOURS OF SIGNATURE FOR ANY REASON.~~];

(B) "We represent the insured only." [~~WE REPRESENT THE INSURED ONLY.~~]; and

(C) "You are entering into a service contract. You are being charged a fee for this service. You do not have to enter into this contract to make a claim for loss or damage on a policy of insurance." [~~YOU ARE ENTERING INTO A SERVICE CONTRACT. YOU ARE BEING CHARGED A FEE FOR THIS SERVICE. YOU DO NOT HAVE TO ENTER INTO THIS CONTRACT TO MAKE A CLAIM FOR LOSS OR DAMAGE ON A POLICY OF INSURANCE.~~];

(8) the statement: "If the insurance carrier pays or commits in writing to pay to the insured the policy limits of the insurance policy under Insurance Code [~~Article 6-13 or~~] §862.053, concerning Fire and Marine Insurance Companies, within 72 hours of the loss being reported to the insurer, the public insurance adjuster is not entitled to compensation based on a percentage of the insurance settlement, but is entitled to reasonable compensation for the public insurance adjuster's time and expenses provided to the insured before the claim was paid or the written commitment to pay was received.";

(9) (No change.)

(10) on the first or second page of the contract, the following English and Spanish notices in 10-point bold type:

(A) "IMPORTANT NOTICE: You may contact the Texas Department of Insurance to get information about public insurance adjusters, your rights as a consumer, or information about how to file a complaint by calling 1-800-252-3439; or you may write the Texas

Department of Insurance, at MC: CO-CP, P.O. Box 12030, Austin, Texas 78711-2030. [PO Box 149104, Austin, Texas 78714-9104, or contact the department via Fax 512-475-1771.];

(B) "ADVISOR IMPORTANTE: Puede comunicarse con el Departamento de Seguros de Texas para obtener información acerca de ajustadores públicos de seguros, sus derechos como consumidor, o información sobre cómo presentar una queja llamando 1-800-252-3439; o puede escribir al Departamento de Seguros de Texas, en MC: CO-CP, P.O. Box 12030, Austin, Texas 78711-2030. [PO Box 149104, Austin, Texas 78714-9104, o comuníquese con el departamento a través de Fax 512-475-1771.];

(11) a statement that under any method of compensation, the total commission payable to the public insurance adjuster, including expenses, direct costs, or any other costs accrued by the public insurance adjuster, must not exceed 10% [~~10 percent~~] of the amount of the insurance settlement;

(12) if applicable, a statement disclosing how payments issued before [~~prior to~~] the effective date of the contract will be used in determining compensation to the public insurance adjuster; and

(13) (No change.)

(c) (No change.)

(d) All public insurance adjusters in Texas must use a written contract that is in the form prescribed by the department and that complies with all relevant Insurance Code requirements and department rules. Public insurance adjusters must select from the following contract form options:

(1) (No change.)

(2) a contract filed and approved by the department before [~~prior to~~] use.

(c) - (f) (No change.)

§19.709. Nonresident Applicants and License Holders.

[(a)] An applicant for a nonresident public insurance adjuster license or temporary certificate must, through the law enforcement agency of the applicant's state of residence, submit a copy of the applicant's criminal history records to the department. The department will [~~shall~~] use the criminal history records to determine eligibility for issuance of a license in accordance with this subchapter and other laws of this state.

[(b)] ~~The annual nonresident affidavit required by Insurance Code Article 21.07-5 §15(d) shall be made on a form available from the department and filed one year after the date the license was issued and annually thereafter.]~~

§19.712. Advertisement.

(a) As used in Insurance Code Chapter 4102, concerning Public Insurance Adjusters, [~~Article 21.07-5~~], "advertisement" includes:

(1) printed and published material, audiovisual [~~audio visual~~] material and descriptive literature of a public insurance adjuster used in direct mail, newspapers, magazines, radio, telephone and television scripts, websites [~~internet web sites~~], billboards, and similar displays;

(2) - (7) (No change.)

(b) (No change.)

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

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Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

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28 TAC §19.703

STATUTORY AUTHORITY. TDI proposes to repeal §19.703 under Insurance Code §4102.004 and §36.001.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

CROSS-REFERENCE TO STATUTE. The repeal of §19.703 implements Insurance Code Chapter 4102 as amended by SB 1060.

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

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

§19.703. Temporary Training Certificates.

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

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SUBCHAPTER I. GENERAL PROVISIONS REGARDING FEES, APPLICATIONS, AND RENEWALS

28 TAC §§19.801, 19.802, 19.805

STATUTORY AUTHORITY. TDI proposes amendments to §§19.801, 19.802, and 19.805 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the Commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the

powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.801 implements Insurance Code Chapters 443, 1131, 4001, and 4051 as amended by HB 4030. Section 19.802 implements Insurance Code Chapters 521, 541, 544, 4001, 4002, and 4004 as amended by HB 4030. Section 19.805 implements Insurance Code Chapter 4001 as amended by HB 4030.

§19.801. General Provisions.

(a) (No change.)

(b) Original application. In this subchapter, an original application is an application for any license type not currently held by the applicant.

(1) Individual application. An original application for an individual license must include the following information:

(A) (No change.)

(B) other applicable information required by statute or rule, including:

(i) a complete set of the applicant's fingerprints, using the procedures and requirements under Chapter 1, Subchapter D, of this title (relating to Effect of Criminal Conduct);

(ii) for adjuster applicants, documentation of the successful completion of the applicable adjuster examination or prelicensing course as required under Insurance Code §4101.054, concerning Examination Required, and §4101.056, concerning Exemption from Examination Requirement; and

(iii) for public insurance adjuster applicants, evidence of financial responsibility and a sample contract as required under §19.705 of this title (relating to Financial Responsibility Requirement), §19.706 of this title (relating to Demonstrating Financial Responsibility), §19.707 of this title (relating to Type of Financial Responsibility), §19.708 of this title (relating to Public Insurance Adjuster Contracts), §19.709 of this title (relating to Nonresident Applicants and License Holders), §19.710 of this title (relating to Nonresidents Required to File Biographical Information), and §19.711 of this title (relating to Fingerprint Requirement) [~~§§19.705- 19.711 of this title~~].

(2) (No change.)

(c) Appointment.

(1) An appointment authorizes an agent to represent and act as an agent for an insurer, as defined in Insurance Code §4001.003(6), concerning Definitions. An agent must be appointed directly by an insurer [~~or as a subagent by a general lines agent, personal lines property and casualty agent, or life agent~~].

(2) (No change.)

~~{(3) Subagent appointments must comply with Insurance Code §4001.205, including the following requirements:}~~

~~{(A) only general lines agents, personal lines property and casualty agents, or life agents may appoint subagents;}~~

~~{(B) only general lines agents, personal lines property and casualty agents, or life agents may be appointed as subagents;}~~

~~{(C) the appointing agent must have a direct appointment from the insurer that the subagent is being appointed to represent and act for as an agent; and}~~

~~{(D) general lines agents, personal lines property and casualty agents, and life agents may simultaneously have multiple subagent and insurance company appointments.}~~

~~{(d) Subagents.}~~

~~{(1) As provided in Insurance Code §4001.109, a subagent must be licensed to write each line of insurance that the subagent is employed to write, but is not required to hold each type of license issued to the agent for whom the subagent acts; and}~~

~~{(2) an agent may not allow a subagent to write a line of business that the agent is not licensed to write or that the subagent is not licensed to write.}~~

~~{(d) [(e)] Submission of fees. All fees must be submitted as directed by:~~

~~(1) - (3) (No change.)~~

~~(4) using the instructions provided on the department's website [Texas.gov]; or~~

~~(5) (No change.)~~

~~{(e) [(f)] Fees fully earned and not refundable or transferable. All fees are fully earned at the time the application, registration, or appointment is submitted, and they are not refundable or transferable to another application, registration, or appointment. These fees may not be reduced for any reason, except as authorized by statute or rule.~~

~~{(f) [(g)] Examination and examination fees.~~

~~(1) (No change.)~~

~~(2) All examination fees for any license type, whether administered by TDI or TDI's designated testing service, are fully earned when the examination is scheduled and are not refundable or transferable to any other applicant or examination, except when approved by TDI as provided under Insurance Code §4002.005(c), concerning Examination Fee. A separate fee is required for each examination and reexamination. Examination fees may not be reduced for any reason, except as authorized by statute or rule.~~

§19.802. Amount of Fees.

(a) (No change.)

(b) The amounts of fees are as follows:

(1) - (4) (No change.)

(5) General property and casualty agent:

(A) original application--\$50;

(B) renewal--\$50;

(C) additional appointment--\$10;

(D) qualifying examination--\$50;

(E) emergency application for license issued under Insurance Code §4051.054, concerning Deceased, Disabled, or Insolvent Agents; Emergency License--\$50 (for original application with no additional charge for renewal).

~~{(6) Full-time home office salaried employee registration: original application --\$50.}~~

~~{(7) Insurance service representative:}~~

~~{(A) original application--\$50;}~~

~~{(B) renewal--\$50;}~~

~~{(C) qualifying examination--\$50;}~~

~~[(D)]~~ appointment of a currently licensed insurance service representative--\$10.]

(6) ~~[(8)]~~ Managing general agent:

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

(7) ~~[(9)]~~ Limited lines agent (includes agents licensed under Insurance Code Chapter 4051, Subchapter C, concerning Limited Property and Casualty License, and Chapter 4054, Subchapter C, concerning Limited Life, Accident, and Health License):

(A) - (D) (No change.)

(8) ~~[(10)]~~ Surplus lines agent:

(A) - (C) (No change.)

(9) ~~[(11)]~~ Specialty insurance agent:

(A) - (C) (No change.)

(10) ~~[(12)]~~ Title attorney:

(A) - (B) (No change.)

(11) ~~[(13)]~~ Life insurance not exceeding \$15,000:

(A) - (c) (No change.)

(12) ~~[(14)]~~ Risk manager:

(A) - (C) (No change.)

~~[(15)]~~ Life and health insurance counselor]

~~[(A)]~~ original application--\$50.]

~~[(B)]~~ renewal--\$50;]

~~[(C)]~~ qualifying examination--\$50.]

(13) ~~[(16)]~~ Funeral prearrangement life insurance agent:

(A) - (C) (No change.)

(14) ~~[(17)]~~ Reinsurance intermediary:

(A) - (B) (No change.)

(15) ~~[(18)]~~ Temporary license application--For license types authorized by Insurance Code Chapter 4001, Subchapter D₂ concerning Temporary License, to be issued on a temporary basis, \$100 in addition to the original license application fee for each license type.

(16) ~~[(19)]~~ Utilization review agent:

(A) - (B) (No change.)

(17) ~~[(20)]~~ Public insurance adjuster:

(A) - (C) (No change.)

(18) ~~[(21)]~~ Provisional permit application fee is \$50 in addition to the original license application fee for each license type.

(19) ~~[(22)]~~ Life agent:

(A) - (D) (No change.)

(20) ~~[(23)]~~ Personal lines property and casualty agent:

(A) - (D) (No change.)

(21) ~~[(24)]~~ Discount health care program operator:

(A) - (B) (No change.)

(c) The limited lines agent license is a single license type that is authorized under Insurance Code Chapter [~~Chapters~~] 4051, concerning Property and Casualty Agents, and 4054, concerning Life, Acci-

dent, and Health Agents. Persons licensed as limited lines agents may be appointed to sell or solicit any line authorized by Insurance Code Chapter 4051, Subchapter C and Chapter 4054, Subchapter C without payment of additional license fees or examinations other than the necessary additional company appointment fees.

~~[(d)]~~ A general agent, personal lines property and casualty agent, or life agent appointed as subagent by another general agent, personal lines property and casualty agent, or life agent is not a separate license type. All fees are the same for a general agent, personal lines property and casualty agent, or life agent appointed as subagents, as are the fees for a general agent, personal lines property and casualty agent, or life agent appointed by insurance companies.]

(d) ~~[(e)]~~ All fees are the same for both residents and nonresidents. Insurance Code Chapter 4056 does not create an additional license type for nonresidents, but designates a procedure for licensing nonresidents under appropriate Texas license types.

§19.805. *Application for a New Individual License.*

(a) This section does not apply to:

(1) (No change.)

(2) a temporary license issued under Insurance Code Chapter 4001, Subchapter D₂ concerning Temporary License, and §19.807 of this title (relating to Application for a Temporary License); or

~~[(3)]~~ home office salaried employees operating under Insurance Code Chapter 4051, Subchapter G, and §§19.3001 - 19.3005 of this title; or]

(3) ~~[(4)]~~ specialty agent licenses issued under Insurance Code Chapter 4054, concerning Life, Accident, and Health Agents and Chapter 19, Subchapter T of this title (relating to Specialty Insurance License). [~~§§19.1901 - 19.1910~~ of this title.]

(b) Examination required. Unless exempt by applicable statute or rule, all license applicants must successfully complete the applicable license examination to be eligible for licensure.

(1) Except as provided in paragraph (2) of this subsection:

(A) (No change.)

(B) TDI must receive the score report from TDI's designated testing service showing successful completion of the applicable examination within the 12-month [~~12 month~~] period before [~~preceeding~~] the completed application is [being] received by TDI.

(2) An applicant qualifying for a license through an insurance carrier administered examination under Insurance Code Chapter 4051, Subchapter E₂ concerning County Mutual Agent License; [~~or~~] Chapter 4054, Subchapter D, concerning Funeral Prearrangement Life Insurance; or Chapter 4054, Subchapter [~~Subchapters D or~~] E₂ concerning Life Insurance Not Exceeding \$25,000, must submit to TDI:

(A) (No change.)

(B) a completed original application with an appointment from the insurance carrier administering the examination indicating successful completion of the applicable examination within the 12-month [~~12 month~~] period preceding the completed application being received by TDI.

(c) Examination not required. An applicant who is not required to qualify for a license by examination must submit to TDI the original application fee and all required fees with [~~at the time of submitting to TDI~~] a completed original application.

~~[(d)]~~ Continuing education requirement. On and after June 1, 2018, an applicant for a new license who previously held a license

under Insurance Code Title 13 that was issued or renewed on or after November 1, 2015, must provide to TDI evidence of completion of the prior license continuing education requirements or payment of the applicable fines for failure to complete the continuing education, as required under Insurance Code §4004.055 and §19.810 of this title.]

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SUBCHAPTER J. STANDARDS OF CONDUCT FOR LICENSED AGENTS

28 TAC §19.902, §19.906

STATUTORY AUTHORITY. TDI proposes amendments to §19.902 and §19.906 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the Commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

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

CROSS-REFERENCE TO STATUTE. Section 19.902 implements Insurance Code Chapter 4001 as amended by HB 4030. Section 19.906 implements Insurance Code Chapter 4001.

§19.902. *One Agent, One License.*

(a) Only one license of the same type permitted. No agent may hold more than one license of the same type currently in effect. An agent doing an insurance business subject to the provisions of this subchapter must [shall] have the agent's license certificate issued in the agent's true name. If an individual is authorized to act as a particular type of agent, that individual need not obtain an additional license in order to participate in a licensed partnership or corporate agency of the same type, but the partnership or corporation must obtain a separate license. Any licensed agent may have additional offices or do an insurance business under assumed names without obtaining an additional license; provided, however, each agent must furnish the Texas Department [State Board] of Insurance with a certification [identifying any and all offices from which the agent will conduct an insurance agency business, and] showing any and all assumed names that [which] the agent will use [utilize in doing an insurance agency business at each of those offices]. Where such a filing is required under the Assumed Business or Professional Name Act (Texas Business and Commerce Code Chapter 71, concerning Assumed Business or Professional Name [; §36.01, et seq.]), or any similar statute, the agent must [shall] provide the Texas Department [State Board] of Insurance with a copy of

the valid assumed name certificate reflecting proper registration of each assumed name used [utilized] by the agent.

(b) Standards for approval and disapproval of names to be used by licensed agents.

(1) - (4) (No change.)

(5) Enforcement of standards. The standards established by these regulations are applicable to names filed with the Texas Department of Insurance upon the effective date of these rules. Agents may continue to use the name(s) under which they are licensed. The adoption of these regulations does not affect the authority of the department to order an agent to discontinue the use of a name that is shown to mislead the public and violate Insurance Code Chapter 541, concerning Unfair Methods of Competition and Unfair or Deceptive Acts or Practices, or rules adopted under it [thereunder]; provided, however, that any such action by the department must be conducted in accordance with the Insurance Code.

(c) [The State Board of Insurance adopts by reference Form LDTL in effect on October 1, 1987. In order to comply with the requirements of this section, an] An agent must register any assumed name using instructions provided on the department's website. [or additional office by filing with the Agents License Division of the State Board of Insurance a completed Form LDTL together with the required fee. Any such filing of a Form LDTL shall be treated as an application for expansion of an agent's license authority, and; therefore, a fee equal to the highest license fee established by the State Board of Insurance for any license currently held by the agent shall be paid in support of such filings. Copies of Form LDTL for use under this subsection are available from the Agents License Division, Mail Code 014-3, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]

§19.906. *Last Known Address.*

Each agent must [shall] at all times keep the Texas Department [State Board] of Insurance informed of the agent's current address. Such address must [shall] be included in each license application and each license renewal form. In the absence of the submission of a specific written request to change that address, which must be separate from any other submission, the agent's current address is presumed to be the most recent address on file with the department. [address on the most recent license renewal or license application form, whichever is latest.] Such address will [shall] be considered the agent's last known address for the purposes of notice to the agent by mail [the board]. Any request for a change of address must [shall] be made using the instructions provided on the department's website. [addressed to Agents License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]

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

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SUBCHAPTER K. CONTINUING
EDUCATION, ADJUSTER PRELICENSING
EDUCATION PROGRAMS, AND
CERTIFICATION COURSES

28 TAC §§19.1002, 19.1003, 19.1012

STATUTORY AUTHORITY. TDI proposes amendments to §§19.1002, 19.1003, and 19.1012 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the Commissioner may adopt any rule necessary to implement Title 13 of the Texas Insurance Code and to meet the minimum requirements of federal law, including regulations.

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

CROSS-REFERENCE TO STATUTE. Section 19.1002 and §19.1003 implement Insurance Code Chapter 4004 as amended by HB 4030. Section 19.1012 implements Insurance Code Chapter 4004.

§19.1002. *Definitions.*

(a) Words and terms defined in [the] Insurance Code §4001.003, concerning Definitions; §4004.151, concerning Agent Education Programs; or §4004.201, concerning Definition [§§4001.003; 4004.151, and 4004.201 shall] have the same meaning when used in this subchapter.

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

(1) Adjuster--An individual licensed under Insurance Code Chapter 4101, concerning Insurance Adjusters.

(2) (No change.)

(3) Assignee--Any provider that [which] is authorized under [as set forth in] §19.1008(f) of this title (relating to Certified Course Advertising, Modification, and Assignment).

(4) (No change.)

(5) Business of insurance--Has the same meaning as set forth in Insurance Code, §101.051, concerning Conduct that Constitutes the Business of Insurance.

(6) Classroom course--A course complying with §19.1009(g) [§19.1009(e)] of this title (relating to Types of Courses).

(7) Classroom equivalent course--A course complying with §19.1009(h) [§19.1009(d)] of this title.

(8) (No change.)

(9) Certification course--A course designed to enhance the student's knowledge, understanding, and professional competence regarding specified subjects for an insurance product. The term includes courses that satisfy the requirements for the Long-Term Care Certification required by [the] Insurance Code Chapter 1651, Subchapter C, concerning Partnership for Long-Term Care Program and [the] Human Resources Code Chapter 32, Subchapter F, concerning Partnership for Long-Term Care Program [€]; the Medicare-Related Product Certification required by [the] Insurance Code Chapter 4004, Subchapter D, concerning Agent Education Programs; the Small Employer Health Benefit Plan Specialty Certification required by [the] Insurance Code

Chapter 4054, Subchapter H, concerning Specialty Certification for Agents Serving Certain Employer Groups; and the Annuity Certification required by [the] Insurance Code §1115.056, concerning Agent Training Requirements.

(10) - (16) (No change.)

(17) Licensee--An individual licensed under one or more of the following Insurance Code provisions:

(A) Chapter 4051, Subchapter [Subchapters] B, concerning General Property and Casualty License; Subchapter C, concerning Limited Property and Casualty License; [D,] Subchapter E, concerning County Mutual Agent License; or Subchapter [and] I concerning Personal Lines Property and Casualty Agent [(general property and casualty agent, limited lines agent, insurance service representative, county mutual agent, and personal lines property and casualty agent)];

[B] Chapter 4052 (life and health insurance counselor);]

(B) [(C)] Chapter 4053, concerning Managing General Agents [(managing general agent)];

(C) [(D)] Chapter 4054, Subchapter [Subchapters] B, concerning General Life, Accident, and Health License; Subchapter C, concerning Limited Life, Accident, and Health License; Subchapter E, concerning Life Insurance Not Exceeding \$25,000; or Subchapter [and] G, concerning Life Agent [(general lines - life, accident, and health agent, limited lines agent, life insurance not exceeding \$25,000 agent, and life agent)];

(D) [(E)] Chapter 4101, concerning Insurance Adjusters [(adjuster)]; or

(E) [(F)] Chapter 4102, concerning Public Insurance Adjusters [(public insurance adjuster)].

(18) Long-term care partnership insurance policy--For purposes of §19.1022 of this title (relating to Long-Term Care Partnership Certification Course) and §19.1023 of this title [subchapter only,] (relating to [Long-Term Care Partnership Certification Course and] Long-Term Care Partnership Continuing Education) only, a policy established under [the] Human Resources Code[;] Chapter 32, Subchapter F [€], and [the] Insurance Code[;] Chapter 1651, Subchapter C.

(19) National designation certification--A professional designation that [which] is:

(A) nationally recognized in the insurance industry; and

(B) issued by an entity that maintains a not-for-profit status and has been in existence for at least five years.

(20) (No change.)

(21) Provider--An individual or organization including a corporation, partnership, depository institution, insurance company, or entity chartered by the Farm Credit Administration as defined in [the] Insurance Code §4001.108, concerning Issuance of License to Entity Chartered by Federal Farm Credit Administration, registered with the department to offer continuing education courses for licensees, prelicensing instruction for adjusters, or long-term care partnership certification courses for licensees.

(22) - (25) (No change.)

(26) Speaker--An individual who is [shall be] speaking from special knowledge regarding the business of insurance obtained through experience and position in professional or social organizations, industry, or government.

(27) - (29) (No change.)

§19.1003. Licensee Hour and Completion Requirements.

(a) Continuing education hour requirement. Except as provided in subsections (c) - (e) of this section, for each license and reporting period that the individual is licensed, each licensee must complete 24 hours of continuing education, except that licensees holding only a license issued under Insurance Code Chapter 4051, Subchapter C, concerning Limited Property and Casualty License; Chapter 4051, Subchapter E, concerning County Mutual Agent License; Chapter 4054, Subchapter C, concerning Limited Life, Life, Accident and Health License; or Chapter 4054, Subchapter E, concerning Life Insurance not Exceeding \$25,000 [~~§4051.101 and Insurance Code §4051.102 (limited lines agent); §§4051.201 - 4051.206 (county mutual agent); §§4054.101 - 4054.103 (limited lines agent); and §§4054.201 - 4054.208 (life insurance not exceeding \$25,000 agent)~~] must complete 10 hours of continuing education. The following requirements apply:

(1) licensees must:

(A) - (B) (No change.)

(C) complete at least 50% [~~50 percent~~] of the licensee's required continuing education hours in certified classroom or classroom equivalent courses; and

(D) (No change.)

(2) Continuing education credit will not be granted for:

(A) any continuing education course credit received before the date the license is issued by TDI, including course credit earned while acting under a temporary license or a provisional permit, towards complying with the licensee's applicable continuing education requirement, except as provided in §19.1021 of this title (relating to Flood Insurance Education Course) and subsection (e) of this section;

(B) (No change.)

(C) the current reporting period for any credit hours completed under Insurance Code §4004.055, concerning Consequences of Failure to Complete Continuing Education Requirement, to correct a shortage of hours in a previous reporting period.

(b) Maximum hour requirement. Licensees holding more than one license issued under the Insurance Code are not required to complete more than the number of continuing education hours required under their greatest single license requirement for a license held by the licensee during the reporting period, three [~~two~~] hours of which must be in certified ethics or consumer protection courses, within each reporting period. This requirement applies even if the licensee chooses to cancel or nonrenew the license with the requirement. If the licensee is required to complete certain continuing education courses or course hours to maintain a voluntary certification, including certifications under §19.1022 of this title (relating to Long-Term Care Partnership Certification Course), §19.1023 of this title (relating to Long-Term Care Partnership Continuing Education), §19.1024 of this title (relating to Medicare-Related Product Certification Course), §19.1025 of this title (relating to Medicare-Related Product Continuing Education), §19.1026 of this title (relating to Small Employer Health Benefit Plan Specialty Certification Course), §19.1027 of this title (relating to Small Employer Health Benefit Plan Specialty Continuing Education), §19.1028 of this title (relating to Annuity Certification Course), and §19.1029 of this title (relating to Annuity Continuing Education), [~~§§19.1022 - 19.1029 of this title,~~] the licensee must complete the requirement to maintain the certification even if the total number of hours would exceed the limit specified in this subsection.

(c) Adjuster preclicensing education. Adjuster applicants seeking an examination exemption under Insurance Code §4101.056(a)(4), concerning Exemption from Examination Requirement, must complete both a certified adjuster preclicensing education course of not less than 40 hours, and pass the course examination testing the applicant's knowledge and qualifications set forth in this subchapter. Adjuster applicants must complete at least 30 hours of the course requirement through classroom or classroom equivalent course work.

(d) Prorated requirement. Licensees holding a license that was issued with a term of less than two years and those licensees who convert from nonresident to resident licenses during a reporting period, excluding adjusters with a license under which Texas is the designated home state, must complete continuing education hours based on a prorated schedule, as follows:

(1) for license types with a 24-hour [~~24 hour~~] requirement, one hour for each whole month between the issue or last renewal date of the license, or the date of Texas residency, to the end of the license period up to the maximum number of hours required for the license type during the reporting period; and

(2) for license types with a 10-hour [~~10 hour~~] requirement, the number of hours required in Figure: 28 TAC §19.1003(d)(2) for the license period between the issue date or last renewal date of the license, or the date of Texas residency, to the end of the license period up to the maximum number of hours required for the license type during the reporting period.

Figure: 28 TAC §19.1003(d)(2)
[Figure: 28 TAC §19.1003(d)(2)]

(3) (No change.)

(4) a licensee may not apply hours completed before [~~prior to~~] becoming a Texas resident licensee towards compliance with the continuing education requirement.

(e) (No change.)

§19.1012. Forms and Fees.

(a) Information on [~~Application forms for~~] provider registration, course registration, sample certificates of completion, and the list of courses can be obtained from [~~the Texas Department of Insurance, Education Coordinator, Licensing Division, 333 Guadalupe, MC-107-1A, P.O. Box 149104, Austin, Texas 78714-9104, the department's designee, or when available,~~] the department's website [~~Web site at www.tdi.state.tx.us~~].

(b) The department establishes the following nonrefundable fees, which are necessary to administer the continuing education and certification programs and will [~~shall~~] apply unless the department contracts with a third party to provide continuing education or certification services:

(1) - (3) (No change.)

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

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Allison Eberhart

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28 TAC §19.1019

STATUTORY AUTHORITY. TDI proposes to repeal §19.1019 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the Commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

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

CROSS-REFERENCE TO STATUTE. The repeal of §19.1019 implements Insurance Code Chapter 4001 as amended by HB 4030.

§19.1019. *Full-Time Home Office Salaried Employees.*

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

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**SUBCHAPTER N. LICENSING AND
REGULATION OF RISK MANAGERS**

28 TAC §19.1303, §19.1320

STATUTORY AUTHORITY. TDI proposes to repeal §19.1303 and §19.1320 under Insurance Code under Insurance Code §4153.003 and §36.001.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

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

CROSS-REFERENCE TO STATUTE. The repeal of §19.1303 and §19.1320 implements Insurance Code Chapter 4153.

§19.1303. *Forms Adopted by Reference.*

§19.1320. *Distribution of Rules and Attachments.*

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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◆ ◆ ◆
28 TAC §19.1304, §19.1308

STATUTORY AUTHORITY. TDI proposes amendments to §19.1304 and §19.1308 under Insurance Code §4153.003 and §36.001.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

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

CROSS-REFERENCE TO STATUTE. Section 19.1304 and §19.1308 implement Insurance Code Chapter 4153.

§19.1304. *Last Known Address.*

Each risk manager must [shall] at all times keep the Texas Department of Insurance [State Board of Insurance] informed of the risk manager's address. Such address must [shall] be included in each license application and each license renewal form. In the absence of the submission of a specific written request to change that address, which must be separate from any other submission, the risk manager's current address is presumed to be the address on file with the department [the most recent license renewal or license application form, whichever is latest]. Such address will [shall] be considered the risk manager's last known address for the purpose of notice to the agent by the department [board]. Any request for a change of address must [shall] be made using the instructions provided on the department's website. [addressed to Risk Manager's Licensing, Licensing Group, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]

§19.1308. *Application for License.*

Using the forms prescribed and furnished by the Texas Department of Insurance [board], a person who desires to be licensed as risk manager in Texas must submit an application for risk manager's license using the instructions provided on the department's website. [to Risk Manager's Licensing, Licensing Group, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.] The license fee is payable at the time of application. As part of the application, the applicant must [shall] furnish to the department [board] any information relating to the applicant's identity, personal history, experience, business record, or other items as the department [board] may require. All documentation and records submitted or maintained for the purpose of licensure or renewal are subject to audit or review by the department [board].

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SUBCHAPTER O. PROCEDURES AND REQUIREMENTS FOR REINSURANCE INTERMEDIARIES (BROKERS AND MANAGERS)

28 TAC §19.1403, §19.1407

STATUTORY AUTHORITY. TDI proposes amendments to §19.1403 and §19.1407 under Insurance Code §4152.004 and §36.001.

Insurance Code §4152.004 provides that the Commissioner may adopt reasonable rules as necessary to implement Chapter 4152.

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

CROSS-REFERENCE TO STATUTE. Section 19.1403 and §19.1407 implement Insurance Code Chapter 4152.

§19.1403. *Requirements for Bond or Errors and Omissions Policy.*

Any reinsurance intermediary must file and maintain a bond with the Commissioner [e~~o~~mmis~~s~~ioner] for the protection of all insurers represented or file and maintain an errors and omissions policy, meeting the following criteria.

(1) The bond must be executed by the reinsurance intermediary as principal and by a surety company authorized to do business in this state, as surety, or surplus lines insurer eligible in this state, in the principal sum of \$100,000 for a broker and in the principal sum of \$250,000 for a manager, payable to the Texas Department of Insurance for the use and benefit of all insurers represented. The bond must provide that a copy of any cancellation or nonrenewal notice must [shall] be mailed to Agent and Adjuster Licensing Office [the Deputy Commissioner for Licensing], Texas Department of Insurance, MC: CO-AAL, P.O. Box 12030, Austin, Texas 78711-2030. [Mail Code 105-5A, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.] The executed bond must be furnished to the Texas Department of Insurance.

(2) The errors and omissions policy must [shall] be in a form acceptable to the Texas Department of Insurance, and must [shall] be filed with Agent and Adjuster Licensing Office [the deputy e~~o~~mmis~~s~~ioner for licensing of the department] at the address listed in paragraph (1) of this section. The policy must provide that the Texas Department of Insurance will [shall] be a certificate holder and will [shall] receive a copy of any cancellation or nonrenewal notice, which must [shall] be mailed to the deputy commissioner for licensing at the address listed in paragraph (1) of this section. The errors and omissions policy must [shall] cover all negligent acts or omissions of the reinsurance intermediary and any person acting on its behalf and must [shall] provide coverage of at least \$100,000 for each occurrence for brokers and must [shall] provide coverage of at least \$250,000 for each occurrence for managers.

(3) The Commissioner [e~~o~~mmis~~s~~ioner] may determine that special circumstances require an additional amount of coverage for the bond or policy.

§19.1407. *Approval of Reinsurance Intermediary Manager's Contracts.*

(a) A written contract, which specifies the responsibilities of each party, must [shall] be approved by the insurer's board of directors or attorney in fact and executed by a responsible officer of an insurer and a manager prior to entering into any transaction between the manager and the insurer.

(b) A copy of the executed contract and the approval of the insurer's board of directors or attorney in fact must [shall] be filed by the manager with the Commissioner [e~~o~~mmis~~s~~ioner] for approval at least 30 days before the insurer assumes or cedes any business through the manager.

(c) The contract must [shall] include the minimum requirements specified in [the Texas] Insurance Code §4152.201, concerning Contract Between Manager and Insurer [; Article 21.07-7, §6]. A contract that [which] does not comply with the minimum requirements of the [Texas] Insurance Code or this section will [shall] not be considered to have been filed with the Commissioner [e~~o~~mmis~~s~~ioner] for approval. The contract will [shall] be approved or disapproved within 30 days of its filing.

(d) A failure to file complete and accurate information in all material respects is grounds for disapproval of the contract by the Commissioner [e~~o~~mmis~~s~~ioner] under [the Texas] Insurance Code §4152.201 [; Article 21.07-7, §6].

(e) Any disapproval by the Commissioner [e~~o~~mmis~~s~~ioner] of any contract filed under this section will [shall] set forth the specific reasons for such disapproval.

(f) If any material changes are made to [o~~c~~c~~u~~rr in the provisions set forth in] the contract filed with the Commissioner [e~~o~~mmis~~s~~ioner], an amended contract setting forth such changes must [shall] be filed with the Commissioner [e~~o~~mmis~~s~~ioner] for approval as if it were a new contract.

(g) Contracts subject to this section and [the] Insurance Code §4152.201 [; Article 21.07-7, §6], must [shall] be filed using the method described on the department's website [with the Reinsurance Activity Mail Code 303-2A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104.] for the purpose of determining compliance with this section. Telephonic or fax transmissions will [shall] not constitute proper filing under this section.

(h) This section will [shall] be cumulative of and in addition to the requirements of [the Texas] Insurance Code Chapter 4053, concerning Managing General Agents; Chapter 4152, concerning Reinsurance Intermediaries; and Chapter 823, concerning Insurance Holding Company Systems [; Article 21.07-3, Article 21.07-7, and Article 21.49-1], and related regulations. Nothing contained in this section is intended to exempt an insurer or its reinsurance intermediary manager from other provisions of the Insurance Code.

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**SUBCHAPTER Q. DISCOUNT HEALTH CARE
PROGRAM REGISTRATION AND RENEWAL
REQUIREMENTS**

28 TAC §19.1604, §19.1605

STATUTORY AUTHORITY. TDI proposes amendments to §19.1604 and §19.605 under Insurance Code §7001.003 and §36.001.

Insurance Code §7001.003 provides that the Commissioner will adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to implement Chapter 7001.

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

CROSS-REFERENCE TO STATUTE. Section 19.1604 and §19.605 implement Insurance Code Chapter 7001.

§19.1604. Renewal.

(a) Not later than 60 days before the date a person's registration as a discount health care program operator expires, the department will shall send a written registration renewal notice to the email address designated for such communications by the regulated person. ~~[to the discount health care program operator's last known mailing address according to the department's records.]~~

(b) In the absence of the submission of a written request to change the ~~[mailing]~~ address of a registered discount health care program operator as required by ~~[the]~~ Insurance Code §7001.005(a)(1), concerning Application for Registration and Renewal of Registration, and §19.1605 of this title [subchapter] (relating to Requirements Related to Discount Health Care Program Information), the discount health care program operator's current address is presumed to be the address on file with the department. ~~[provided on the most recent registration application or renewal of registration application.]~~ Such address will shall be considered the discount health care program operator's last known ~~[mailing]~~ address for the purpose of the department sending a registration renewal notice to the discount health care program operator.

(c) A discount health care program operator may renew a registration to offer a discount health care program in this state by:

(1) submitting \$500 renewal fee and renewal application [returning the payment coupon attached to the registration renewal notice sent by the department to the discount health care program operator with a check made payable to the department in the amount of \$500] as required by [the] Insurance Code §7001.006, concerning Fees, and §19.802 of this title [chapter] (relating to Amount of Fees). A renewal fee paid under this section is nonrefundable and nontransferable. The discount health care program operator may submit the renewal notice and payment to the Texas Department of Insurance using the method described on the department's website; [; Licensing Division, MC-9999, P.O. Box 149104, Austin, Texas 78714-9104;] and

(2) (No change.)

(d) A discount health care program operator renewing a registration must [shall] submit a written communication to the department of any information provided to the department that has changed since the initial registration or subsequent renewals as provided in ~~[the]~~ Insurance Code §7001.005(a) and §19.1605 of this title ~~[subchapter]~~.

(e) (No change.)

(f) Except as provided by ~~[the]~~ Occupations Code §55.003, concerning [relating to] Extension of Certain Deadlines for [Active Duty] Military Service Members [Personnel], a discount health care program operator whose registration has been expired may not renew the registration. The discount health care program operator may obtain a new registration by complying with the registration requirements as provided by ~~[the]~~ Insurance Code §7001.005(a) and §19.1602 of this title ~~[subchapter]~~ (relating to Registration Requirement).

§19.1605. Requirements Related to Discount Health Care Program Information.

(a) Except for changes in the form of contracts as provided in ~~[the]~~ Insurance Code §7001.005(b), concerning Application for Registration and Renewal of Registration, and subsection (b) of this section, a registered discount health care program operator whose registration or renewal information has changed since the initial registration or renewal pursuant to ~~[the]~~ Insurance Code §7001.005(a) and this section must [shall] notify the department in writing of a change not later than the 30th day after the effective date of the change using instructions provided on the department's website. [by:]

{(1) mail, to the Texas Department of Insurance, Licensing Division, MC-107-1A, P.O. Box 149104, Austin, Texas 78714-9104;}

{(2) fax, to (512) 490-1052;}

{(3) e-mail, to TDI-DiscountHealth@tdi.state.tx.us; or}

{(4) in other formats that are acceptable to the department including an electronic format.}

(b) After the initial registration, if the form of a contract described by ~~[the]~~ Insurance Code §7001.005(a)(5) and §19.1602(a)(2)(C) of this title ~~[subchapter]~~ (relating to Registration Requirement) changes, the program operator is required to file the modified contract with the department before it may be used.

(c) After the initial registration, a discount health care program operator must [shall] comply with the requirements of ~~[the]~~ Insurance Code §7001.005(a)(4) and this section to submit to the department on a quarterly basis, not later than each June 30, September 30, December 31, and March 31, lists of marketers, both entities and individuals, separated as follows:

(1) - (2) (No change.)

(d) A discount health care program operator must [shall] submit the quarterly list of the marketers using instructions provided on the department's website. [to TDI-DiscountHealth@tdi.state.tx.us.]

(e) Assistance with notifying the department in writing of a change in information or with submitting the quarterly list of marketers is available at ~~[the]~~ Licensing Division Customer Service phone line at (512) 322-3503, email address at License@tdi.state.tx.us, and ~~[the]~~ department's website. [web site at www.tdi.state.tx.us.]

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

Filed with the Office of the Secretary of State on December 27, 2022.

TRD-202205231
Allison Eberhart
Deputy General Counsel
Texas Department of Insurance
Earliest possible date of adoption: February 12, 2023
For further information, please call: (512) 676-6555



SUBCHAPTER R. UTILIZATION REVIEWS
FOR HEALTH CARE PROVIDED UNDER
A HEALTH BENEFIT PLAN OR HEALTH
INSURANCE POLICY
DIVISION 1. UTILIZATION REVIEWS

28 TAC §19.1704

STATUTORY AUTHORITY. TDI proposes amendments to §19.1704 under Insurance Code §4201.003(a) and §36.001.

Insurance Code §4201.003(a) provides that the Commissioner may adopt rules to implement Chapter 4201.

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

CROSS-REFERENCE TO STATUTE. Section 19.1704 implements Insurance Code Chapter 4201.

§19.1704. Certification or Registration of URAs.

(a) Applicability of certification or registration requirements. A person acting as or holding itself out as a URA under this subchapter must be certified or registered, as applicable, under Insurance Code §4201.057, concerning Health Maintenance Organizations; Insurance Code §4201.058, concerning Insurers; or Insurance Code §4201.101, concerning Certificate of Registration Required, [§§4201.057, 4201.058, 4201.101,] and this subchapter.

(1) - (2) (No change.)

(b) Application form. The Commissioner [~~commissioner~~] adopts by reference the:

(1) - (2) (No change.)

(c) (No change.)

(d) Where to obtain and send the URA application form. Forms may be obtained from www.tdi.texas.gov/forms and must be sent to: Texas Department of Insurance, Managed Care Quality Assurance Office, MC: LH-MCQA, P.O. Box 12030, Austin, Texas, 78711-2030. [Mail Code 103-6A, P.O. Box 149104, Austin, Texas 78714-9104.]

(e) - (f) (No change.)

(g) Certification and registration expiration. Each URA registration or certification issued by TDI and not suspended or revoked by the Commissioner [~~commissioner~~] expires on the second anniversary of the date of issuance.

(h) - (j) (No change.)

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

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Allison Eberhart
Deputy General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555



SUBCHAPTER S. FORMS TO REQUEST
PRIOR AUTHORIZATION
DIVISION 2. TEXAS STANDARDIZED PRIOR
AUTHORIZATION REQUEST FORM FOR
HEALTH CARE SERVICES

28 TAC §19.1810

STATUTORY AUTHORITY. TDI proposes amendments to §19.1810 under Insurance Code §1217.004(a)(1) and §36.001.

Insurance Code §1217.004(a)(1) provides that the Commissioner by rule prescribe a single, standard form for requesting prior authorization of health care services.

Insurance Code §1369.304(a)(1) provides that the Commissioner by rule prescribe a single, standard form for requesting prior authorization of prescription drug benefits.

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

CROSS-REFERENCE TO STATUTE. Section 19.1810 implements Insurance Code Chapter 1217.

§19.1810. Prior Authorization Request Form for Health Care Services, Required Acceptance, and Use.

(a) Form requirements. The Commissioner [~~commissioner~~] adopts by reference the Prior Authorization Request Form for Health Care Services, to be accepted and used by an issuer in compliance with subsection (b) of this section. The form and its instruction sheet are posted on the TDI website at www.tdi.texas.gov/forms/form10.html; or the form and its instruction sheet can be requested by mail from the Texas Department of Insurance, Rate and Form Review Office, MC: LH-MCQA, P.O. Box 12030, Austin, Texas 78711-2030. [Mail Code 106-1E, P.O. Box 149104, Austin, Texas 78714-9104.] The form must be reproduced without changes. The form provides space for the following information:

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

(16) if a requesting provider wants to be called directly about missing information, a place to list a direct telephone number for the requesting provider or facility the issuer can call to ask for additional or missing information if needed to process the request. The phone call can only be considered a peer-to-peer discussion required by [28 TAC] §19.1710 of this title (relating to Requirements Prior to Issuing an Adverse Determination) if it is a discussion between peers that includes, at a minimum, the clinical basis for the URA's decision and a description of documentation or evidence, if any, that can be submitted by the provider of record that, on appeal, might lead to a different utilization review decision.

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

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

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TRD-202205233

Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6555



DIVISION 3. TEXAS STANDARD PRIOR AUTHORIZATION REQUEST FORM FOR PRESCRIPTION DRUG BENEFITS

28 TAC §19.1820

STATUTORY AUTHORITY. TDI proposes amendments to §19.1820 under Insurance Code §1369.304(a)(1) and §36.001.

Insurance Code §1217.004(a)(1) provides that the Commissioner by rule prescribe a single, standard form for requesting prior authorization of health care services.

Insurance Code §1369.304(a)(1) provides that the Commissioner by rule prescribe a single, standard form for requesting prior authorization of prescription drug benefits.

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

CROSS-REFERENCE TO STATUTE. Section 19.1820 implements Insurance Code Chapter 1369.

§19.1820. Prior Authorization Request Form for Prescription Drug Benefits, Required Acceptance, and Use.

(a) Form requirements. The Commissioner [~~commissioner~~] adopts by reference the Prior Authorization Request Form for Prescription Drug Benefits form, to be accepted and used by an issuer in compliance with subsection (b) of this section. The form and its instruction sheet are on TDI's website at www.tdi.texas.gov/forms/form10.html; or the form and its instruction sheet can be requested by mail from the Texas Department of Insurance, Rate and Form Review Office, MC: LH-MCQA, PO Box 12030, Austin, Texas 78711-2030. [~~Mail Code 106-1E P.O. Box 149104, Austin, Texas 78714-9104.~~] The form must be reproduced without changes. The form provides space for the following information:

(1) the name of the issuer or the issuer's agent that manages prescription drug benefits, telephone number, and fax [~~facsimile (fax)~~] number;

(2) - (13) (No change.)

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

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

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Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6555



SUBCHAPTER T. SPECIALTY INSURANCE LICENSE

28 TAC §19.1902, §19.1908

STATUTORY AUTHORITY. TDI proposes amendments to §19.1902 and §19.1908 under Insurance Code §§4055.003, 4102.004, and 36.001.

Insurance Code §4055.003 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4055 and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

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

CROSS-REFERENCE TO STATUTE. Section 19.1902 and §19.1908 implement Insurance Code Chapter 4001 as amended by HB 4030.

§19.1902. Definitions.

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

(1) (No change.)

(2) Control--The power to direct or cause the direction of the management and policies of a specialty license holder, whether directly or indirectly. For the purpose of this subchapter, a person is considered to control:

(A) a corporate specialty license holder if the person is an officer or director of the corporation or if the person, individually or acting with others, directly or indirectly, holds with the power to vote, owns, or controls, or holds proxies representing, at least 10% [~~10 percent~~] of the voting stock or voting rights of the corporate specialty license holder; or

(B) (No change.)

(3) (No change.)

(4) Credit accident and health insurance--A type of insurance as set out in Insurance Code Chapter 1153, concerning Credit Life Insurance and Credit Accident and Health Insurance [~~Article 3.53~~].

(5) Credit involuntary unemployment insurance--A type of insurance as set out in Insurance Code Chapter 3501, concerning Credit Involuntary Unemployment Insurance [~~Article 21.79E~~].

(6) Credit life insurance--A type of insurance as set out in Insurance Code Chapter 1153, concerning Credit Life Insurance and Credit Accident and Health Insurance [Article 3.53].

(7) - (14) (No change.)

(15) Specialty insurance product--Any of the types of insurance set out in Insurance Code Chapter 4055, concerning Specialty Agents [Article 21.09].

(16) Specialty license holder or specialty licensee--A person who holds a license under Insurance Code Chapter 4055 [Article 21.09].

~~{(17) Registered Location--A location that has been identified by an applicant or specialty license holder to the department as a place at which the applicant's or specialty license holder's associated consumer transactions occur and insurance sales will be conducted under the specialty license and for which all applicable registration fees have been paid.}~~

(17) ~~{(18)}~~ Supervision--Supplying trained employees with forms, specific requirements, and procedures necessary for the sale of insurance under the specialty license.

§19.1908. Notice to Department.

Each specialty license holder must ~~[shall]~~ notify the department within 30 days of the occurrence of the following:

(1) - (2) (No change.)

~~{(3) the addition or removal of a location or office from which insurance sales are conducted under the specialty license;}~~

(3) ~~{(4)}~~ a felony conviction of the specialty license holder or any individual who exercises control of the specialty license holder; or

(4) ~~{(5)}~~ the addition or removal of an officer, director, partner, member, manager, or any other person in control of the specialty license holder.

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

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Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

Earliest possible date of adoption: February 12, 2023

For further information, please call: (512) 676-6555



29 TAC §19.1905

STATUTORY AUTHORITY. TDI proposes to repeal §19.1905 under Insurance Code §§4055.003, 4102.004, and 36.001.

Insurance Code §4055.003 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4055 and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

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

CROSS-REFERENCE TO STATUTE. The repeal of §19.1905 implements Insurance Code Chapter 4001 as amended by HB 4030.

§19.1905. Place of Business.

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

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Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6555



SUBCHAPTER U. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER WORKERS' COMPENSATION INSURANCE COVERAGE

28 TAC §19.2004

STATUTORY AUTHORITY. TDI proposes amendments to §19.2004 under Insurance Code §4201.003 and §36.001.

Insurance Code §4201.003 provides that the Commissioner may adopt rules to implement Chapter 4201.

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

CROSS-REFERENCE TO STATUTE. Section 19.2004 implements Insurance Code Chapter 4201.

§19.2004. Certificate or Registration of URAs.

(a) Applicability of certification or registration requirements. A person acting as or holding itself out as a URA under this subchapter must be certified or registered, as applicable, under Insurance Code §4201.057, concerning Health Maintenance Organizations; Insurance Code §4201.058, concerning Insurers; or Insurance Code §4201.101, concerning Certificate of Registration Required, [§§4201.057, 4201.058, 4201.101,] and this subchapter.

(1) - (2) (No change.)

(b) Application form. The Commissioner ~~[commissioner]~~ adopts by reference the:

(1) - (2) (No change.)

(c) (No change.)

(d) Where to obtain and send the URA application form. Forms may be obtained from www.tdi.texas.gov/forms and must be sent to: Texas Department of Insurance, Managed Care Quality

Assurance Office, MC: LH-MCQA, P.O. Box 12030, Austin, Texas 78711-2030. [Mail Code 103-6A, P.O. Box 149104, Austin, Texas 78714-9104.]

(e) - (f) (No change.)

(g) Certification and registration expiration. Each URA registration or certification issued by TDI and not suspended or revoked by the Commissioner [eommissioner] expires on the second anniversary of the date of issuance.

(h) Renewal requirements. A URA must apply for renewal of certification or registration every two years from the date of issuance by submitting the URA application to TDI. A URA must also submit a renewal fee in the amount specified by §19.802 of this title (relating to Amount of Fees) for renewal of a certification. A person applying for renewal of a registration is not required to pay a fee.

(1) - (3) (No change.)

(i) - (j) (No change.)

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

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Allison Eberhart
Deputy General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555



SUBCHAPTER V. REGISTRATION OF FULL TIME HOME OFFICE SALARIED EMPLOYEES

28 TAC §§19.3001 - 19.3005

STATUTORY AUTHORITY. TDI proposes to repeal Subchapter V of Chapter 19, consisting of §§19.3001 - 19.3005, under Insurance Code §§4001.005 and §36.001.

Insurance Code §4001.005 provides that the Commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

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

CROSS-REFERENCE TO STATUTE. The repeal of Subchapter V, consisting of §§19.3001 - 19.3005, implements Insurance Code Chapter 4001 as amended by HB 4030.

- §19.3001. *Purpose and Scope.*
- §19.3002. *Definitions.*
- §19.3003. *Registration Requirements.*
- §19.3004. *When Registration Is Required.*
- §19.3005. *General Plan of Operation 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.

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Allison Eberhart
Deputy General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555



SUBCHAPTER W. REGULATION OF NAVIGATORS FOR HEALTH BENEFIT EXCHANGES

28 TAC §§19.4001 - 19.4017

STATUTORY AUTHORITY. TDI proposes to repeal Subchapter W, consisting of §§19.4001 - 19.4017, under Insurance Code §36.001.

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

CROSS-REFERENCE TO STATUTE. The repeal of Subchapter W, consisting of §§19.4001 - 19.4017, reflects that the expiration date implemented by SB 1795, 83rd Legislature, 2013, has passed.

- §19.4001. *Purpose.*
- §19.4002. *Definitions.*
- §19.4003. *Applicability.*
- §19.4004. *Registration Required.*
- §19.4005. *Registration Eligibility.*
- §19.4006. *Application for Registration.*
- §19.4007. *Renewal of Registration as a Navigator Entity or Individual Navigator.*
- §19.4008. *Navigator Education and Examination Requirements.*
- §19.4009. *Course Providers.*
- §19.4010. *Financial Responsibility.*
- §19.4011. *Navigator Identification.*
- §19.4012. *Privacy of Nonpublic Information.*
- §19.4013. *Prohibitions.*
- §19.4014. *Limits on Use of Term "Navigator."*
- §19.4015. *Administrative Violations.*
- §19.4016. *Severability Clause.*
- §19.4017. *Expiration.*

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

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Allison Eberhart
Deputy General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555



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 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

DIVISION 7. DISPUTE RESOLUTION

19 TAC §89.1185

The Texas Education Agency withdraws the proposed amendment to §89.1185, which appeared in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6076).

Filed with the Office of the Secretary of State on December 29, 2022.

TRD-202205265

Cristina De La Fuente-Valadez

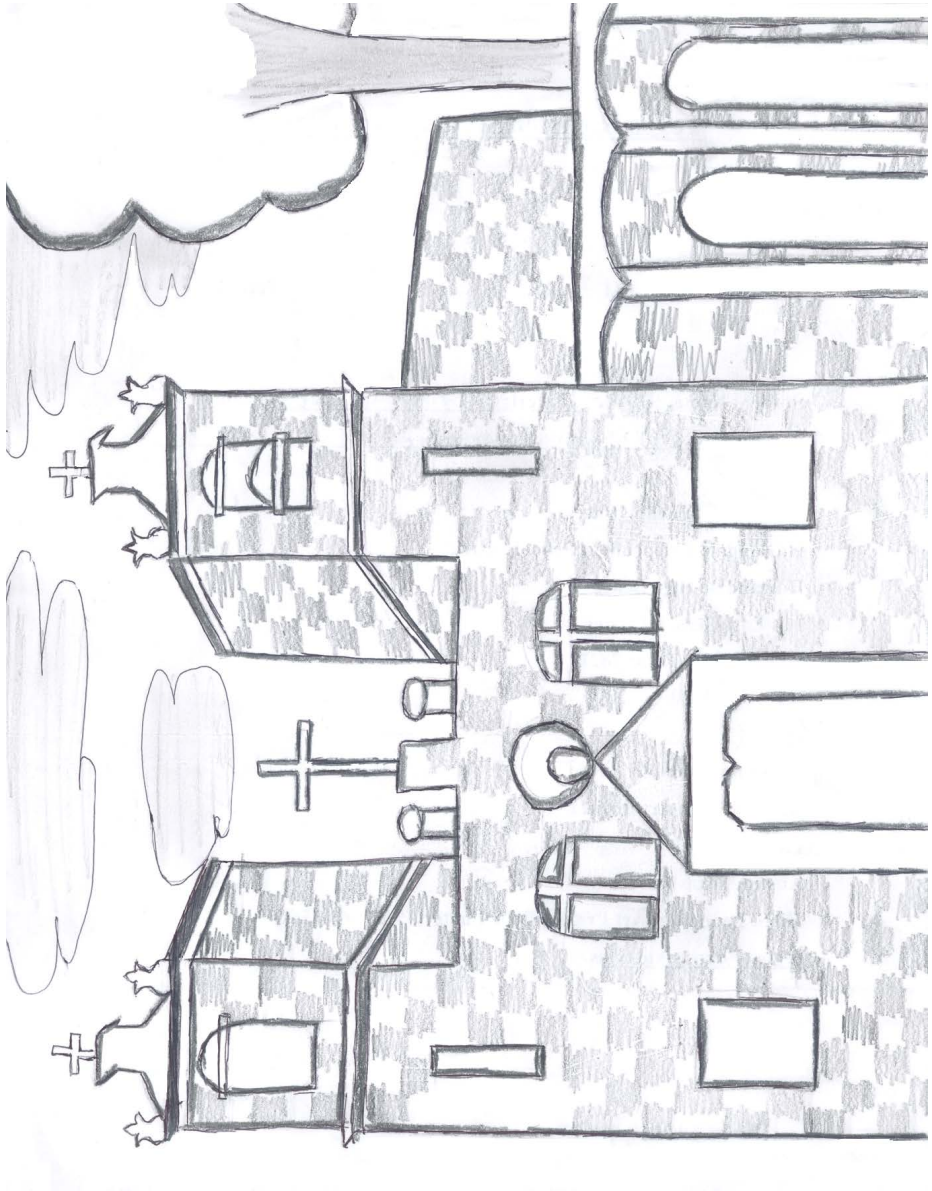
Director, Rulemaking

Texas Education Agency

Effective date: December 29, 2022

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





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 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 1. GENERAL PROCEDURES SUBCHAPTER R. CHILDREN'S ACCESS TO NUTRITIOUS FOOD GRANT PROGRAM

4 TAC §§1.1200 - 1.1204

The Texas Department of Agriculture (Department) adopts the repeal of Texas Administrative Code, Title 4, Chapter 1, Subchapter R, Children's Access to Nutritious Food Grant Program, §§1.1200 - 1.1204. The repeal is adopted without changes to the proposed text as published in the November 18, 2022, issue of the *Texas Register* (47 TexReg 7619) and will not be republished.

The Department identified the need for the repeal during its rule review conducted pursuant to Texas Government Code, §2001.039, the adoption of which can be found in the Review of Agency Rules section of the November 18, 2022, issue of the *Texas Register* (47 TexReg 7753).

The Department adopts the repeal of Subchapter R based on lack of business necessity due to the absence of appropriated funding. During its review of Subchapter R, the Department determined that funds were not appropriated for the program. At such time as program funding is appropriated, the Department will comply with the requirements contained within Texas Agriculture Code Chapter 25 and re-establish the grant program.

The Department received no comments on the proposed repeal.

The repeal is adopted under Section 12.016 of the Texas Agriculture Code, which provides that the Department may adopt rules as necessary for the administration of its powers and duties under the Texas Agriculture 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 December 27, 2022.

TRD-202205246

Skyler Shafer

Assistant General Counsel

Texas Department of Agriculture

Effective date: January 16, 2023

Proposal publication date: November 18, 2022

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

CHAPTER 7. PESTICIDES

The Texas Department of Agriculture (Department) adopts amendments to 4 Texas Administrative Code, Subchapter H, Structural Pest Control Service, §§7.114, 7.121 - 7.130, 7.132 - 7.136, 7.141 - 7.152, 7.154, 7.156, 7.161, 7.162, 7.172 - 7.178, 7.191 - 7.193, 7.196, 7.201 - 7.205, and the repeal of §7.163 and §7.195. The amendments and repeals are adopted without changes to the proposed text as published in the September 30, 2022 issue of the *Texas Register* (47 TexReg 6340) and will not be republished.

Amendments to §7.115 are adopted with changes to the proposed text as published in the September 30, 2022 issue of the *Texas Register* (47 TexReg 6340) and will be republished. The Department has made non-substantive changes to the Penalty Matrix in §7.115 (Figure: 4 TAC §7.115) from the proposed text to delete duplicative violations. The revision results in no change to the nature or scope of the proposed text of the rule, affects no new individuals, and imposes no additional requirements for compliance.

The Department identified the need for the amendments and repeals during its rule review of Texas Administrative Code, Chapter 7, Subchapter H, conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of the September 30, 2022 issue of the *Texas Register* (47 TexReg 6472).

The amendments to §7.114 correct a reference to Chapter 1951 of the Texas Occupations Code; add definitions for terms appearing through his subchapter to include "CEU," "effective date," and "wood destroying insect;" remove definitions for terms that do not appear in this subchapter to include "household," "obnoxious and undesirable animals or plants," and "work location;" remove unnecessary definitions for the Department and the Texas Occupations Code; and clarify the definition of "physically present."

The amendments to §7.115 revise the Structural Pest Control Service Penalty Matrix (Penalty Matrix) by updating references to the Texas Administrative Code tied to violations, incorporating new violations to account for non-compliant conduct outlined in Subchapter H, updating a reference to a Structural Pest Control Service's SPCS/D-4 form, add language clarifying when failure to register an employee is triggered, and make grammatical changes to improve the Penalty Matrix's readability.

The amendments to §7.121 clarify operational requirements for business licensees and types of work technicians and certified commercial applicators can perform, and update references to certified commercial and noncommercial applicators.

The amendment to §7.122 adds language to reflect consequences for failure to comply with the rule.

The amendments to §7.123 increase the minimum amounts of insurance coverage required for licensees.

The amendments to §7.124 clarify what structural pest control activities fall in the Commodities Fumigation category.

The amendment to §7.125 adds "Texas" before "Occupations Code."

The amendments to §7.126 correct a cross reference to §7.125, remove references to the Structural Pest Control Board, and make editorial changes.

The amendments to §7.127 update references to certified commercial and noncommercial applicators, add "Texas" before "Occupations Code," and make editorial changes.

The amendments to §7.128 make editorial changes.

The amendments to §7.129 update references to certified commercial and noncommercial applicators.

The amendments to §7.130 make editorial changes.

The amendments to §7.132 update references to certified commercial and noncommercial applicators, clarify responsibilities related to the apprentice registration process, provide that training completed prior to hiring does not count toward apprentice training requirements, add "license" before "category," and add recording requirements for apprentice training records to account for training provided by third parties.

The amendments to §7.133 outline training prerequisites for technicians to add structural pest control categories, update language to conform with current technician training requirements, and make editorial and grammatical changes to improve the rule's readability.

The amendments to §7.134 change "Occupations Code" to "SPCA" in order to use a defined term, clarify circumstances under which continuing education units may not be earned, and make editorial changes.

The amendments to §7.135 clarify course approval requirements for continuing education programs, establish the circumstances under which a live webinar may be credited as an in-person course, and establish course cancellation and modification requirements.

The amendments to §7.136 establish course cancellation and modification requirements for technician/noncommercial certified applicator training course programs.

The amendments to §7.141 clarify that registration cards may not be altered and make editorial changes.

The amendments to §7.142 add information that notices of employee termination must contain.

The amendment to §7.143 clarifies who is responsible for recording apprentice training.

The amendments to §7.144 changes "EPA" to the "Environmental Protection Agency (EPA)," require the addition of EPA registration numbers for products, if they exist, on pest control use records, and exclude unit measurements of areas receiving bait treatment on pest control use records.

The amendments to §7.147 adds the rule headings in a cross reference to rules §§7.146 - 7.148.

The amendments to §7.148 make editorial changes.

The amendment to §7.150 clarifies it is a violation to use pesticides in a manner inconsistent with any permit or emergency exemption issued by the department, in addition to the Environmental Protection Agency, and changes "EPA" to "the Environmental Protection Agency".

The amendment to §7.154 updates Department contact information.

The amendments to §7.156 include language to align the rule with current Department procedures for conducting investigations and inspections.

The amendments to §7.161 change "Occupations Code, Chapter 1951" to "SPCA" in order to use a defined term, add a violation for advertising without a valid business license, add a violation for failing to comply with §7.136, change the cross reference to the rule on licensing persons with criminal backgrounds, update the heading of §7.174 in a cross reference to that rule, change the heading in a cross reference to Division 7, and make editorial changes.

The amendments to §7.162 make editorial changes.

The repeal of §7.163 is adopted because civil, criminal, and administrative penalties for violations of Chapter 1951 of the Texas Occupations Code and the related rules of this subchapter are provided in Tex. Occ. Code §1951.602, Tex. Occ. Code §1951.603, and Tex. Agric. Code §12.020, respectively; consequently, the rule is unnecessary.

The amendments to §7.172 change the rule's heading to create consistency with terminology in Department forms, change "EPA" to the "Environmental Protection Agency," update the heading in a cross reference to §7.174 to account for an amendment to the rule's heading, and change "Termite" to "Wood Destroying Insect."

The amendments to §7.173 change "EPA" to the "Environmental Protection Agency," and change "Termite" to "Wood Destroying Insect."

The amendments to §7.174 change the rule's heading to create consistency with terminology in Department forms and make editorial changes.

The amendments to §7.175 update a reference to a structural pest control work category and make editorial changes.

The amendments to §7.176 provide Department-prescribed forms pertaining to wood destroying insect inspections may not be altered, update a reference to the Department of Veterans Affairs, and clarify references to structural pest control business licensees.

The amendments to §7.177 clarify who is responsible for meeting the requirements of the rule and make editorial changes.

The amendments to §7.178 clarify licensing requirements for those engaging in structural fumigation, update a cross reference to §7.174 to account for an amendment to the rule's heading, and make editorial changes.

The amendments to §§7.191-7.193 make editorial changes.

The repeal of §7.195 is adopted because the rule duplicates provisions in Tex. Occ. Code, §1951.102, and §1951.103.

The amendments to §7.196 clarify when Structural Pest Control Advisory Committee meetings are held, update quorum require-

ments and the number of Committee members, remove redundant language that appears in §7.192, and correct a reference to Robert's Rules of Order.

The amendments to §7.201 remove unnecessary language from the rule's heading, update the rule heading in a cross reference to §7.114, and add a deadline for notifying the Department of the removal and replacement of IPM coordinators.

The amendments to §7.202 change the rule's heading to reflect its education requirements, remove language contained in §7.201, and make editorial changes.

The amendments to §7.203 update a reference to certified commercial and noncommercial applicators to make it consistent with how the terms are used in this chapter and Chapter 1951 of the Texas Occupations Code and add language to account for residential properties located on school district grounds.

The amendments to §7.204 add language to account for residential properties located on school district grounds and remove language from pesticide category definitions to clarify their meanings.

PUBLIC COMMENTS

During the 30-day public comment period, the Department received comments from the Texas Pest Control Association and a structural pest control licensee.

Comments: Both comments expressed support for the proposed amendments, while commenting that they were neutral on §7.143(d).

Response: The Department appreciates the general support for the amendments, however, as the comments expressed neutrality to a particular subsection, no changes have been made to the proposed text in response to the comments.

SUBCHAPTER H. STRUCTURAL PEST CONTROL SERVICE

DIVISION 1. GENERAL PROVISIONS

4 TAC §7.114, §7.115

The amendments are adopted under the Texas Occupations Code, §1951.0021, which allows the Department, through its Structural Pest Control Service, to regulate and license those engaged in the business of structural pest control, noncommercial applicators, and technicians and Section 12.020 of the Texas Agriculture Code, which allows the Department to prescribe and assess administrative penalties to enforce structural pest control laws and regulations.

§7.115. Structural Pest Control Enforcement.

The department has established the following schedule of disciplinary sanctions for violations of this subchapter:
Figure: 4 TAC §7.115

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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DIVISION 2. LICENSES

4 TAC §§7.121 - 7.130, 7.132 - 7.136

The amendments are adopted under Texas Occupations Code, §1951.0021, which allows the Department, through its Structural Pest Control Service, to regulate and license those engaged in the business of structural pest control; §1951.201, which makes the Department the sole authority to license those engaged in the business of structural pest control and to set related fees; §1951.203, which requires the Department to develop standards and criteria to issue structural pest control licenses; §1951.312, which allows the Department to set amounts of insurance coverage for licensees, for different classifications of operations, and for certified noncommercial applicators and technicians; §1951.315, which requires the Department to administer and set requirements for a continuing education program for structural pest control licensees; and §1951.351, which requires the Department to develop or approve a training program for licensed technicians and applicants to become technicians.

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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DIVISION 3. COMPLIANCE AND ENFORCEMENT

4 TAC §§7.141 - 7.152, 7.154, 7.156

The amendments are adopted under Texas Occupations Code, §1951.0021, which allows the Department, through its Structural Pest Control Service, to regulate and license those engaged in the business of structural pest control, noncommercial applicators, and technicians; §1951.206, which allows the Department to adopt rules restricting advertising or competitive bidding to prohibit false, misleading, or deceptive practices by those engaging in structural pest control; §1951.207, which requires the Department to adopt rules related to inspecting and conducting investigations of structural pest control business licensees; §1951.212, which outlines requirements for the Department to inspect school districts; §1951.452, which allows the Department to require licensees to make records of

pesticide use; and §1951.456, which requires the Department to adopt rules related to requirements of licensees and unlicensed persons to post and provide pest control signs and consumer information sheets in residences, workplaces, and other buildings as outlined in §§1951.453-1951.455.

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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DIVISION 4. UNLAWFUL ACTS AND GROUNDS FOR REVOCATION

4 TAC §7.161, §7.162

The amendments are adopted under Texas Occupations Code, §1951.0021, which allows the Department, through its Structural Pest Control Service, to regulate and license those engaged in the business of structural pest control; §1951.201, which makes the Department the sole authority to license those engaged in the business of structural pest control; and §1951.501 which allows the Commissioner of Agriculture to suspend, revoke, or deny a structural pest control license.

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

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4 TAC §7.163

The repeal is adopted under Texas Occupations Code, §1951.0021, which allows the Department through its Structural Pest Control Service to regulate and license those engaged in the business of structural pest control.

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DIVISION 5. TREATMENT STANDARDS

4 TAC §§7.172 - 7.178

The amendments are adopted under Texas Occupations Code, §1951.0021, which allows the Department, through its Structural Pest Control Service, to regulate and license those engaged in the business of structural pest control, noncommercial applicators, and technicians; §1951.201, which makes the Department the sole authority to license those engaged in the business of structural pest control; and §1951.203, which requires the Department to develop standards and criteria to issue structural pest control licenses.

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DIVISION 6. STRUCTURAL PEST CONTROL ADVISORY COMMITTEE

4 TAC §§7.191 - 7.193, 7.196

The amendments are adopted under Texas Occupations Code, §1951.105, which requires the Department to adopt rules for the operation of the Structural Pest Control Advisory Committee.

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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4 TAC §7.195

The repeal is adopted under Texas Occupations Code, §1951.105, which requires the Department to adopt rules for the operation of the Structural Pest Control Advisory Committee.

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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DIVISION 7. INTEGRATED PEST MANAGEMENT PROGRAM FOR SCHOOL DISTRICTS

4 TAC §§7.201 - 7.205

The amendments are adopted under Texas Occupations Code, §1951.0021, which allows the Department, through its Structural Pest Control Service, to regulate and license those engaged in the business of structural pest control, and §1951.212, which requires the Department to set standards for an integrated pest management program for school districts and to create rules for categories of pesticides school districts can apply.

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

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CHAPTER 26. FOOD AND NUTRITION DIVISION

SUBCHAPTER B. NUTRITION WORKING GROUPS

4 TAC §26.21

The Texas Department of Agriculture (the Department) adopts the repeal of Title 4, Part 1, Chapter 26, Subchapter B, §26.21 without changes to the proposed text as published in the November 18, 2022, issue of the *Texas Register* (47 TexReg 7631) and will not be republished.

The repeal is the result of a review of the subchapter pursuant to the four-year rule review prescribed by Texas Government Code §2001.039. The repeal of §26.21 is adopted because it is duplicative of Texas Agriculture Code §12.0026.

The Department received no comments regarding the proposed repeal.

The repeal is adopted under Texas Agriculture Code §12.016, which provides authority for the Department to adopt rules to administer its duties under the Texas Agriculture Code.

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

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

The Texas Education Agency (TEA) adopts amendments to §89.1080 and §89.1195, concerning special education services. The amendment to §89.1080 is adopted without changes to the proposed text as published in the September 23, 2022 issue of the *Texas Register* (47 TexReg 6076) and will not be republished. The amendment to §89.1195 is adopted with changes to the proposed text as published in the September 23, 2022 issue of the *Texas Register* (47 TexReg 6076) and will be republished. The adopted amendments to §89.1080 and §89.1195 provide updates and clarifications regarding special education complaints.

REASONED JUSTIFICATION: The rules in Chapter 89, Subchapter AA, address provisions for special education services, including general provisions and clarification of federal regulations and state law. The adopted amendments update the rules as follows.

Division 2. Clarification of Provisions in Federal Regulations and State Law

The adopted amendment to §89.1080, Regional Day School Program for the Deaf, replaces "hearing impairment" with "deaf or hard of hearing." Additional technical edits were also made.

Division 7. Dispute Resolution

TEA proposed an amendment to §89.1185, Hearing Procedures, which would have clarified that summary proceedings in a special education due process hearing may be used only when both parties in the hearing agree to use the summary process. However, based on public comment, TEA has determined to withdraw the proposed amendment. The withdrawn rule can be found in the Withdrawn Rules section of this issue of the *Texas Register*.

The adopted amendment to §89.1195, Special Education Complaint Resolution, specifies, in subsection (a), that TEA's complaint resolution process allows for investigation and issuance of findings regarding alleged violations of state special education statute or administrative rule.

The adopted amendment to §89.1195(c) provides clarification on the sixty-calendar-day timeline for resolving a special education complaint and clarification on the one-calendar-year statute of limitations for a special education complaint.

TEA proposed an amendment to §89.1195(d) that would have allowed the agency to provide a copy of a special education complaint to the public education agency against which the complaint is filed if the complainant does not do so. Based on public comment, TEA has determined not to adopt the proposed change.

The adopted amendment to §89.1195(e)(1)(B) clarifies requirements in 34 Code of Federal Regulations (CFR), §300.534, regarding the provision of the Notice of Procedural Safeguards to parents upon the filing of the first state complaint during a school year.

Adopted new §89.1195(h) and (i) explain TEA's general supervisory authority under 34 CFR, §300.600, to investigate credible complaints related to federal and state special education requirements even if a complaint does not meet federal requirements in 34 CFR, §§300.151-300.153. The rule clarifies what a "credible complaint" is and sets out steps the agency can take to address a credible complaint that does not meet federal requirements in 34 CFR, §§300.151-300.153.

Adopted new §89.1195(j) provides for a reconsideration process for credible complaints investigated under TEA's general supervisory authority.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began September 23, 2022, and ended October 24, 2022. Public hearings on the proposed amendments took place on October 6 and 7, 2022. Following is a summary of the public comments received and agency responses.

Comment: The Texas Council of Administrators of Special Education (TCASE) and an attorney who submitted comments on behalf of the law firm of Thompson and Horton and on behalf of the Texas Association of School Administrators (TASA), the Texas School Alliance (TSA), the Texas Association of Community Schools (TACS), and the Texas Association of School Boards (TASB) contended that Texas's due process hearing program has successfully used the Texas Rules of Civil Procedure to govern hearings with no indication from courts or hearing officers that summary motion practice violates the Individuals with Disabilities Education Act (IDEA). The commenters also stated

that "summary proceeding" and "summary process" are vague terms and that it is unclear if the proposed rule language would prevent the use of summary proceedings, such as a motion to dismiss, in cases outside the scope of a special education hearing officer's jurisdiction. Finally, the commenters suggested that further analysis is needed and recommended abandoning the proposed amendment to §89.1185 until further clarity was gained about which summary proceedings, if any, violate or conflict with rights afforded to the parties under IDEA.

Response: The agency agrees. The agency has determined to withdraw the proposed amendment to §89.1185 at this time and will further engage in analysis to determine what, if any, summary motions violate the rights afforded to the parties under IDEA.

Comment: Two school attorneys, Eichelbaum Wardell Hansen Powell and Munoz, five special education administrators, and an attorney submitting comments on behalf the law firm of Thompson and Horton and on behalf of TASA, TSA, TACS, and TASB contended that the proposed amendment to §89.1185 is based on non-binding guidance from the U.S. Department of Education Office of Special Education Programs (OSEP), could lead to unnecessary legal and judicial costs, and would force hearing officers to hold hearings on matters outside their jurisdiction or with complainants who lack standing. The commenters noted that summary judgement motions aid in the efficiency of due process hearings. The commenters further argued that the proposed language added to §89.1185(d) will result in a drain on resources and time from public education agencies and their staff. The commenters contended that the burden of discovery to prepare for these due process hearings monopolizes the staff's time, effectively reducing their time spent preparing for and teaching students. The commenters contended that parent attorneys may use this as an opportunity to file claims that do not fall under the purview of IDEA. Additionally, the commenters argued that an unintended outcome of this proposed amendment may include the inability to attract teachers to the profession and staff retention issues. TCASE also commented that the proposed language will increase costs and workload.

Response: The agency agrees in part and disagrees in part. While the agency agrees that summary judgment motions may aid in the efficiency of due process hearings, the proposed amendment to §89.1185 does not prohibit prehearing motion practice. It was proposed to address the IDEA guarantee of an opportunity to a special education due process hearing where the parties can present evidence and confront, cross-examine, and compel the attendance of witnesses. Accordingly, regardless of OSEP's recent guidance, the proposed rule language complies with IDEA. Further, whether an attorney leverages the special education due process complaints process is not relevant to the rule amendment process. Nevertheless, the agency recognizes the proposed amendment may have unintended consequences, including the adjudication of claims falling outside of IDEA's jurisdiction. Accordingly, the agency has determined to withdraw the proposed amendment to §89.1185 at this time.

Comment: A school attorney noted that TEA has the authority to limit summary motion practice.

Response: The agency agrees. Nevertheless, the agency has determined to withdraw the proposed amendment to §89.1185 at this time. The agency recognizes that further deliberations are required to adjust this amendment in an effort to promote judicial efficiency while complying with IDEA and in consideration of OSEP guidance.

Comment: A local education agency (LEA) administrator commented that the change to §89.1185(d) is designed to encourage parties to reach a consensus or resolution. Further, the commenter argues that the request for summary judgement/summary processes allows for districts to request a dismissal from a due process hearing, which helps save public funds on costly and lengthy legislation that is deemed frivolous.

Response: The agency disagrees in part and agrees in part. The amendment to §89.1185(d) was not proposed to encourage resolution of the due process hearing complaint. Nevertheless, the proposed amendment's consent requirement could prevent summary judgement proceedings on claims that may have been filed frivolously or do not fall within the purview of IDEA. Accordingly, the agency has decided that additional deliberations are required and has determined to withdraw the proposed amendment to §89.1185 at this time.

Comment: A school district executive director of special programs, a compliance officer for special education, and a director of special education opposed the proposed amendment to §89.1185 because they believe it places an additional burden on districts by redirecting teacher and administrator time and district resources away from the primary duty of schools to teach students. The commenters stated that the proposed amendment would force districts to spend time and resources on investigations that could potentially take years, especially for small schools or schools in co-ops. Additionally, the director of special education, along with an attorney commenting on behalf of the law firm of Thompson and Horton and on behalf of TASA, TSA, TACS, and TASB suggested that the fiscal impact on LEAs would increase due to additional proceedings and hearings taking place.

Response: The agency agrees in part and disagrees in part. The agency agrees that preparing for and participating in the aspects of a special education due process hearing takes time and resources. However, the agency notes that the proposed amendment to §89.1185 would not prohibit prehearing motion practice and that the time and resources associated with participating in due process hearings result not from the proposed rule language but from IDEA's mandate that parties to due process hearings have the right to a hearing in which they may present evidence and confront, cross-examine, and compel the attendance of witnesses. Nevertheless, the agency recognizes that additional efforts are necessary to develop an amendment that will promote both efficiency within the due process hearing system as well as compliance with IDEA. Accordingly, the agency has determined to withdraw the proposed amendment to §89.1185 at this time.

Comment: An attorney commenting on behalf of the law firm of Thompson and Horton and on behalf of TASA, TSA, TACS, and TASB commented that the proposed amendment to §89.1185 conflicts with the prehearing conference procedure in 19 TAC §89.1180(d), which explains that one of the uses of the prehearing conference is to discuss "matters which may aid in simplifying the proceedings or disposing of matters in controversy, including settling matters in dispute."

Response: The agency disagrees. The proposed amendment would not prohibit these discussions. Nevertheless, the agency recognizes the proposed amendment may have unintended consequences. Accordingly, the agency has determined to withdraw the proposed amendment to §89.1185 at this time.

Comment: Disability Rights Texas (DRTx) and TCASE proposed amending §89.1185(d) to require the consent required by the

proposed rule language be documented in writing. DRTx suggested that TEA add the specific language, "may be used only when both parties consent to use a summary process in writing."

Response: The agency agrees that requiring the consent to be documented in writing would alleviate any question as to a party's position. However, the agency has determined to withdraw the proposed amendment to §89.1185 at this time. The agency will consider the commenters' input for future proposed rulemaking.

Comment: Regarding proposed changes to 19 TAC §89.1195, a school administrator contended that public education agencies should continue to receive notice when a special education complaint is filed.

Response: The agency agrees.

Comment: DRTx requested the addition of language to §89.1195(c) that would require the agency to notify the parties of the date that the investigative process commences.

Response: The agency disagrees that the requested language should be added, as notice provided to the parties to a special education complaint includes the date that the complaint was received by the agency. The statute of limitations and the 60-day-calendar timeline for the complaint investigation is based on that received date.

Comment: Two attorneys disagreed with proposed changes to §89.1195(c). The attorneys contended that the timelines should begin on the first business day on which the agency confirms that the complainant provided a copy of the complaint to the public education agency. The attorneys argued that the turnaround time for public education agencies to respond to special education complaints places an undue burden on public education agencies, specifically those that are small or that are in rural communities because of limited staff or the fact that some are operating on four-day school weeks.

Response: The agency disagrees. If there are concerns regarding the deadline by when a public education agency or a complainant must submit the documentation required for a special education complaint, the public education agency or complainant can request an extension. The agency continues to work to improve the system and will address concerns on a case-by-case basis.

Comment: Two attorneys disagreed with proposed changes to §89.1195(d), contending that the statute of limitations for a special education complaint and the 60-day-calendar timeline for the complaint investigation should be based on when the complainant provides a copy of the complaint to the public education agency, not when TEA provides a copy of the complaint to the public education agency. TCASE argued that proposed changes to §89.1195(d) that would allow the agency to provide a copy of a special education complaint to a public education agency if the complainant does not do so violates 34 CFR, §300.153(d), which requires the party filing a special education complaint to provide a copy of the complaint to the public education agency against which the complaint is filed.

Response: While the agency disagrees that 34 CFR, §300.153(d), prohibits the agency from providing a copy of a special education complaint to a public education agency if the complainant has not done so, the agency has determined that the proposed change may create unnecessary confusion for complainants and public education agencies. Therefore, the proposed change to §89.1195(d) will not be adopted.

Comment: Specific to the proposed change to §89.1195(e), two attorneys agreed that parents can already receive an electronic copy of the Notice of Procedural Safeguards if the parent has opted to do so.

Response: The agency agrees.

Comment: Two attorneys and a special education administrator opposed the addition of §89.1195(h) and (i), arguing that it is an expansion of IDEA that is not justified. The commenters stated there is no evidence to show that the current special education complaints system fails to provide the necessary oversight and expanding the program would only increase costs with no return on benefits. The additional complaints would impose an even greater burden on public education agencies.

Response: The agency disagrees. The special education complaints process set out in 34 CFR, §§300.151-300.153, and in §89.1195 is one mechanism through which the agency exercises its general supervisory authority under 34 CFR, §300.149 and §300.600. The general supervisory authority and requirements under IDEA are broader than the special education complaints system and encompass considering and, if appropriate, addressing credible allegations of IDEA noncompliance. The process described in proposed new §89.1195(h) and (i) addresses this.

Comment: Two attorneys and two special education administrators contended that the special education complaints process requires a great deal of resources from public education agencies. The commenters contended that the burden of documentation requested by the agency negatively impacts teachers' ability to provide services to students, and they do not always agree with the agency's investigative findings. The commenters also contended that some complainants may use the special education complaints to coerce districts into agreeing to requests or taking actions that are not required for the provision of a free appropriate public education.

Response: The agency disagrees. The special education complaints process is required by 34 CFR, §§300.151-300.153, which allow the parties to a special education complaint to provide information and documentation in support of or in response to a special education complaint. Requirements related to the development and maintenance of documentation showing a public education agency's compliance with federal special education regulations are set out in the Education Department General Administrative Regulations (EDGAR) in 34 CFR, Parts 76 and 80 (see *Letter to Broussard*, June 2010). The agency makes its determinations in special education complaint investigations based on the information provided by the parties to the complaint and the applicable regulatory and statutory requirements. Whether a student's attorney leverages the special education complaints process is not relevant to the rule amendment process.

Comment: A parent asked that the agency impose sanctions against individuals who file noncredible complaints due to the burden that a special education complaints investigation places on public education agencies and their staff.

Response: The agency disagrees. There is no mechanism in IDEA or state statute that would allow the agency to impose the requested sanctions against a complainant who files a noncredible complaint.

Comment: A parent commented on the challenges that the parent's child has faced as a student with a disability.

Response: This comment is beyond the scope of the proposed rulemaking.

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES DIVISION 2. CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS

19 TAC §89.1080

STATUTORY AUTHORITY. The amendment is adopted under 34 Code of Federal Regulations (CFR), §300.149 and §300.600, which set out the state's general supervisory authority to identify and correct noncompliance related to special education; 34 CFR, §§300.151-300.153, which set out requirements related to the state's special education complaints process; 34 CFR, §300.504, which sets out requirements related to the provision of the Notice of Procedural Safeguards; and Texas Education Code, §29.001, which sets out the state's general authority and obligation to develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of 3 and 21.

CROSS REFERENCE TO STATUTE. The amendment implements 34 Code of Federal Regulations, §§300.149, 300.151-300.153, 300.504, and 300.600, and Texas Education Code, §29.001.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



DIVISION 7. DISPUTE RESOLUTION

19 TAC §89.1195

STATUTORY AUTHORITY. The amendment is adopted under 34 Code of Federal Regulations (CFR), §300.149 and §300.600, which set out the state's general supervisory authority to identify and correct noncompliance related to special education; 34 CFR, §§300.151-300.153, which set out requirements related to the state's special education complaints process; 34 CFR, §300.504, which sets out requirements related to the provision of the Notice of Procedural Safeguards; and Texas Education Code, §29.001, which sets out the state's general authority and obligation to develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the

administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of 3 and 21

CROSS REFERENCE TO STATUTE. The amendment implements 34 Code of Federal Regulations, §§300.149, 300.151-300.153, 300.504, and 300.600, and Texas Education Code, §29.001.

§89.1195. *Special Education Complaint Resolution.*

(a) In accordance with 34 Code of Federal Regulations (CFR), §300.151, the Texas Education Agency (TEA) has established a complaint resolution process that provides for the investigation and issuance of findings regarding alleged violations of Part B of the Individuals with Disabilities Education Act (IDEA) or a state special education statute or administrative rule.

(b) A complaint may be filed with the TEA by any individual or organization and must:

- (1) be in writing;
- (2) include the signature and contact information for the complainant;
- (3) contain a statement that a public education agency has violated Part B of the IDEA; 34 CFR, §300.1 et seq.; or a state special education statute or administrative rule;
- (4) include the facts upon which the complaint is based;
- (5) if alleging violations with respect to a specific student, include:
 - (A) the name and address of the residence of the student;
 - (B) the name of the school the student is attending;
 - (C) in the case of a homeless child or youth (within the meaning of §725(2) of the McKinney-Vento Homeless Act (42 United States Code, §11434a(2)), available contact information for the student and the name of the school the student is attending;
 - (D) a description of the nature of the problem of the student, including facts relating to the problem; and
 - (E) a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed;
- (6) allege a violation that occurred not more than one calendar year prior to the date the complaint is received; and
- (7) be forwarded to the public education agency that is the subject of the complaint at the same time that the complaint is filed with the TEA.

(c) A complaint must be filed with the TEA by electronic mail, mail, hand-delivery, or facsimile. The TEA has developed a form that may be used by persons or organizations filing a complaint. The form is available on request from the TEA and is also available on the TEA website. The complaint timeline will commence on the business day that TEA receives the complaint. If a complaint is received on a day other than a business day, the complaint timeline will commence on the first business day after the day on which the TEA receives the complaint. The one-calendar-year statute of limitations for a complaint will be determined based on the day that the complaint timeline commences.

(d) If a complaint does not meet the requirements outlined in subsection (b) of this section, the TEA must notify the complainant of the deficiencies in the complaint.

(e) Upon receipt of a complaint that meets the requirements of this section, the TEA must initiate an investigation to determine whether the public education agency is in compliance with applicable law and regulations in accordance with the following procedures.

(1) The TEA must send written notification to the parties acknowledging receipt of a complaint.

(A) The notification must include:

- (i) the alleged violations that will be investigated;
- (ii) alternative procedures available to address allegations in the complaint that are outside of the scope of Part B of the IDEA; 34 CFR, §300.1, et seq.; or a state special education statute or administrative rule;
- (iii) a statement that the public education agency may, at its discretion, investigate the alleged violations and propose a resolution of the complaint;
- (iv) a statement that the parties have the opportunity to resolve the complaint through mediation in accordance with the procedures in §89.1193 of this title (relating to Special Education Mediation);
- (v) a timeline for the public education agency to submit:
 - (I) documentation demonstrating that the complaint has been resolved; or
 - (II) a written response to the complaint and all documentation and information requested by the TEA;
- (vi) a statement that the complainant may submit additional information about the allegations in the complaint, either orally or in writing within a timeline specified by the TEA, and may provide a copy of any additional information to the public education agency to assist the parties in resolving the dispute at the local level; and
- (vii) a statement that the TEA may grant extensions of the timeline for a party to submit information under clause (v) or (vi) of this subparagraph at the request of either party.

(B) In accordance with 34 CFR, §300.504, upon receipt of the first special education complaint filed by a parent during a school year, TEA will provide an electronic copy of the Notice of Procedural Safeguards to the parent, and the public education agency against which the complaint is filed must provide the parent with a hard copy of the Notice of Procedural Safeguards unless that parent has elected, in accordance with 34 CFR, §300.505, to receive the required notice by electronic mail, if the public education agency makes that option available.

(C) The public education agency must provide the TEA with a written response to the complaint and all documentation and information requested by the TEA. The public education agency must forward its response to the parent who filed the complaint at the same time that the response is provided to the TEA. The public education agency may also provide the parent with a copy of the documentation and information requested by the TEA. If the complaint was filed by an individual other than the student's parent, the public education agency must forward a copy of the response to that individual only if written parental consent has been provided to the public education agency.

(2) If the complaint is also the subject of a due process hearing or if it contains multiple issues of which one or more are part of that due process hearing, the TEA must:

(A) set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing; and

(B) resolve any issue in the complaint that is not a part of the due process hearing.

(3) If an issue raised in the complaint has previously been decided in a due process hearing involving the same parties, the TEA must inform the complainant that the due process hearing decision is binding.

(4) The TEA has 60 calendar days after a valid written complaint is received to carry out the investigation and to resolve the complaint. The TEA may extend the time limit beyond 60 calendar days if exceptional circumstances, as determined by the TEA, exist with respect to a particular complaint. The parties will be notified in writing by the TEA of the exceptional circumstances, if applicable, and the extended time limit. The time limit may also be extended if the parties agree to extend it in order to engage in mediation pursuant to §89.1193 of this title or other alternative means of dispute resolution. In accordance with the Texas Education Code, §29.010(e), the TEA must expedite a complaint alleging that a public education agency has refused to enroll a student eligible for special education and related services or that otherwise indicates a need for expedited resolution, as determined by the TEA.

(5) During the course of the investigation, the TEA must:

(A) conduct an investigation of the complaint that must include a complete review of all relevant documentation and that may include interviews with appropriate individuals and an independent on-site investigation, if necessary;

(B) consider all facts and issues presented and the applicable requirements specified in law, regulations, or standards;

(C) make a determination of compliance or noncompliance on each issue in the complaint based upon the facts and applicable law, regulations, or standards and issue a written report of findings of fact and conclusions, including reasons for the decision, and any corrective actions that are required, including the time period within which each action must be taken;

(D) review any evidence that the public education agency has corrected noncompliance on its own initiative;

(E) ensure that the TEA's final decision is effectively implemented, if needed, through technical assistance activities, negotiations, and corrective actions to achieve compliance; and

(F) in the case of a complaint filed by an individual other than the student's parent, provide a copy of the written report only if written parental consent has been provided to the TEA.

(6) In resolving a complaint in which a failure to provide appropriate services is found, the TEA must address:

(A) the failure to provide appropriate services, including corrective action appropriate to address the needs of the student, including compensatory services, monetary reimbursement, or other corrective action appropriate to the needs of the student; and

(B) appropriate future provision of services for all students with disabilities.

(7) In accordance with 34 CFR, §300.600(e), the public education agency must complete all required corrective actions as soon as possible, and in no case later than one year after the TEA's identification of the noncompliance. A public education agency's failure to correct the identified noncompliance within the one-year timeline

will result in an additional finding of noncompliance under 34 CFR, §300.600(e), and may result in sanctions against the public education agency in accordance with §89.1076 of this title (relating to Interventions and Sanctions).

(f) If a party to a complaint believes that the TEA's written report includes an error that is material to the determination in the report, the party may submit a signed, written request for reconsideration to the TEA by electronic mail, mail, hand-delivery, or facsimile within 15 calendar days of the date of the report. The party's reconsideration request must identify the asserted error and include any documentation to support the claim. The party filing a reconsideration request must forward a copy of the request to the other party at the same time that the request is filed with the TEA. The other party may respond to the reconsideration request within five calendar days of the date on which the TEA received the request. The TEA will consider the reconsideration request and provide a written response to the parties within 45 calendar days of receipt of the request. The filing of a reconsideration request must not delay a public education agency's implementation of any corrective actions required by the TEA.

(g) In accordance with 34 CFR, §300.151, the TEA's complaint resolution procedures must be widely disseminated to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

(h) In exercising its general supervisory authority under 34 CFR, §300.149 and §300.600, the TEA may resolve any other credibly alleged violation of IDEA or a state special education statute or administrative rule that it receives even if a sufficient complaint is not filed with the TEA in accordance with 34 CFR, §§300.151-300.153, and this section. In doing so, the TEA may take one or more of the following actions:

(1) requesting a response and supporting documentation from a public education agency against which a credible violation of IDEA or a state special education statute or administrative rule has been alleged;

(2) conducting a desk or on-site investigation of a public education agency;

(3) making a determination regarding the allegation(s); and

(4) requiring a public education agency to implement corrective actions to address any identified noncompliance.

(i) For the purposes of subsection (h) of this section, anonymous complaints, complaints that are received outside the one-calendar-year statute of limitations for a special education complaint, and complaints that do not include sufficient information or detail for the TEA to determine that an alleged violation of special education requirements may have occurred will not be considered to be credible complaints.

(j) If the public education agency against which a complaint is received under subsection (h) of this section believes that TEA made an incorrect determination of noncompliance, the public education agency may submit a written request for reconsideration to the TEA within 15 calendar days of the date that TEA issued its findings. The reconsideration request must identify the asserted error and include any documentation to support the claim. The TEA will consider the reconsideration request and provide a written response to the public education agency within 45 calendar days of receipt of the request. The filing of a reconsideration request must not delay a public education agency's implementation of any corrective actions required by the TEA.

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

Filed with the Office of the Secretary of State on December 29, 2022.

TRD-202205264

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: January 18, 2023

Proposal publication date: September 23, 2022

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



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 3. LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

SUBCHAPTER RR. VALUATION MANUAL

28 TAC §3.9901

The Commissioner of Insurance adopts amended 28 TAC §3.9901, concerning changes to the valuation manual for reserving and related requirements. The amendment is adopted without changes to the proposed text published in the November 25, 2022, issue of the *Texas Register* (47 TexReg 7857). The rule will not be republished.

REASONED JUSTIFICATION. Amendments to §3.9901 are necessary for compliance with Insurance Code §425.073, which requires the Commissioner to adopt by rule a valuation manual that is substantially similar to the valuation manual adopted by the National Association of Insurance Commissioners (NAIC).

Under Insurance Code §425.073(c), when the NAIC adopts changes to the valuation manual, TDI must adopt substantially similar changes when the Commissioner determines that the NAIC's changes were approved by an affirmative vote representing at least three-fourths of the voting NAIC members but not less than a majority of the total membership. In addition, the NAIC members voting in favor of amending the valuation manual must represent jurisdictions totaling greater than 75% of the direct written premiums as reported in the most recently available life, accident, and health/fraternal annual statements and health annual statements.

TDI originally adopted the valuation manual in §3.9901 on December 29, 2016. On August 13, 2022, the NAIC voted to adopt changes to the valuation manual. Forty-six jurisdictions, representing jurisdictions totaling 93.8% of the relevant direct written premiums, voted in favor of adopting the amendments to the valuation manual. The vote adopting changes to the NAIC valuation manual meets the requirements of Insurance Code §425.073(c).

In addition to clarifying existing provisions, the 2023 valuation manual includes changes that:

- require a hedging strategy be a Clearly Defined Hedging Strategy if modeling future hedging reduces the reserves under Valuation Manual Chapter 20 (VM-20) or Total Asset Recovery under Valuation Manual Chapter 21 (VM-21);

- add guidance and requirements for general assumptions and expense assumptions in VM-21;

- update prescribed swap spreads guidance in VM-20 to facilitate the London Interbank Offered Rate transition to the Secured Overnight Financing Rate; and

- add fields to experience reporting to reflect the dividend plan code and COVID-19 indicator and the change field identifier.

The NAIC's adopted changes to the valuation manual can be viewed at content.naic.org/sites/default/files/pbr_data_valuation_manual_future_edition.pdf. Effective January 1, 2023, the adopted manual can be viewed at the following website: content.naic.org/sites/default/files/pbr_data_valuation_manual_current_edition.pdf.

TDI's amendment to §3.9901 is described in the following paragraph.

Amended §3.9901. TDI amends §3.9901 by striking the date on which the NAIC adopted its previous valuation manual and inserting the date on which the NAIC adopted its current valuation manual, changing it from August 17, 2021, to August 13, 2022.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed amendment.

STATUTORY AUTHORITY. The Commissioner adopts amended §3.9901 under Insurance Code §425.073 and §36.001.

Insurance Code §425.073 requires the Commissioner to adopt changes to the valuation manual that are substantially similar to the changes to the valuation manual adopted by the NAIC, and it provides that, after a valuation manual has been adopted by the Commissioner by rule, any changes to the valuation manual must be adopted by rule.

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

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

Filed with the Office of the Secretary of State on December 27, 2022.

TRD-202205247

Allison Eberhart

Deputy General Counsel

Texas Department of Insurance

Effective date: January 16, 2023

Proposal publication date: November 25, 2022

For further information, please call: (512) 676-6555





REVIEW OF AGENCY RULES

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

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

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

Adopted Rule Reviews

Texas Department of Agriculture

Title 4, Part 1

Pursuant to the notice of proposed rule review published in the September 2, 2022, issue of the *Texas Register* (47 TexReg 5343), the Texas Department of Agriculture (Department) has reviewed and considered for readoption, revision or repeal all sections of Texas Administrative Code, Title 4, Part 1, Chapter 1, Subchapter E, Advisory Committees, in accordance with Texas Government Code, §2001.039. No comments were received as a result of the proposed rule review notice.

The Department finds that the reasons for initially adopting Chapter 1, Subchapter E continue to exist, and readopts the rules without changes.

TRD-202300001

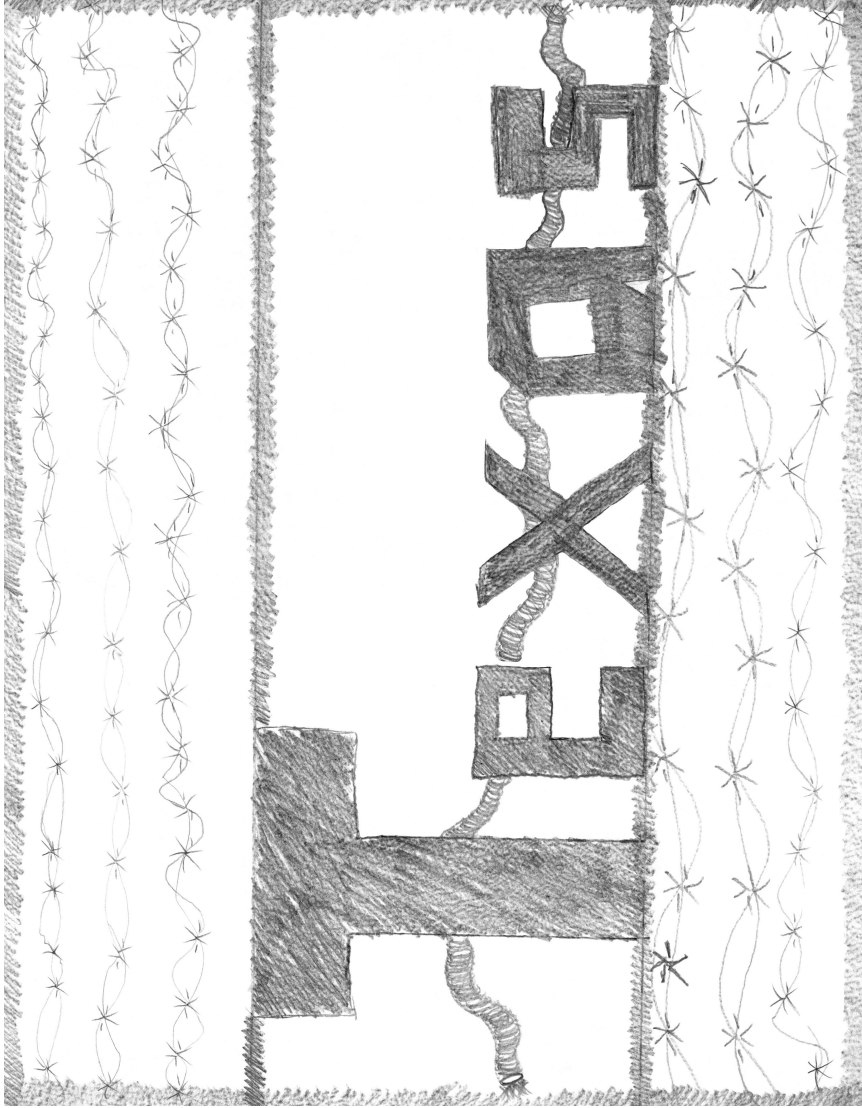
Skyler Shafer

Assistant General Counsel

Texas Department of Agriculture

Filed: January 2, 2023





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.

**Texas Department of Agriculture
Structural Pest Control Service
Penalty Matrix**

Tables S1, S2, S3, and S4 represent the Hazard or Potential Hazard associated with the noncompliance issues listed throughout the Structural Pest Control Penalty Matrix. Within the tables, the Minor, Moderate, and Major designations take into consideration the Nature, Circumstances, Extent, and Gravity of the situation, which resulted in the noncompliant finding.

*The tables show the maximum penalties that may be imposed for a given violation. All penalties are up to the designated amount/penalty indicated and shall be determined by the Department at its discretion.

Table S1 – Low Hazard Potential*

	Minor	Moderate	Major
1 st Violation	Warning	\$150	\$300
2 nd Violation	\$150	\$300	\$450
3 rd & subsequent violations	\$300	\$450	\$600

Table S2 – Moderate Hazard Potential*

	Minor	Moderate	Major
1 st Violation	\$300	\$750	\$1500
2 nd Violation	\$500	\$1000	\$2000
3 rd & subsequent violations	\$750 Revocation/Suspension	\$1500 Revocation/Suspension	\$3000 Revocation/Suspension

Table S3 – High Hazard Potential*

	Minor	Moderate	Major
1 st Violation	\$500	\$1000	\$2000
2 nd Violation	\$1000	\$2000	\$4000
3 rd & subsequent violations	\$1500 Revocation/Suspension	\$3000 Revocation/Suspension	\$5000 Revocation/Suspension

Table S4 – Maximum Hazard Potential*

	Minor	Moderate	Major
1 st Violation	\$1000	\$1500	\$2000
2 nd Violation	\$2000	\$2500	\$3000
3 rd & subsequent violations	\$3000 Revocation/Suspension	\$4000 Revocation/Suspension	\$5000 Revocation/Suspension

ALL ACTIONS IN RESPONSE TO NONCOMPLIANCE WITH CHAPTER 7, SUBCHAPTER H OF THE TEXAS ADMINISTRATIVE CODE ARE AUTHORIZED UNDER CHAPTER 12 OF THE TEXAS AGRICULTURE CODE.

Violation	Texas Administrative Code Section Number(s)	Table Violation
DIVISION 2—LICENSES		
Operating without a license	7.121	S4
Operating without a responsible certified applicator	7.121(a)	S3
No known address or incorrect address for business/noncommercial	7.122	S1
Insurance lapse/No insurance	7.123	S3
Cheating/unauthorized assistance on exams	7.125	S3
Failure to notify of change of address: Business/Noncommercial	7.127(k); 7.161(17)	S1
Transferring, borrowing, renting, loaning, or leasing a Department license	7.127(j)	S4
Failure to notify change of employers- Certified applicator/technician	7.142	S1
Failure to notify of loss of responsible certified applicator	7.129	S2
Non-commercial doing business as commercial or more than one employer without additional license(s)	7.131	S3
Failure to complete required apprentice training prior to taking the exam and being issued a license	7.132	S3
Refusal to release training records on employment change	7.133(e)	S1
Performing work w/out supervision in a category an apprentice is not properly trained in	7.132(h)	S3
Failure to maintain technician and/or apprentice training records	7.132/7.133	S2
Failure to meet minimum continuing education/technician requirements	7.133(c)/7.134(b)	S2
DIVISION 3—COMPLIANCE AND ENFORCEMENT		
No TPCL numbers or magnetic numbers on vehicle	7.141	S1
Failure to register an employee within 10 days	7.142(b)	S2
Failure to supervise an employee	7.143	S3
Use records incomplete	7.144	S1
Failure to maintain use records	7.144	S2
No business name, location address or mailing address, business license number (TPCL), or telephone number on contracts	7.145	S1
No business name, business license number and letter, location or mailing address, telephone number, or statement that the business is licensed and regulated by the Texas Department of Agriculture on a contract, warranty, termite disclosure document or guarantee (or incomplete/incorrect)	7.145(a); 7.161(16)	S1
Failure to post/provide a pest control sign	7.146	S1
Failure to provide consumer information sheet	7.147	S1
Failure to make consumer information sheet available upon request	7.147	S1
Failure of school or daycare to notify parents	7.148	S1
Failure to maintain emergency waivers	7.148(d)	S1
Failure of apartment management or employers to post notice and provide consumer information sheets	7.148	S1
Use inconsistent with labeling	7.150	S3
Any FIFRA violation--unlabeled container	7.151	S3

Any violation of label instructions regarding storage or disposal	7.151	S3
Advertising violations	7.152	S3
Failure to cooperate/allow inspection or provide information/records or providing false information	7.156	S3
DIVISION 4—UNLAWFUL ACTS AND GROUNDS FOR REVOCATION		
Misrepresentation, deceit, or fraud for the purpose of inducing others to act thereon to their damage	7.161(1)	S4
Operating out of category	7.161(10)	S3
Misrepresentation in any application for license	7.161(2)	S4
Any violation of the label which causes environmental problem	7.161	S4
Working in a manner which could be injurious	7.161(8)	S3
Use of cancelled or unregistered pesticides not approved under Texas Agriculture Code §76.041	7.161(12)	S3
Failure to surrender license as Department ordered	7.162	S3
DIVISION 5—TREATMENT STANDARDS		
Use of an unregistered pesticide for a termite treatment	7.172(a)/7.173(b)	S3
Application/service performed inconsistent with treatment disclosure	7.172(c)	S2
Post-construction treatment at less than label volume/rate	7.172(a)	S3
Failure to post WDIR/Termite Post-Treatment Sticker	7.172(d) and 7.177	S2
Pre-construction treatment made at less than label volume/rate	7.173(b)	S3
Any violation of pre-construction treatment rules including failure to notify	7.173	S3
Failure to provide SPCS/D-4 form	7.174(b)(10)	S2
Incomplete termite treatment disclosure documents/termite disclosure document violations	7.174	S2
Apprentice performing WDI Report	7.175(a)	S3
Failure to provide accurate/incomplete WDIR Inspection	7.175	S2
Any fumigation violation besides label violations	7.178	S3
DIVISION 7—INTEGRATED PEST MANAGEMENT PROGRAM FOR SCHOOL DISTRICTS		
Any violation regarding IPM Program essential elements	7.201	S2
Failure to comply with IPM in schools	7.201	S2
Making a pesticide application inconsistent with pesticide use in schools	7.202	S3
Failure to meet minimum IPM Coordinator continuation education requirements	7.202	S2
OTHER VIOLATIONS		
First time (and subsequent) offenders that operate without the proper license after a demonstration of prior knowledge of the SPCS requirements. (Not including late renewal)		S4
Fraud		S4
Grossly negligent or intentional poisoning of a person or animal		S4
Repetitive or unreasonable refusal to allow the Department to exercise its legal authority to inspect licensees and/or investigate complaints		S4
Violations involving institutional disregard for compliance		S4

Figure: 28 TAC §1.209(2) [Figure: 28 TAC §1.209(a)(2)]

Telephone or Fax Number in Rule, Form, or Figure	New Telephone and Fax Number
512-305-7211 (telephone)	800-252-3439 (telephone)
512-305-7900 (telephone)	512-676-7900 (telephone)
512-305-7922 (fax)	512-490-1056 (fax)
512-305-7934 (telephone)	512-676-6551 (telephone)
512-322-2212 (telephone)	512-676-6763 (telephone)
512-322-2273 (fax)	512-490-1051 (fax)
512-322-3417 (fax)	512-490-1051 (fax)
512-322-3418 (fax)	512-490-1051 (fax)
512-322-3401 (telephone)	512-676-6889 (telephone)
512-322-3409 (telephone)	512-676-6889 (telephone)
512-322-3435 (telephone)	512-676-6750 (telephone)
512-322-3482 (telephone)	512-676-6475 (telephone)
512-322-3503 (telephone)	512-676-6500 (telephone)
512-322-3505 (telephone)	512-676-6375 (telephone)
512-344-3506 (telephone)	512-676-6889 (telephone)
512-322-3507 (telephone)	512-676-6375 (telephone)
512-322-3535 (telephone)	512-676-6395 (telephone)
512-322-3552 (fax)	512-490-1017 (fax)
512-322-3553 (fax)	512-490-1036 (fax)
512-322-3579 (telephone)	512-676-6392 (telephone)
512-322-4370 (telephone)	512-676-6385 (telephone)
512-322-5023 (telephone)	512-676-6375 (telephone)
512-322-5026 (fax)	512-490-1010 (fax)
512-463-6515 (telephone)	800-252-3439 (telephone)
512-463-6693 (fax)	512-490-1048 (fax)
512-475-1757 (telephone)	512-676-6551 (telephone)
512-475-1771 (fax)	512-490-1007 (fax)
512-475-1819 (fax)	512-490-1029 (fax)
512-475-1878 (telephone)	512-676-6690 (telephone)
512-475-3026 (telephone)	512-676-6690 (telephone)

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

[Insert insurance company or HMO name]

To get information or file a complaint with your insurance company or HMO:

Call: [insert title] at [insert phone number]

Toll-free: [insert phone number]

[optional] Online: [insert company URL]

Email: [insert email address]

Mail: [insert mailing address]

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: www.tdi.texas.gov

Email: ConsumerProtection@tdi.texas.gov

Mail: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030 [~~MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091~~]

¿Tiene una queja o necesita ayuda?

[~~¿Tiene una queja o necesita ayuda?~~]

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

[Insert insurance company or HMO name]

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

Llame a: [insert title] al [insert phone number]

Teléfono gratuito: [insert phone number]

[optional] En línea: [insert company URL]

Correo electrónico: [insert email address]

Dirección postal: [insert mailing address]

El Departamento de Seguros de Texas

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: www.tdi.texas.gov

Correo electrónico: ConsumerProtection@tdi.texas.gov

Dirección postal: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030 [~~MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091~~]

Figure: 28 TAC §1.601(a)(2)(C)

Have a workers' compensation complaint or need help?

Contact your insurance company if you have a question or problem about your premium or a claim:

[Insert insurance company name]
Call: [insert title] at [insert phone number]
Toll-free: [insert phone number]
[optional] Online: [insert company URL]
Email: [insert email address]
Mail: [insert mailing address]

For problems with your policy

If your problem with the premium is not resolved, contact the National Council on Compensation Insurance, Dispute Resolution Services:

Mail: 901 Peninsula Corporate Circle, Boca Raton, FL 33487-1362
Fax: 561-893-5043
Email: regulatoryoperations@ncci.com
Phone: 1-800-622-4123

If you believe there has been a violation of law related to your workers' compensation policy, file a complaint with the Texas Department of Insurance:

Call: 1-800-252-3439
Online: www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov
Mail: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030 [MC 111-1A, P.O. Box 149091, Austin, Texas 78714-9091]

For employees with claim issues

If one of your employees has a problem with a claim, contact the Texas Department of Insurance, Division of Workers' Compensation, Compliance and Investigations:

Mail: Compliance and Investigations, MC: CI, Texas Department of Insurance, Division of Workers' Compensation, PO Box 12050, Austin, TX 78711-2050 [MS-8, 7551 Metro Center Drive, Suite 100, Austin, TX 78744]
Fax: 512-490-1030
Email: DWCCOMPLAINTS@tdi.texas.gov [DWC-ComplianceReview@tdi.texas.gov]
Phone: 1-800-252-7031

¿Tiene una queja de compensación para trabajadores o necesita ayuda?

Comuníquese con su compañía de seguros si tiene una pregunta o problema relacionado con su prima de seguro o con una reclamación:

[Insert insurance company name]

Llame a: [insert title] al [insert phone number]

Teléfono gratuito: [insert phone number]

[optional] En línea: [insert company URL]

Correo electrónico: [insert email address]

Dirección postal: [insert mailing address]

Para problemas con su póliza

Si su problema con la prima de seguro no es resuelto, comuníquese con el Consejo Nacional de Seguros de Compensación (National Council on Compensation Insurance, por su nombre en inglés), Servicios para la Resolución de Disputas:

Correo postal: 901 Peninsula Corporate Circle, Boca Raton, FL 33487-1362

Fax: 561-893-5043

Correo electrónico: regulatoryoperations@ncci.com

Teléfono: 1-800-622-4123

Si usted piensa que ha habido una violación a la ley, la cual está relacionada con su póliza de compensación para trabajadores, presente una queja ante el Departamento de Seguros de Texas:

Llame al: 1-800-252-3439

En línea: www.tdi.texas.gov

Correo electrónico: ConsumerProtection@tdi.texas.gov

Correo postal: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030 [~~MC 111-1A, P.O. Box 149091, Austin, Texas 78714-9091~~]

Para empleados que tienen problemas con sus reclamaciones

Si uno de sus empleados tiene un problema con una reclamación, comuníquese con la Sección de Cumplimiento e Investigaciones (Compliance and Investigations, por su nombre en inglés) del Departamento de Seguros de Texas, División de Compensación para Trabajadores (Texas Department of Insurance, Division of Workers' Compensation, por su nombre en inglés).

Correo postal: Compliance and Investigations, MC: CI, Texas Department of Insurance, Division of Workers' Compensation, PO Box 12050, Austin, TX 78711-2050 [~~MS-8, 7551 Metro Center Drive, Suite 100, Austin, TX 78744~~]

Fax: 512-490-1030

Correo electrónico: DWCCOMPLAINTS@tdi.texas.gov [~~DWC-ComplianceReview@tdi.texas.gov~~]

Teléfono: 1-800-252-7031

Figure: 28 TAC §1.602(b)(1)(C)

Where you can get information or make a complaint

If you have a question or a problem with a claim or your premium, contact your insurance company first. You can also get information or file a complaint with the Texas Department of Insurance.

[Insert insurance company name]

To get information or file a complaint with your insurance company:

Call: (insert title) at [insert phone number]

Toll-free: [insert phone number]

[optional] Online: [insert company URL]

Email: [insert email address]

Mail: [insert mailing address]

The Texas Department of Insurance

To get help with an insurance question, learn about your rights, or file a complaint with the state:

Call: 1-800-252-3439

Online: www.tdi.texas.gov

Email: ConsumerProtection@tdi.texas.gov

Mail: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030 [MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091]

To compare policies and prices

Visit **HelpInsure.com** to compare prices and coverages on home and auto insurance policies. The website is a service of the Texas Department of Insurance and the Office of Public Insurance Counsel.

Donde puede obtener información o presentar una queja

Si tiene una pregunta o un problema con una reclamación o con su prima de seguro, comuníquese primero con su compañía de seguros. Usted también puede obtener información o presentar una queja ante el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés).

[Insert Insurance Company Name]

Para obtener información o para presentar una queja ante su compañía de seguros:

Llame a: [insert title] al [insert phone number]

Teléfono gratuito: [insert phone number]

[optional] En línea: [insert company URL]

Correo electrónico: [insert email address]

Dirección postal: [insert mailing address]

El Departamento de Seguros de Texas

Para obtener ayuda con una pregunta relacionada con los seguros, para conocer sus derechos o para presentar una queja ante el estado:

Llame: 1-800-252-3439

En línea: www.tdi.texas.gov

Correo electrónico: ConsumerProtection@tdi.texas.gov

Dirección postal: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030 [~~MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091~~]

Para comparar pólizas y precios

Visite **HelpInsure.com** para comparar precios y coberturas en pólizas de seguro para el hogar y automóvil. El sitio web es un servicio del Departamento de Seguros de Texas y de la Oficina del Asesor Público de Seguros (Office of Public Insurance Counsel, por su nombre en inglés).

Figure: 28 TAC §1.2803(a)

NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES

With few exceptions, you are entitled to be informed about the information that the Texas Department of Insurance (TDI) collects about you. Under §552.021 and §552.023 of the Texas Government Code, you have a right to review or receive copies of information about yourself, including private information. However, TDI may withhold information for reasons other than to protect your right to privacy. Under §559.004 of the Texas Government Code, you are entitled to request that TDI correct information that TDI has about you that is incorrect. For more information about the procedure and costs for obtaining information from TDI or about the procedure for correcting information kept by TDI, please contact RecordCorrections@tdi.texas.gov [~~the Agency Counsel Section of TDI's Legal and Compliance Division at (512) 475-1757~~] or visit [~~the Corrections Procedure section of~~] TDI's [website](http://www.tdi.texas.gov) [~~web page~~] at www.tdi.texas.gov to find instructions on how to correct incorrect information. [~~www.tdi.state.tx.us~~]

Figure: 28 TAC §19.1003(d)(2)

License Period	Total Required Hours	Ethics
Less than 6 months	0	<u>0</u>
6 months up to and including 7 months	2	<u>3</u> [2]
8 months up to and including 9 months	3	<u>3</u> [2]
10 months up to and including 11 months	4	<u>3</u> [2]
12 months up to and including 14 months	5	<u>3</u> [2]
15 months up to and including 16 months	6	<u>3</u> [2]
17 months up to and including 19 months	7	<u>3</u> [2]
20 months up to and including 21 months	8	<u>3</u> [2]
22 months up to and including 23 months	9	<u>3</u> [2]

IN ADDITION

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

Office of the Attorney General

Texas Health and Safety Code and Texas Water Code
Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code and the Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to Section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. TotalEnergies Petrochemicals & Refining USA, Inc.*; Cause No. D-1-GN-22-007073; in the 200th Judicial District Court, Travis County, Texas.

Background: Defendant TotalEnergies Petrochemicals & Refining USA, Inc. (TotalEnergies) owns and operates a petroleum refinery located at 7600 32nd Street, Port Arthur, Jefferson County, Texas, which had experienced multiple, recurring instances of unauthorized emissions of air contaminants from the refinery. On behalf of the Texas Commission on Environmental Quality (TCEQ), the State filed suit against TotalEnergies for its violation of the Texas Clean Air Act, and TCEQ rules and permits issued thereunder.

Proposed Settlement: The parties propose an Agreed Final Judgment and Permanent Injunction, which requires TotalEnergies to implement

a series of corrective actions according to an agreed compliance schedule. The proposed judgment also assesses against TotalEnergies a civil penalty of \$1.3 million, and attorney's fees to the State in the amount of \$100,000.

For a complete description of the proposed settlement, the Agreed Final Judgment and Permanent Injunction should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Phillip Ledbetter, Assistant Attorney General, Office of the Attorney General of Texas, Post Office Box 12548, MC 066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911, email Phillip.Ledbetter@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202300027
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: January 3, 2023

State Bar of Texas

Committee on Disciplinary Rules and Referenda Proposed Rule
Changes Rule 3.09 Special Responsibilities of a Prosecutor

COMMITTEE ON DISCIPLINARY RULES AND REFERENDA PROPOSED RULE CHANGES

Rule 3.09 Special Responsibilities of a Prosecutor

The Committee on Disciplinary Rules and Referenda, or CDRR, was created by Government Code section 81.0872 and is responsible for overseeing the initial process for proposing a disciplinary rule. Pursuant to Government Code section 81.0876, the committee publishes the following proposed rule. The committee will accept comments concerning the proposed rule through April 13, 2023. Comments can be submitted at [texasbar.com/CDRR](https://www.texasbar.com/CDRR). The committee will hold a public hearing on the proposed rule by teleconference at 10 a.m. CDT on April 12, 2023. For teleconference participation information, please go to [texasbar.com/cdrr/participate](https://www.texasbar.com/cdrr/participate).

Proposed Rule (Redline Version)

Rule 3.09. Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

(a) refrain from prosecuting or threatening to prosecute a charge that the prosecutor knows is not supported by probable cause;

(b) refrain from conducting or assisting in a custodial interrogation of an accused unless the prosecutor has made reasonable efforts to be assured that the accused has been advised of any right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) not initiate or encourage efforts to obtain from an unrepresented accused a waiver of important pre-trial, trial or post-trial rights;

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and

(e) exercise reasonable care to prevent persons employed or controlled by the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.07.

(f) When a prosecutor knows of new and credible information creating a reasonable likelihood that a convicted defendant did not commit an offense for which the defendant was convicted, the prosecutor shall, unless a court authorizes delay,

(1) if the conviction was obtained in the prosecutor's jurisdiction:

(i) promptly disclose that information to:

(A) the defendant;

(B) the defendant's counsel, or if there is none, the indigent defense appointing authority in the jurisdiction, if one exists;

(C) the tribunal in which the defendant's conviction was obtained; and

(D) a statewide entity that examines and litigates claims of actual innocence.

(ii) if the defendant is not represented by counsel, or if unable to determine whether the defendant is represented by counsel, move the court in which the defendant was convicted to determine whether the defendant is indigent and thus entitled to the appointment of counsel.

(iii) cooperate with the defendant's counsel by promptly providing all information known to the prosecutor regarding the underlying matter and the new information.

(2) if the conviction was obtained in another jurisdiction, promptly disclose that information to the appropriate prosecutor in the jurisdiction where the conviction was obtained.

(g) A prosecutor who concludes in good faith that information is not subject to disclosure under paragraph (f) does not violate this rule even if the prosecutor's conclusion is subsequently determined to be erroneous.

(h) In paragraph (f), unless the context indicates otherwise, "jurisdiction" means the legal authority to represent the government in criminal matters before the tribunal in which the defendant was convicted.

Comment:

Source and Scope of Obligations

1. A prosecutor has the responsibility to see that justice is done, and not simply to be an advocate. This responsibility carries with it a number of specific obligations. Among these is to see that no person is threatened with or subjected to the rigors of a criminal prosecution without good cause. See paragraph (a). A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that no person is threatened with or subjected to the rigors of a criminal prosecution without good cause, that guilt is decided upon the basis of sufficient evidence, that any sentence imposed is based on all

unprivileged information known to the prosecutor, and that special precautions are taken to prevent and to rectify the conviction of innocent persons. Precisely how far the prosecutor is required to go in this direction is a matter of debate and varies in different jurisdictions. Many jurisdictions have adopted the ABA Standard of Justice Relating to Prosecution Function, which in turn are the product of prolonged and careful deliberation by lawyers experienced in both criminal prosecution and defense. In addition a Δ prosecutor should not initiate or exploit any violation of a suspect's right to counsel, nor should he initiate or encourage efforts to obtain waivers of important pretrial, trial or post-trial rights from unrepresented persons. See paragraphs (b) and (c). In addition, a prosecutor is obliged to see that the defendant is accorded procedural justice, that the defendant's guilt is decided upon the basis of sufficient evidence, and that any sentence imposed is based on all unprivileged information known to the prosecutor. See paragraph (d). Finally, a Δ prosecutor is obliged by this rule to take reasonable measures to see that persons employed or controlled by him refrain from making extrajudicial statements that are prejudicial to the accused. See paragraph (e) and Rule 3.07. See also Rule 3.03(a)(3), governing ex parte proceedings, among which grand jury proceedings are included. Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of Rule 8.04. In many instances, it may be appropriate for a prosecutor to inform his or her supervisor about information related to the duties set down by this Rule.

2. Paragraph (a) does not apply to situations where the prosecutor is using a grand jury to determine whether any crime has been committed, nor does it prevent a prosecutor from presenting a matter to a grand jury even though he has some doubt as to what charge, if any, the grand jury may decide is appropriate, as long as he believes that the grand jury could reasonably conclude that some charge is proper. A prosecutor's obligations under that paragraph are satisfied by the return of a true bill by a grand jury, unless the prosecutor believes that material inculpatory information presented to the grand jury was false.

3. Paragraph (b) does not forbid the lawful questioning of any person who has knowingly, intelligently and voluntarily waived the rights to counsel and to silence, nor does it forbid such questioning of any unrepresented person who has not stated that he wishes to retain a lawyer and who is not entitled to appointed counsel. See also Rule 4.03.

4. Paragraph (c) does not apply to any person who has knowingly, intelligently and voluntarily waived the rights referred to therein in open court, nor does it apply to any person appearing pro se with the approval of the tribunal. Finally, that paragraph does not forbid a prosecutor from advising an unrepresented accused who has not stated he wishes to retain a lawyer and who is not entitled to appointed counsel and who has indicated in open court that he wishes to plead guilty to charges against him of his pre-trial, trial and post-trial rights, provided that the advice given is accurate; that it is undertaken with the knowledge and approval of the court; and

that such a practice is not otherwise prohibited by law or applicable rules of practice or procedure.

5. The exception in paragraph (d) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest.

6. Subparagraph (e) does not subject a prosecutor to discipline for failing to take measures to prevent investigators, law enforcement personnel or other persons assisting or associated with the prosecutor, but not in his employ or under his control, from making extrajudicial statements that the prosecutor would be prohibited from making under Rule 3.07. To the extent feasible, however, the prosecutor should make reasonable efforts to discourage such persons from making statements of that kind.

Proposed Rule (Clean Version)

Rule 3.09. Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

(a) refrain from prosecuting or threatening to prosecute a charge that the prosecutor knows is not supported by probable cause;

(b) refrain from conducting or assisting in a custodial interrogation of an accused unless the prosecutor has made reasonable efforts to be assured that the accused has been advised of any right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) not initiate or encourage efforts to obtain from an unrepresented accused a waiver of important pre-trial, trial or post-trial rights;

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and

(e) exercise reasonable care to prevent persons employed or controlled by the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.07.

(f) When a prosecutor knows of new and credible information creating a reasonable likelihood that a convicted defendant did not commit an offense for which the defendant was convicted, the prosecutor shall, unless a court authorizes delay,

(1) if the conviction was obtained in the prosecutor's jurisdiction:

- (i) promptly disclose that information to:
 - (A) the defendant;
 - (B) the defendant's counsel, or if there is none, the indigent defense appointing authority in the jurisdiction, if one exists;
 - (C) the tribunal in which the defendant's conviction was obtained; and
 - (D) a statewide entity that examines and litigates claims of actual innocence.

(ii) if the defendant is not represented by counsel, or if unable to determine whether the defendant is represented by counsel, move the court in which the defendant was convicted to determine whether the defendant is indigent and thus entitled to the appointment of counsel.

(iii) cooperate with the defendant's counsel by promptly providing all information known to the prosecutor regarding the underlying matter and the new information.

(2) if the conviction was obtained in another jurisdiction, promptly disclose that information to the appropriate prosecutor in the jurisdiction where the conviction was obtained.

(g) A prosecutor who concludes in good faith that information is not subject to disclosure under paragraph (f) does not violate this rule even if the prosecutor's conclusion is subsequently determined to be erroneous.

(h) In paragraph (f), unless the context indicates otherwise, "jurisdiction" means the legal authority to represent the government in criminal matters before the tribunal in which the defendant was convicted.

Comment:

Source and Scope of Obligations

1. A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that no person is threatened with or subjected to the rigors of a criminal prosecution without good cause, that guilt is decided upon the basis of sufficient evidence, that any sentence imposed is based on all unprivileged information known to the prosecutor, and that special precautions are taken to prevent and to rectify the conviction of innocent persons. Precisely how far the prosecutor is required to go in this direction is a matter of debate and varies in different jurisdictions. Many jurisdictions have adopted the ABA Standard of Justice Relating to Prosecution Function, which in turn are the product of prolonged and careful deliberation by lawyers experienced in both criminal prosecution and defense. A prosecutor should not initiate or exploit any violation of a suspect's right to counsel, nor

should he initiate or encourage efforts to obtain waivers of important pretrial, trial or post-trial rights from unrepresented persons. A prosecutor is obliged by this rule to take reasonable measures to see that persons employed or controlled by him refrain from making extrajudicial statements that are prejudicial to the accused. See also Rule 3.03(a)(3), governing ex parte proceedings, among which grand jury proceedings are included. Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of Rule 8.04. In many instances, it may be appropriate for a prosecutor to inform his or her supervisor about information related to the duties set down by this Rule.

2. Paragraph (a) does not apply to situations where the prosecutor is using a grand jury to determine whether any crime has been committed, nor does it prevent a prosecutor from presenting a matter to a grand jury even though he has some doubt as to what charge, if any, the grand jury may decide is appropriate, as long as he believes that the grand jury could reasonably conclude that some charge is proper. A prosecutor's obligations under that paragraph are satisfied by the return of a true bill by a grand jury, unless the prosecutor believes that material inculpatory information presented to the grand jury was false.

3. Paragraph (b) does not forbid the lawful questioning of any person who has knowingly, intelligently and voluntarily waived the rights to counsel and to silence, nor does it forbid such questioning of any unrepresented person who has not stated that he wishes to retain a lawyer and who is not entitled to appointed counsel. See also Rule 4.03.

4. Paragraph (c) does not apply to any person who has knowingly, intelligently and voluntarily waived the rights referred to therein in open court, nor does it apply to any person appearing pro se with the approval of the tribunal. Finally, that paragraph does not forbid a prosecutor from advising an unrepresented accused who has not stated he wishes to retain a lawyer and who is not entitled to appointed counsel and who has indicated in open court that he wishes to plead guilty to charges against him of his pre-trial, trial and post-trial rights, provided that the advice given is accurate; that it is undertaken with the knowledge and approval of the court; and that such a practice is not otherwise prohibited by law or applicable rules of practice or procedure.

5. The exception in paragraph (d) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest.

6. Subparagraph (e) does not subject a prosecutor to discipline for failing to take measures to prevent investigators, law enforcement personnel or other persons assisting or associated with the prosecutor, but not in his employ or under his control, from making extrajudicial statements that the prosecutor would be prohibited from making under Rule 3.07. To the extent feasible, however, the prosecutor should make reasonable efforts to discourage such persons from making statements of that kind.

TRD-202300008
Haksoon Andrea Low
Disciplinary Rules and Referenda Attorney
State Bar of Texas
Filed: January 2, 2023

Capital Area Rural Transportation System

CARTS RFQ - Smithville Rehab - Professional Services

Capital Area Rural Transportation System (CARTS) invites qualified proposers to submit proposals for the architectural and engineering services CARTS requires to complete the renovation of its Smithville Station facility located at 300 NE Loop 230., Smithville, Texas 78957

An RFQ will be available for download on the CARTS Website beginning at 5:00 p.m., Thursday, December 22, 2022. Go to: <http://ridecarts.weebly.com/rfq-smithville-renovation.html>, and follow the instructions.

A non-mandatory pre-proposal meeting will be conducted at 2:00 p.m. January 10, 2023, at the Smithville Station.

Following are the required timeframes for the procurement:

Release of RFQ: December 22, 2022, 5:00 p.m.

Pre-Proposal/Pre-Response meeting: January 10, 2023, 2:00 p.m.

Written Questions: January 16, 2023, 5:00 p.m.

Responses to questions: January 20, 2023, 5:00 p.m.

Response Due Date: January 24, 2023, 2:00 p.m.

Interviews (if necessary): January 26, 2023 (TBD)

Selection and Award: February 2, 2023

Successful implementation/begin project: 30 days after notice to proceed

TRD-202205266
David L. Marsh
CARTS General Manager
Capital Area Rural Transportation System
Filed: December 29, 2022

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/09/23 - 01/15/23 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/09/23 - 01/15/23 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009³ for the period of 01/01/23 - 01/31/23 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009 for the period of 01/01/23 - 01/31/23 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

³ For variable rate commercial transactions only.

TRD-202300022
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: January 3, 2023

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 14, 2023**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **February 14, 2023**. 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 China; DOCKET NUMBER: 2022-1453-UTL-E; IDENTIFIER: RN101276855; LOCATION: China, Jefferson County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$510; ENFORCEMENT COORDINATOR: Carlos Flores, (915) 834-4964; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: City of Iraan; DOCKET NUMBER: 2022-1340-UTL-E; IDENTIFIER: RN101386241; LOCATION: Iraan, Pecos County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency

operations; PENALTY: \$500; ENFORCEMENT COORDINATOR: Claudia Bartley, (512) 239-1116; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(3) COMPANY: City of La Joya; DOCKET NUMBER: 2022-1467-UTL-E; IDENTIFIER: RN101276863; LOCATION: La Joya, Hidalgo County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$1,670; ENFORCEMENT COORDINATOR: Carlos Flores, (915) 834-4964; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(4) COMPANY: City of Quanah; DOCKET NUMBER: 2022-1418-UTL-E; IDENTIFIER: RN101389013; LOCATION: Quanah, Hardeman County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$1,200; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(5) COMPANY: Flint Hills Resources Corpus Christi, LLC; DOCKET NUMBER: 2022-0481-IWD-E; IDENTIFIER: RN100235266; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0000531000, Effluent Limitations and Monitoring Requirements Number 1, Outfall Number 004, by failing to comply with permitted effluent limitations; PENALTY: \$45,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$22,500; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(6) COMPANY: Gateway DS, LTD; DOCKET NUMBER: 2022-1258-UTL-E; IDENTIFIER: RN101269454; LOCATION: Dripping Springs, Hays County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$500; ENFORCEMENT COORDINATOR: Nick Lohret, (512) 239-4495; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(7) COMPANY: GREEN SPRINGS WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-0114-PWS-E; IDENTIFIER: RN101180792; LOCATION: Aubrey, Denton County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(e)(4)(A) and Texas Health and Safety Code, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds a Class D or higher license; 30 TAC §290.46(f)(2) and (3)(A)(i)(III) and (B)(iii), 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 §290.46(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)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appur-

tenances in a watertight condition and free of excessive solids; 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; and 30 TAC §290.46(v), by failing to ensure that the electrical wiring is securely installed in compliance with a local or national electrical code; PENALTY: \$4,040; ENFORCEMENT COORDINATOR: Samantha Duncan, (817) 588-5805; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Maverick Travel Center, LP; DOCKET NUMBER: 2022-0361-PST-E; IDENTIFIER: RN103028015; LOCATION: Eastland, Eastland County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) record-keeping requirements are met; 30 TAC §334.50(b)(2)(A)(i)(III) and TWC, §26.3475(a), by failing to test the line leak detector for performance and operational reliability at least once per year; and 30 TAC §334.51(b)(2)(C)(ii) and TWC, §26.3475(c)(2), by failing to equip each UST with a valve or other appropriate device that shall be designed to automatically restrict the flow of regulated substances into the tank when the liquid level in the tank reaches a preset level which shall be no higher than the 90% capacity level for the tank; PENALTY: \$4,288; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(9) COMPANY: Pine Ridge Water Supply Corporation; DOCKET NUMBER: 2022-1440-UTL-E; IDENTIFIER: RN101203354; LOCATION: Grand Saline, Smith County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$510; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(10) COMPANY: PORT ALTO HOMEOWNERS' ASSOCIATION DISTRICT #1, INCORPORATED; DOCKET NUMBER: 2022-0603-PWS-E; IDENTIFIER: RN101212132; LOCATION: Port Lavaca, Calhoun County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$1,375; ENFORCEMENT COORDINATOR: Daniel Brill, (512) 239-2564; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(11) COMPANY: Prasek's Hillje Smokehouse, INCORPORATED; DOCKET NUMBER: 2021-1252-IWD-E; IDENTIFIER: RN101256329; LOCATION: El Campo, Wharton County; TYPE OF FACILITY: sausage manufacturing and processing, restaurant, grocery, convenience store, and service station; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0004697000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$17,550; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202300013

Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 3, 2023



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 170973

APPLICATION. Tex Mix Partners, LLC, P.O. Box 830, Leander, Texas 78646-0830 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 170973 to authorize the operation of a permanent concrete batch plant with enhanced controls. The facility is proposed to be located at 2017 East Tinsley Road, Waco, McLennan County, Texas 76706. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=31.508055&lng=-97.085277&zoom=13&type=r>. This application was submitted to the TCEQ on November 11, 2022. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on December 23, 2022.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Wednesday, February 8, 2023, at 6:00 p.m.

Hyatt Place Waco South

5400 Bagby Avenue

Waco, Texas 76711

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public

comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Waco Regional Office, located at 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Tex Mix Partners, LLC, P.O. Box 830, Leander, Texas 78646-0830, or by calling Mr. Aaron Dalton, Project Engineer at (512) 759-1438.

Notice Issuance Date: December 23, 2022

TRD-202300038

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2023



Notice of Completion of Technical Review for Minor Amendment to Radioactive Material License Number R04100

Notice Issued On December 13, 2022

APPLICATION: Waste Control Specialists LLC (WCS), a commercial disposal of Low-Level Radioactive Waste (LLRW) and storage and processing of radioactive waste, located at 9998 State Highway 176 West in Andrews County Texas, has applied to the Texas Commission on Environmental Quality (TCEQ) for minor amendment to Radioactive Material License R04100 with an application received March 15, 2022. The amendment seeks to modify the definition of "In Transport" in license condition (LC) 11.T and security requirements in LC 48, add sluicing and consolidation of waste the Compact Waste Facility (CWF) Decontamination Building, authorize the relocation of three wastewater tanks (and add a new fourth tank) inside the Stabilization Building, increase financial assurance by \$9,895, extend storage deadline for the transuranic waste from Los Alamos National Laboratory (LANL) from May 31, 2021 to December 23, 2022, and modify Attachment C, the Waste Acceptance Criteria, to accommodate the proposed modifications. Additionally, a modification, dated May 11, 2022, to authorize void filling of containerized waste at the Federal Waste Facility (FWF) Decontamination Building, a modification, dated July 27, 2022, requesting design changes to the CWF liner, an increase in the maximum time allowed for disposing of waste after it has been received, and a modification, dated September 9, 2022, requesting a relocation of the area, due to planned construction for the Phase 2A CWF expansion, where solidification and void space verification can be performed to the north side of the CWF.

The Executive Director has determined that a minor amendment to the license is appropriate because the amendment application does not pose a detrimental impact and is in consideration of maintaining public health and safety, worker safety, and environmental health. The minor amendment application includes letters dated March 3, 2022, April 29,

2022, May 27, 2022, July 28, 2022, July 29, 2022, August 24, 2022, and September 14, 2022. The license was amended by initiative of the Executive Director to correct errors and for clarity. The license will not be amended to extend the time that the Licensee can store transuranic waste that originated at LANL to December 23, 2022.

The following link to an electronic map of the facility's general location is provided as a public courtesy and is not part of the notice: <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-103.063055%2C32.4425&level=12>. For an exact location, refer to the application.

The TCEQ Executive Director has completed the technical review of the amendment and supporting documents and has prepared a draft license. The draft license, if approved, would refine and add detail to the conditions under which the land disposal facility and the storage and processing facility must operate with regard to existing authorized receipt of wastes and does not change the type or concentration limits of wastes to be received. The Executive Director has made a preliminary decision that this license, if issued, meets all statutory and regulatory requirements. The license amendment application with supporting documents, the Executive Director's technical summary, and the amended draft license are available for viewing and copying at the Andrews Public Library, 109 NW 1st Street, Andrews, Texas 79714.

INFORMATION AVAILABLE ONLINE: For details about the status of the application, visit the Commissioners' Integrated Database 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: Public comments and requests must be submitted either electronically at <https://www.tceq.texas.gov/agency/decisions/cc/comments.html>, 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.

PUBLIC COMMENT/PUBLIC MEETING: You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the amendment. The TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the applications/amendments or if requested by a local legislator. A public meeting is not a contested case hearing. After the deadline for submitting public comments, the Executive Director may consider all timely comments and prepare a response to all relevant and material or significant public comments.

EXECUTIVE DIRECTOR ACTION: The amendment is subject to Commission rules which direct the Executive Director to act on behalf of the Commission and provide authority to the Executive Director to issue final approval of the application for amendment after consideration of all timely comments submitted on the application.

MAILING LIST: If you submit public comments or a request for reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and license or permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www.tceq.texas.gov/agency/decisions/cc/comments.html> within 10 days from the date of this notice or 10 days from the date of publication in the *Texas Register*; whichever is later.

AGENCY CONTACTS AND INFORMATION: If you need more information about this license application or the licensing process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040. General information about the TCEQ can be found at our web site at <https://www.tceq.texas.gov>.

Further information may also be obtained from WCS at the address stated above or by calling Mr. Jay Cartwright at (432) 525-8698.

TRD-202300043
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 4, 2023



Notice of Correction to Agreed Order Number 15

In the April 22, 2022, issue of the *Texas Register* (47 TexReg 2349), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 15, for Saeb Kutob dba ARP FOOD STORE; Docket Number 2021-1113-PST-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$12,686."

For questions concerning the error, please contact Michael Parrish at (512) 239-2548.

TRD-202300014
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 3, 2023



Notice of District Petition

Notice issued December 28, 2022

TCEQ Internal Control No. D-072022-033; Samuell Sparkman Brindley Trust (Petitioner) filed a petition for creation Johnson County Municipal Utility District No. 1 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 333.232 acres located within Johnson County, Texas; and (4) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Mansfield, Texas (City), and no portion of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. In accordance with Local Government Code Section 42.042 and Texas Water Code Section 54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a

petition to the City to provide water and sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code Section 54.016(c) expired and information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code Section 54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to proceed to the TCEQ for inclusion of their Property into the District. The petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with 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, from the information available at this time, that the cost of said project will be approximately \$67,335,000 (\$57,735,000 utilities plus \$9,600,000 roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site 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 web site, 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 web site at www.tceq.texas.gov.

TRD-202300039

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2023

Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 14, 2023**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 14, 2023**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: HENDERSON DRIVE INN, INC.; DOCKET NUMBER: 2021-1425-PST-E; TCEQ ID NUMBER: RN102462249; LOCATION: 103 Henderson Street, Palacios, Matagorda County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(d), 30 TAC §334.49(a)(1), and TCEQ Agreed Order, Docket Number 2018-1142-PST-E, Ordering Provision Number 2.b.i., by failing to provide corrosion protection for the UST system; TWC, §26.3475(c)(1), 30 TAC §334.50(b)(1)(A), and TCEQ Agreed Order, Docket Number 2018-1142-PST-E, Ordering Provision Number 2.b.ii., by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a), 30 TAC §334.50(b)(2), and TCEQ Agreed Order, Docket Number 2018-1142-PST-E, Ordering Provision Number 2.b.iii., by failing to provide release detection for the piping associated with the UST system; 30 TAC §334.10(b)(2) and TCEQ Agreed Order, Docket Number 2018-1142-PST-E, Ordering Provision Number 2.a., by failing to assure that all UST recordkeeping requirements are met; 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, B, and C - for the facility; PENALTY: \$89,830; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202300017
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 3, 2023



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 14, 2023**. 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 February 14, 2023**. 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: 7-ELEVEN, INC. dba 7-Eleven Store 41667; DOCKET NUMBER: 2021-0616-PST-E; TCEQ ID NUMBER: RN102277118; LOCATION: 1605 West Church Street, Livingston, Polk County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 (relating to Reporting of Suspected Releases) within 30 days; 30 TAC §334.48(g), by failing to conduct the triennial tightness testing for the spill prevention equipment and containment sumps used for interstitial monitoring of piping; TWC, §26.3475(c)(2) and 30 TAC §334.51(a)(6), by failing to ensure that all installed spill and overflow prevention devices are maintained in good operating condition; and 30 TAC §334.10(b)(2), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$24,964; STAFF ATTORNEY: Misty James, Litigation, MC 175, (512) 239-0631; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: L. Guerrero & Sons Ready-Mix Company; DOCKET NUMBER: 2020-0424-WQ-E; TCEQ ID NUMBER: RN102556719;

LOCATION: 770 Walsh Road, Rosenberg, Fort Bend County; TYPE OF FACILITY: concrete production facility; RULES VIOLATED: 30 TAC §305.125(1) and (17) and §319.7(d), and Texas Pollutant Discharge Elimination System Permit Number TXG111258, Part IV, Standard Permit Condition Number 7, by failing to submit monitoring results at intervals specified in the permit; PENALTY: \$6,750; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202300016
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 3, 2023



Notice of Public Meeting for an Air Quality Permit Proposed Permit Number: 170524

APPLICATION. Houston Crushed Concrete, L.L.C. has applied to the Texas Commission on Environmental Quality (TCEQ) for issuance of Proposed Air Quality Permit Number 170524, which would authorize construction of a Concrete Crusher & Soil Stabilization Plant located at 2715 Appelt Drive, Houston, Harris County, Texas 77015. This application was processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. **AVISO DE IDIOMA ALTERNATIVO.** El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/air/newsourcereview/air-permits-pendingpermit-apps>. This application was submitted to the TCEQ on September 27, 2022. The proposed facility will emit the following contaminants: particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, February 6, 2023 at 7:00 p.m.
Holiday Inn Houston East - Channelview
16311 East Freeway
Channelview, Texas 77530

INFORMATION. Members of the public are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ Houston regional office, and at the North Channel Branch Library, 15741 Wallisville Road, Houston, Harris County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk Street Suite H, Houston, Texas. Further information may also be obtained from Houston Crushed Concrete, L.L.C. at 1748 Oak Tree Drive, Houston, Texas 77080-7240, or by calling Mr. Venkata Godasi, Graduate Engineer, AARC Environmental, Inc., at (713) 974-2272.

INFORMATION AVAILABLE ONLINE. When they become available, the executive director's response to comments and the final decision on this application will be accessible through the Commission's Web site 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. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.767222&lng=-95.1481&zoom=13&type=r>.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or 1-800-RELAY-TX (TDD) at least five business days prior to the meeting.

Notice Issuance Date: January 03, 2023

TRD-202300042

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2023



Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment

Notice issued on December 28, 2022

Proposed Permit No. 2415

Application. 4283929 Delaware LLC, 511 New Hope Road West, McKinney, Collin County, Texas 75071, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit to authorize a municipal solid waste Type V processing facility, to operate as an animal crematory. The site is located at 511 New Hope Road West, McKinney, in Collin County, Texas. The TCEQ received this application on August 10, 2022. The permit application is available for view-

ing and copying at the Melissa Public Library, 3411 Barker Avenue, Melissa, Collin County, Texas 75454 and may be viewed online at <https://source-environmental.com>. 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/WyPuy>. For exact location, refer to application.

Alternative Language Notice. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_posted_apps.html. El aviso en otro idioma en español está disponible en https://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_posted_apps.html.

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. 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. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include The Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period, and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

Mailing List. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

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 and requests must be submitted either electronically at 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.

Further information may also be obtained from 4283929 Delaware, LLC at the address stated above or by calling Mr. George Chandlee at (713) 621-4474.

TRD-202300040

Laurie Gharis
Chief Clerk

Texas Commission on Environmental Quality
Filed: January 4, 2023



Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment

Notice issued on December 29, 2022

Proposed Permit No. 1841C

Application. Texas Regional Landfill Company, LP, 3 Waterway Square Place, Suite 550, The Woodlands, Texas 77380, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit amendment to authorize a lateral expansion at the existing Type IV Travis County Landfill. The facility is located at 9600 FM 812, Austin, 78719, in Travis County, Texas. The TCEQ received this application on November 18, 2022. The permit application is available for viewing and copying at the Elroy Community Library, 13512 FM 812, Del Valle, Texas 78617, in Travis County, and may be viewed online at <https://prj.geosyntec.com/TXPermits/TravisCoLandfill.aspx>. 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/1Cfu5P>. For exact location, refer to application.

Alternative Language Notice. Alternative language notice in Spanish is available at www.tceq.texas.gov/goto/mswapps. La notificación en otro idioma en español está disponible en www.tceq.texas.gov/goto/mswapps.

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. 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. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include The Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period, and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant

and material to the Commission's decision on the application submitted during the comment period.

Mailing List. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

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 and requests must be submitted either electronically at 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.

Further information may also be obtained from Texas Regional Land-fill Company, LP at the address stated above or by calling Mr. Brett O'Connor, Regional Engineering Manager at (832) 442-2920.

TRD-202300041

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2023

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Office of the Governor

Notice of Available Funding Opportunities

Office of the Governor, Public Safety Office (PSO)

The Public Safety Office is announcing the following funding opportunities for State Fiscal Year 2024. Details for these opportunities, including the open and close date for the solicitation, can be found on the eGrants Calendar (<https://eGrants.gov.texas.gov/fundopp.aspx>).

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

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

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

TRD-202300044

Angie Martin

Director of Grant Administration

Office of the Governor

Filed: January 4, 2023

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Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Updates to Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 3, 2023, at 9:00 a.m., to receive public comments on proposed updates to Medicaid payment rates resulting from Calendar Fee Reviews, Medical Policy Reviews, and Healthcare Common Procedure Coding System HCPCS Reviews.

This hearing will be conducted both in-person and as an online event. To join the hearing from your computer, tablet, or smartphone, register for the hearing in advance using the following link:

Registration URL:

<https://attendee.gotowebinar.com/register/6230594173097043807>

Webinar ID: 771-673-795

Conference Number (for those who use phone Audio and not a computer: (562) 247-8321

Phone Audio Passcode: 411-329-941

Audio PIN: (Please note, in order to receive a PIN to speak, registration is required.)

Members of the public may attend the rate hearing in person, which will be held in the Public Hearing Room 125 in the John H Winters Building located at 701 W 51st Street, Austin, Texas, or they may access a live stream of the meeting at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. For the live stream, select the "Winters Live" tab. A recording of the hearing will be archived and accessible on demand at the same website under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The effective date of the proposed payment rates for the topics presented during the rate hearing will be as follows:

Effective December 8, 2022

- HCPCS Review:

-- COVID-19 Vaccine Administration Codes.

Effective January 1, 2023

- 2023 Annual HCPCS Review:

-- Physician Administered Drugs - Type of Service (TOS) 1 (Medical Services);

-- Non-Drugs - TOS 1;

-- Surgery Services - TOS 2 (Surgery Services), and TOS 8 (Assistant Surgery);

-- Radiological Services - TOS 4 (Radiology), TOS I (Professional Component), and TOS T (Technical Component);

-- Radiological Services - TOS 4 - Hospitals (CT 023)

-- Clinical Diagnostic Laboratory Services - TOS 5 (Laboratory);

- Durable Medical Equipment, Prosthetics, Orthotics, and Supplies - TOS 9 (Other Medical Items or Services), TOS J (DME Purchase-New), and TOS L (DME Rental-Monthly); and
- Ambulatory Surgical Center - TOS F (Ambulatory Surgical Center and Hospital-based Ambulatory Surgical Center).

Effective April 1, 2023

- Medicaid Biennial Review:
- Long-Acting Reversible Contraceptives (LARCS);
- Medical Policy Review:
- VDP Drug Cleanup;
- 2022 Q3 HCPCS Review:
- Clinical Diagnostic Laboratory Services - TOS 5; and
- Durable Medical Equipment, Prosthetics, Orthotics, and Supplies - TOS L.

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

Section 355.8023, Reimbursement Methodology for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS);

Section 355.8061, Reimbursement for Outpatient Hospitals;

Section 355.8085, Reimbursement Methodology for Physicians and Other Practitioners;

Section 355.8121, Reimbursement for Ambulatory Surgical Centers;

Section 355.8441, Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services (also known as Texas Health Steps);

Section 355.8581, Reimbursement Methodology for Family Planning Services;

Section 355.8610, Reimbursement methodology for Clinical Laboratory Services

Section 355.8641, Reimbursement Methodology for the Women's Health Program.

Rate Hearing Packet. A briefing packet describing the proposed payment rates will be made available at <https://pfd.hhs.texas.gov/rate-packets> on or after January 24, 2022. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7401; by fax at (512) 730-7475; or by e-mail at PFDAcuteCare@hhs.texas.gov.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by e-mail to PFDAcuteCare@hhs.texas.gov. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 Guadalupe St, Austin, Texas 78751.

Preferred Communication. For quickest response please use e-mail or phone if possible for communication with HHSC related to this rate hearing.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512)

730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202300021

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 3, 2023



Statewide Transition Plan for Medicaid Home and Community Based Services Settings

Public Notice: Statewide Transition Plan for Medicaid Home and Community Based Services Settings

The Texas Health and Human Services Commission (HHSC) announces its intent to submit a Statewide Transition Plan (STEP) to the Centers for Medicare & Medicaid Services (CMS) for approval, as required in Title 42 Code of Federal Regulations, Sections 441.301(c)(6) and 441.710(a)(3). The STEP describes HHSC's planned activities to achieve full and ongoing compliance with the federal Home and Community Based Services (DABS) settings regulations. The STEP is expected to be submitted to CMS in February 2023.

CMS has issued federal regulations that add requirements for settings where Medicaid DABS are provided. The regulations require that a Medicaid DABS setting be selected by the person receiving Medicaid DABS. Medicaid DABS settings must also be integrated in and support the person's full access to the community. CMS has given states until March 17, 2023, to bring Medicaid DABS settings into compliance with the regulations.

CMS requires states to submit an STEP describing their planned initiatives and activities to achieve compliance with the federal DABS settings regulations. The STEP must include:

- An assessment of settings where Medicaid DABS are provided;
- Rendition strategies for settings that do not meet the requirements of the regulations;
- A summary of public and stakeholder input on the assessment processes and rendition strategies; and
- A summary of public comments received on the transition plan and any revisions made to the plan in response to public comment.

HHSC has amended the version of the STEP previously submitted to CMS based on public comments and guidance from CMS. This amended version of the STEP includes updated information on site-specific assessments conducted for the following setting types:

- Three-person and four-person residences and host home and companion care residences in the Home and Community-based Services (HAS) waiver program;
- Adult foster care homes in the Strapless DABS waiver program; and
- Assisted living facilities in the Deaf Blind with Multiple Disabilities waiver program.

The amended STEP can be found at: <https://www.hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-programs-services/home-community-based-services>.

Copy of STEP: Interested parties may obtain a free copy of the STEP by contacting Rachel Neely, Senior Policy Advisor, by U.S. mail, telephone, fax, or by email at the addresses below.

Written Comments: Written comments must be submitted by February 13, 2023. Written comments, requests to review comments, or both

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: Rachel Neely, Office of Policy

John H. Winters Complex

701 W 51st Street

Mail Code H-600 Austin, Texas 78751

Overnight mail, special delivery mail, or hand delivery:

Texas Health and Human Services Commission

Attention: Rachel Neely, Office of Policy

John H. Winters Complex

701 W 51st Street

Mail Code H-600

Austin, Texas 78751

Phone number for package delivery: (512) 438-4297

Fax:

Attention: Rachel Neely, Office of Policy at (512) 438-5835

Email:

Medicaid_HCBS@hhs.texas.gov

TRD-202300009

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 2, 2023

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Texas Department of Insurance, Division of Workers' Compensation

Correction of Error

The Texas Department of Insurance, Division of Workers' Compensation (department) proposed amendments to 28 TAC §§127.5, 127.20, and 127.200 in the December 23, 2022, issue of the *Texas Register* (47 TexReg 8495). Due to errors by the department as submitted and by the Texas Register as published, the text for 28 TAC §§127.5(d)(1), 127.20(a)(2), and 127.200(a)(3)(E) was published incorrectly. The text should have read as follows:

For 28 TAC §127.5(d)(1):

(1) One list will consist of designated doctors qualified to perform examinations under §127.130(b)(1) - (4) of this title. [~~;~~ ~~and the~~]

For 28 TAC §127.20(a)(2):

(2) The division may contact the designated doctor if it determines that clarification is necessary to resolve an issue regarding the designated doctor's report.

For 28 TAC §127.200(a)(3)(E):

(E) do not constitute an improper inducement relating to the delivery of benefits to an [~~and~~] injured employee under Labor Code §415.0036 and §180.25 of this title (relating to Improper Inducements, Influence and Threats); and

TRD-202300012

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Texas Lottery Commission

Scratch Ticket Game Number 2473 "LUCKY SYMBOLS"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2473 is "LUCKY SYMBOLS". The play style is "key symbol match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2473 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2473.

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: HORSE-SHOE SYMBOL, VAULT SYMBOL, PURSE SYMBOL, GOLD BAR SYMBOL, RING SYMBOL, GRAPES SYMBOL, HEART SYMBOL, TURTLE SYMBOL, COCONUT SYMBOL, PIGGY-BANK SYMBOL, PINEAPPLE SYMBOL, NECKLACE SYMBOL, KIWI SYMBOL, TROPHY SYMBOL, MEDAL SYMBOL, POT OF GOLD SYMBOL, KEY SYMBOL, RABBIT SYMBOL, APPLE SYMBOL, CARDS SYMBOL, TREASURE SYMBOL, STRAWBERRY SYMBOL, WALLET SYMBOL, SHELL SYMBOL, CLOVER SYMBOL, BAR SYMBOL, COIN SYMBOL, CHIPS SYMBOL, DIAMOND SYMBOL, CROWN SYMBOL, MONEY BAG SYMBOL, BELL SYMBOL, 5X SYMBOL, 10X SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$200, \$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. 2473 - 1.2D

PLAY SYMBOL	CAPTION
HORSESHOE SYMBOL	HSHOE
VAULT SYMBOL	VAULT
PURSE SYMBOL	PURSE
GOLD BAR SYMBOL	GOLD
RING SYMBOL	RING
GRAPES SYMBOL	GRAPES
HEART SYMBOL	HEART
TURTLE SYMBOL	TURTLE
COCONUT SYMBOL	COCONUT
PIGGYBANK SYMBOL	PIGBANK
PINEAPPLE SYMBOL	PINEAPPLE
NECKLACE SYMBOL	NECKLACE
KIWI SYMBOL	KIWI
TROPHY SYMBOL	TROPHY
MEDAL SYMBOL	MEDAL
POT OF GOLD SYMBOL	POTGOLD
KEY SYMBOL	KEY
RABBIT SYMBOL	RABBIT
APPLE SYMBOL	APPLE
CARDS SYMBOL	CARDS
TREASURE SYMBOL	TREASURE
STRAWBERRY SYMBOL	STBERRY
WALLET SYMBOL	WALLET
SHELL SYMBOL	SHELL
CLOVER SYMBOL	CLOVER
BAR SYMBOL	BAR
COIN SYMBOL	COIN

CHIPS SYMBOL	CHIPS
DIAMOND SYMBOL	DIAMOND
CROWN SYMBOL	CROWN
MONEY BAG SYMBOL	BAG
BELL SYMBOL	BELL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$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 (2473), 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: 2473-0000001-001.

H. Pack - A Pack of the "LUCKY SYMBOLS" 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 "LUCKY SYMBOLS" Scratch Ticket Game No. 2473.

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 "LUCKY SYMBOLS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-five (45) Play Symbols. If a player matches any of YOUR SYMBOLS Play Symbols to any of the LUCKY SYMBOLS Play Symbols, the player wins the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly forty-five (45) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
 2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
 3. Each of the Play Symbols must be present in its entirety and be fully legible;
 4. Each of the Play Symbols must be printed in black ink except for dual image games;
 5. The Scratch Ticket shall be intact;
 6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
 7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
 8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
 9. The Scratch Ticket must not be counterfeit in whole or in part;
 10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
 11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
 12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
 13. The Scratch Ticket must be complete and not miscut, and have exactly forty-five (45) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
 14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
 15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
 16. Each of the forty-five (45) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
 17. Each of the forty-five (45) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
 18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
 19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.
- B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: 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. KEY SYMBOL MATCH: No matching non-winning YOUR SYMBOLS Play Symbols on a Ticket.

D. KEY SYMBOL MATCH: No matching LUCKY SYMBOLS Play Symbols on a Ticket.

E. KEY SYMBOL MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

F. KEY SYMBOL MATCH: A Ticket may have up to three (3) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

G. KEY SYMBOL MATCH: The "5X" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

H. KEY SYMBOL MATCH: The "10X" (WINX10) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY SYMBOLS" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY SYMBOLS" 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 "LUCKY SYMBOLS" 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 "LUCKY

SYMBOLS" 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 "LUCKY SYMBOLS" 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 7,080,000 Scratch Tickets in Scratch Ticket Game No. 2473. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2473 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	849,600	8.33
\$10.00	566,400	12.50
\$15.00	141,600	50.00
\$20.00	141,600	50.00
\$50.00	94,400	75.00
\$100	22,715	311.69
\$200	4,897	1,445.78
\$500	1,180	6,000.00
\$1,000	55	128,727.27
\$100,000	6	1,180,000.00

*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. 2473 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. 2473, 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-202300015
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: January 3, 2023



Scratch Ticket Game Number 2506 "\$250,000 50X Cashword"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2506 is "\$250,000 50X CASHWORD". The play style is "crossword".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2506 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2506.

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: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, BLACKENED SQUARE SYMBOL, 2X SYMBOL, 3X SYMBOL, 5X SYMBOL, 10X SYMBOL, 50X 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. 2506 - 1.2D

PLAY SYMBOL	CAPTION
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	
N	
O	
P	
Q	
R	
S	
T	
U	
V	
W	
X	
Y	
Z	
BLACKENED SQUARE SYMBOL	

2X SYMBOL	WINX2
3X SYMBOL	WINX3
5X SYMBOL	WINX5
10X SYMBOL	WINX10
50X SYMBOL	WINX50

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 (2506), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2506-0000001-001.

H. Pack - A Pack of the "\$250,000 50X CASHWORD" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket back 001 and 050 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$250,000 50X CASHWORD" Scratch Ticket Game No. 2506.

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 "\$250,000 50X CASHWORD" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose three hundred thirteen (313) Play Symbols. \$250,000 50X CASHWORD PLAY INSTRUCTIONS: The player completely scratches all of the YOUR 20 LETTERS. The player then scratches all the letters found in GAME 1, GAME 2 and GAME 3 that exactly match the YOUR 20 LETTERS. If the player has scratched at least 2 complete WORDS within a GAME, the player wins the prize found in the corresponding PRIZE LEGEND. WORDS revealed in one GAME cannot be combined with WORDS revealed in another GAME. Each GAME is played separately. Only 1 prize paid per GAME. Only letters within the same GAME that are matched with the YOUR 20 LETTERS can be used to form a complete WORD. In each GAME, every lettered square within an unbroken horizontal (left to right) or vertical (top to bottom) sequence must be matched with the YOUR 20 LETTERS to be considered a complete WORD. Words

revealed in a diagonal sequence are not considered valid WORDS. Words within WORDS are not eligible for a prize. Words that are spelled from right to left or bottom to top are not eligible for a prize. A complete WORD must contain at least 3 letters. GAME 1 and GAME 2 can win by revealing 2 to 11 complete WORDS on each GAME. GAME 3 can win by revealing 2 to 9 complete WORDS. MULTIPLIER: Scratch the 2 MULTIPLIER SYMBOLS. Reveal 2 matching MULTIPLIER SYMBOLS, multiply the total prize won in GAMES 1, 2, and 3 by that multiplier and win that amount. For example, revealing 2 "10X" MULTIPLIER SYMBOLS will multiply the total prize won by 10 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 three hundred thirteen (313) 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 three hundred thirteen (313) 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 three hundred thirteen (313) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the three hundred thirteen (313) 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: There is no correlation between any exposed data on a Ticket and its status as a winner or non-winner.

C. CROSSWORD GAMES: Each grid from GAME 1 and GAME 2 will contain exactly the same number of letters.

D. CROSSWORD GAMES: Each grid from GAME 1 and GAME 2 will contain exactly the same number of words.

E. CROSSWORD GAMES: No matching words on a Ticket.

F. CROSSWORD GAMES: All words used will be from the TX APPROVED WORDS v.2.042321, dated April 23, 2021.

G. CROSSWORD GAMES: All words used will contain a minimum of three (3) letters.

H. CROSSWORD GAMES: All words used will contain a maximum of nine (9) letters.

I. CROSSWORD GAMES: There will be a minimum of three (3) vowels in the YOUR 20 LETTERS play area. Vowels are considered to be A, E, I, O, U.

J. CROSSWORD GAMES: No consonant will appear more than nine (9) times, and no vowel will appear more than fourteen (14) times in GAME 1 and GAME 2.

K. CROSSWORD GAMES: No consonant will appear more than seven (7) times, and no vowel will appear more than ten (10) times in GAME 3.

L. CROSSWORD GAMES: No matching Play Symbols in the YOUR 20 LETTERS play area.

M. CROSSWORD GAMES: At least fifteen (15) of the letters in the YOUR 20 LETTERS play area will open at least one (1) letter in GAME 1 (11X11), GAME 2 (11X11) and GAME 3 (7X7) crossword grids combinations.

N. CROSSWORD GAMES: The presence or absence of any letter or combination of letters in the YOUR 20 LETTERS play area will not be indicative of a winning or Non-Winning Ticket.

O. CROSSWORD GAMES: Words from the TX PROHIBITED WORDS v. 2.042321, dated April 23, 2021, will not appear horizontally in the YOUR 20 LETTERS play area when read left to right or right to left.

P. CROSSWORD GAMES: There will be a random distribution of all Play Symbols on the Ticket, unless restricted by other parameters, play action or prize structure.

Q. CROSSWORD GAMES: GAME 1 and GAME 2 will have no more than eleven (11) complete words per grid.

R. CROSSWORD GAMES: GAME 3 will have no more than nine (9) complete words.

S. CROSSWORD GAMES: A Ticket can only win one (1) time per GAME and a total of up to three (3) times per Ticket in accordance with the approved prize structure.

T. CROSSWORD GAMES: Each Ticket in a Pack will have unique GAMES.

U. MULTIPLIER: Two (2) matching MULTIPLIER SYMBOLS Play Symbols of "2X" (WINX2), "3X" (WINX3), "5X" (WINX5), "10X" (WINX10) OR "50X" (WINX50) will only appear on winning Tickets, as dictated by the prize structure.

V. MULTIPLIER: Tickets that do not win in the "MULTIPLIER" play area will display two (2) different MULTIPLIER SYMBOLS Play Symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$250,000 50X CASHWORD" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$80.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$80.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and

the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$250,000 50X CASHWORD" Scratch Ticket Game prize of \$1,000, \$10,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$250,000 50X CASHWORD" 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 "\$250,000 50X CASHWORD" 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 "\$250,000 50X CASHWORD" 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 24,000,000 Scratch Tickets in Scratch Ticket Game No. 2506. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2506 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	2,640,000	9.09
\$20.00	1,680,000	14.29
\$30.00	1,680,000	14.29
\$50.00	480,000	50.00
\$80.00	90,000	266.67
\$100	145,000	165.52
\$200	23,800	1,008.40
\$500	4,000	6,000.00
\$1,000	2,400	10,000.00
\$10,000	36	666,666.67
\$250,000	10	2,400,000.00

*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 3.56. 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. 2506 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. 2506, 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-202205261
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: December 28, 2022

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Public Utility Commission of Texas

Notice of Application for Recovery of Universal Service Funding

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on December 2, 2022, for recovery of universal service funding under Public Utility Regulatory Act (PURA) § 56.025 and 16 Texas Administrative Code (TAC) §26.406.

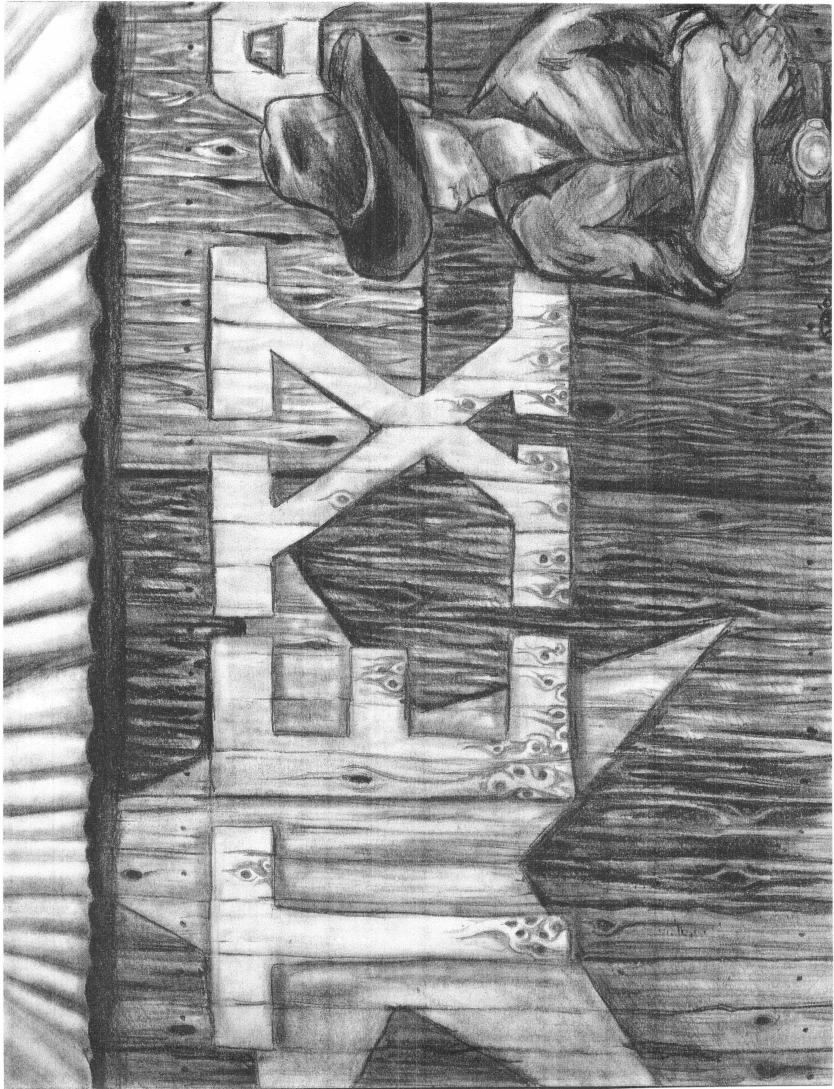
Docket Style and Number: Application of Community Telephone Company, Inc. to Recover Funds from the TUSF under PURA § 56.025 and 16 TAC §26.406 for Calendar Year 2021, Docket Number 54415.

The Application: Community Telephone Company, Inc. seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communications Commission actions resulting in a reduction in the Federal Universal Service Fund (FUSF) revenues available to Community Telephone Company for 2021. Community Telephone Company requests that the Commission allow recovery of funds from the TUSF in the amount of \$1,569,705.67 for 2021 to replace the projected reduction in FUSF revenue.

Persons wishing to intervene or comment on the action sought should contact the Commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 54415.

TRD-202300037
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2023





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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