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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 February 3, 2023

Appointed as the Deputy Adjutant General for Air for a term to expire at the pleasure of the Governor, Andrea J. Camacho of Pearland, Texas (replacing Thomas M. "Tom" Suelzer of Keller).

Appointments for February 6, 2023

Appointed to the Governor's Commission for Women for a term to expire December 31, 2023, Ashley B. Cash of Lubbock, Texas (replacing Elisabeth A. "Ashlee" Kleinert of Dallas, who resigned).

Appointments for February 7, 2023

Appointed to the Podiatric Medical Examiners Advisory Board for a term to expire February 1, 2027, Kristin L. Luckey of Harlingen, Texas (replacing Amanda S. Nobles of Longview, who resigned).

Greg Abbott, Governor

TRD-202300573



Proclamation 41-3956

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on January 26, 2023, certifying under Section 418.014 of the Texas Government Code that severe storms and tornadoes pose a threat of imminent disaster for Harris and Orange Counties; and

WHEREAS, the certified conditions continue to exist and pose an ongoing and imminent threat of disaster as set forth in the prior proclamations; and

WHEREAS, communications with county officials have confirmed that the certified conditions now also pose an ongoing and imminent threat of disaster in Jefferson and Liberty Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster for Harris, Jefferson, Liberty, and Orange Counties. All orders, directions, suspensions, and authorizations provided in the Proclamation of January 26, 2023, are in full force and effect.

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

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or

property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 30th day of January, 2023.

Greg Abbott, Governor

TRD-202300574



Proclamation 41-3957

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 8, 2022, as amended and renewed in a number of subsequent proclamations, certifying that exceptional drought conditions posed a threat of imminent disaster in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these counties in Texas.

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Andrews, Aransas, Atascosa, Austin, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brown, Burnet, Caldwell, Callahan, Cameron, Castro, Childress, Collingsworth, Comal, Comanche, Coryell, Cottle, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Eastland, Erath, Falls, Fisher, Floyd, Foard, Gaines, Garza, Gillespie, Gonzales, Grimes, Guadalupe, Hale, Hamilton, Hansford, Hardeman, Hartley, Hays, Henderson, Hidalgo, Howard, Hutchinson, Jones, Kendall, Kerr, King, Kinney, Lipscomb, Lubbock, Lynn, Martin, McLennan, Medina, Mills, Mitchell, Montgomery, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Polk, Potter, Randall, Real, Roberts, Scurry, Shackelford, Sherman, Stonewall, Swisher, Taylor, Terry, Travis, Uvalde, and Yoakum Counties.

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

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the

suspension of such statutes and rules for the duration of this declared disaster.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 30th day of January, 2023.

Greg Abbott, Governor

TRD-202300576



Proclamation 41-3958

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that severe winter weather and heavy rain pose a threat of imminent disaster, including widespread and severe property damage, injury, and loss of life, due to significant ice accumulations, sub-freezing temperatures, freezing rain and sleet, hazardous travel disruptions, power outages, and heavy rains in Denton, Hays, Henderson, Milam, Smith, Travis, and Williamson Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties based on the existence of such threat.

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

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 4th day of February, 2023.

Greg Abbott, Governor

TRD-202300577



THE ATTORNEY GENERAL

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

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

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

Requests for Opinions

The Honorable Donna Campbell, M.D.
Chair, Senate Committee on Nominations
Texas State Senate

Post Office Box 12068
Austin, Texas 78711-2068

Re: Whether a corporate entity may serve as a substitute trustee for purposes of conducting a mortgage foreclosure sale under Property Code chapter 51 (RQ-0466-KP)

S U M M A R Y

Property Code chapter 51 relates to liens created against real property as enforcement of a deed of trust. It authorizes a trustee or a substitute trustee to conduct a foreclosure sale and defines both using the term "person." Absent limitation in chapter 51 and utilizing the general definition of "person" from the Code Construction Act, a court would likely conclude that a corporate entity is a "person" and thus may serve as a substitute trustee for purposes of conducting a mortgage foreclosure sale under Property Code chapter 51.

Opinion No. KP-0425

The Honorable Robert Love
Randall County Criminal District Attorney
2309 Russell Long Boulevard, Suite 120
Canyon, Texas 79015

The Honorable Randall Sims
47th District Attorney
501 South Fillmore, Suite 5A
Amarillo, Texas 79101

The Honorable Scott Brumley
Potter County Attorney
500 South Fillmore, Room 301
Amarillo, Texas 79101

Re: Whether an amusement machine is a gambling device under section 47.01 of the Penal Code where the amount awarded from play is determined partially by chance (RQ-0457-KP)

S U M M A R Y

Penal Code section 47.06 criminalizes possession of a gambling device. Subsection 47.01(4)'s definition of gambling device includes specified contrivances that afford a player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance. It is unlikely a court would conclude that subsection 47.01(4) excludes an amusement machine where the amount awarded from play is partially determined by chance. Because it involves the resolution of fact questions, we do not opine on whether a particular amusement machine constitutes a gambling device.

Opinion No. KP-0426

Mr. Darrel D. Spinks

Executive Director Texas Behavioral Health Executive Council
333 Guadalupe, Suite 3-900
Austin, Texas 78701

Re: Authority of the Behavioral Health Executive Council to repeal rules under Occupations Code subsection 507.153(a) (RQ-0445-KP)

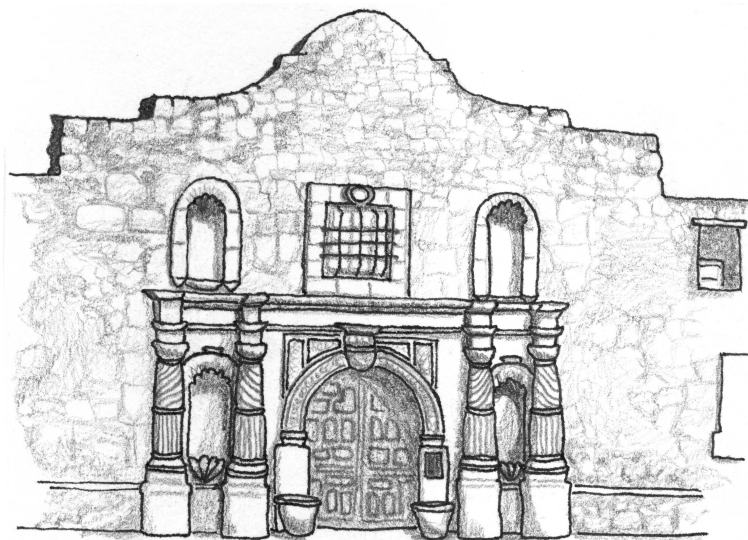
S U M M A R Y

Occupations Code chapter 507 creates the Texas Behavioral Health Executive Council to consolidate regulation and administration of four behavioral health professions. Subsection 507.153(a) authorizes the Council to adopt rules on certain subjects related to the practice for the four professions but only if the rule is first proposed by the examining board for the particular profession. To the extent subsection 507.153(a) may conflict with the Council's responsibility as a state agency to review and adopt, readopt, or modify its rules under Government Code section 2001.039, subsection 507.153(a) prevails. A court would likely conclude that the Council may not repeal part of a rule that concerns one of the subjects in Occupations Code subsection 507.153(a) on its own proposal.

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

TRD-202300568
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: February 7, 2023





PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER G. STAR+PLUS

1 TAC §353.610

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §353.610, concerning Minimum Performance Standards for Nursing Facilities that Participate in the STAR+PLUS Program.

BACKGROUND AND PURPOSE

The proposed new rule implements Texas Government Code §533.00251(h), added by House Bill 2658, 87th Legislature, Regular Session, 2021. Texas Government Code §533.00251 requires HHSC to establish minimum performance standards for nursing facility providers seeking to participate in the STAR+PLUS Medicaid managed care program. Subsection (h) directs HHSC to adopt rules establishing standards for nursing facility providers that participate in the STAR+PLUS Program; monitor provider performance in accordance with the standards and requiring corrective action, as HHSC determines necessary, from providers that do not meet the standards; and share data regarding the requirements with STAR+PLUS Medicaid managed care organizations, as appropriate.

SECTION-BY-SECTION SUMMARY

Proposed new §353.610(a) sets forth that the purpose of the rule is to establish minimum performance standards applicable to nursing facility providers that participate in the STAR+PLUS Program.

Proposed new §353.610(b) defines the terms used in the new rule, including "corrective actions," "long stay quality measures," "MDS--Minimum data set," and "minimum performance standards."

Proposed new §353.610(c) sets forth that HHSC establishes select Centers for Medicare & Medicaid Services nursing facility long stay quality measures from the minimum data set (MDS) and associated HHSC benchmarks as the minimum performance standards for evaluating the performance of a nursing facility and lists the specific measures and benchmarks that will be used as standards, including:

(1) N028.02 Percent of residents whose need for help with activities of daily living has increased. The benchmark is 30%. Nursing facilities do not meet the benchmark if HHSC determines that

more than 30% of residents have an increased need for help with activities of daily living.

(2) N015.03 Percent of high-risk residents with pressure ulcers. The benchmark is 17%. Nursing facilities do not meet the benchmark if HHSC determines that more than 17% of high-risk residents have pressure ulcers.

(3) N016.03 Percent of residents assessed and appropriately given the seasonal influenza vaccine. The benchmark is 77%. Nursing facilities do not meet the benchmark if HHSC determines that less than 77% of residents were assessed and appropriately given the seasonal influenza vaccine.

(4) N020.02 Percent of residents assessed and appropriately given the pneumococcal vaccine. The benchmark is 80%. Nursing facilities do not meet the benchmark if HHSC determines that less than 80% of residents were assessed and appropriately given the pneumococcal vaccine.

(5) N035.03 Percent of residents whose ability to move independently worsened. The benchmark is 31%. Nursing facilities do not meet the benchmark if HHSC determines that more than 31% of the residents have a worsened ability to move independently.

The proposed new rule also sets forth that HHSC compares the performance of a nursing facility on each of the minimum performance standard measures to the associated HHSC benchmarks to determine if a facility meets or does not meet the required minimum performance standards. The proposed new rule also sets forth that HHSC makes the minimum performance standard measures and the associated HHSC benchmarks available on the HHSC website. The proposed new rule also sets forth that HHSC monitors the performance of a nursing facility on an annual basis in accordance with the minimum performance standard measures and the associated HHSC benchmarks and may require a nursing facility that does not meet the minimum performance standard benchmarks to take corrective actions. The proposed new rule also sets forth that HHSC monitors a nursing facility that has been required to initiate corrective actions in accordance with the minimum performance standard measures and the associated HHSC benchmarks and follows up with the nursing facility regarding its performance, as appropriate.

Proposed new §353.610(d) sets forth that HHSC will share minimum performance standards data results with STAR+PLUS Managed Care Organizations (MCOs), as appropriate; and that STAR+PLUS MCOs may act on the data, as appropriate.

FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that the rule could have an adverse economic effect on small businesses, micro-businesses, or rural communities because HHSC may request corrective actions from a nursing facility that does not meet the minimum performance standards, monitor the nursing facility, and follow up with the nursing facility regarding its performance. If this occurs, it may result in a change in nursing facility current practices.

HHSC estimates that there are 1155 Medicaid-certified nursing facilities that provide services to members in the STAR+PLUS Medicaid managed care program. However, HHSC does not have the data needed to determine how many of the total nursing facilities are small businesses, micro-businesses, or rural communities.

HHSC determined that alternative methods to achieve the purpose of the proposed rule for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of members receiving services from nursing facility providers that participate in the STAR+PLUS Medicaid managed care program.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas, and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Stephanie Stephens, State Medicaid Director, has determined that for each year of the first five years the rule is in effect, the public benefit will be improved quality of care by requiring minimum performance standards for important Centers for Medicare & Medicaid Services nursing facility measure areas.

Trey Wood has also determined that for the first five years the rule is in effect, persons required to comply with the proposed rule may incur economic costs because of the time it may take for nursing facility staff to initiate any corrective actions requested

by HHSC and any time spent if HHSC follows up with the nursing facility regarding its performance. However, HHSC does not have the data needed to estimate any increase in costs.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC HEARING

A public hearing is scheduled for February 28, 2023 at 1:30 p.m. at Texas Health and Human Services Commission, John H. Winters Building, Public Hearing Room 125E, 125W, and 125C, First Floor, 701 West 51st Street, Austin, Texas 78751. Persons requiring further information, special assistance, or accommodations should contact Robin Fletcher at (512) 826-4599.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 701 W. 51st Street, Austin, Texas 78751; or emailed to HHRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 22R092" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and by Texas Government Code §533.00251(h).

The new section affects Texas Government Code §533.00251(h).

§533.610. Minimum Performance Standards for Nursing Facilities that Participate in the STAR+PLUS Program.

(a) Purpose. The purpose of this section is to establish minimum performance standards applicable to nursing facility providers that participate in the STAR+PLUS program.

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

(1) CMS--Centers for Medicare & Medicaid Services. The federal agency responsible for administering Medicare and overseeing state administration of Medicaid.

(2) Corrective actions--Actions taken for the purpose of correcting undesirable clinical performance; may also be called a corrective action plan or a performance improvement plan (PIP).

(3) HHSC--The Texas Health and Human Services Commission or its designee.

(4) Long stay quality measure--The CMS long stay quality measure specifications are based on nursing home (NH) residents whose episode is greater than or equal to 101 cumulative days in the NH at the end of the target period.

(5) MDS--Minimum data set. A federally mandated standardized clinical assessment of all residents in certified nursing facilities.

(6) Minimum performance standards--Standards applicable to a nursing facility that participates in the STAR+PLUS program that represent the minimal clinical performance expected, based on evidence-based guidelines and analysis.

(7) Nursing facility--A convalescent or nursing home or related institution licensed under Health and Safety Code Chapter 242, that provides long-term services and supports to recipients and that participates in the STAR+PLUS program.

(8) STAR+PLUS Managed Care Organization--An organization under contract with HHSC to manage delivery of Medicaid services to members in the STAR+PLUS program.

(9) STAR+PLUS Program--This term has the meaning set forth in §354.4003 of the title (relating to Definitions).

(c) HHSC establishment and monitoring of minimum performance standards.

(1) HHSC establishes the following CMS nursing facility long stay quality measures from the MDS and associated HHSC benchmarks as the minimum performance standards for evaluating the performance of a nursing facility:

(A) N028.02 Percent of residents whose need for help with activities of daily living has increased. The benchmark is 30%. Nursing facilities do not meet the benchmark if HHSC determines that more than 30% of residents have an increased need for help with activities of daily living.

(B) N015.03 Percent of high-risk residents with pressure ulcers. The benchmark is 17%. Nursing facilities do not meet the benchmark if HHSC determines that more than 17% of high-risk residents have pressure ulcers.

(C) N016.03 Percent of residents assessed and appropriately given the seasonal influenza vaccine. The benchmark is 77%. Nursing facilities do not meet the benchmark if HHSC determines that less than 77% of residents were assessed and appropriately given the seasonal influenza vaccine.

(D) N020.02 Percent of residents assessed and appropriately given the pneumococcal vaccine. The benchmark is 80%. Nursing facilities do not meet the benchmark if HHSC determines that less than 80% of residents were assessed and appropriately given the pneumococcal vaccine.

(E) N035.03 Percent of residents whose ability to move independently worsened. The benchmark is 31%. Nursing facilities do not meet the benchmark if HHSC determines that more than 31% of residents have a worsened ability to move independently.

(2) HHSC compares the performance of a nursing facility on each of the minimum performance standard measures listed in paragraph (1) of this subsection to the associated HHSC benchmarks to determine if a facility meets or does not meet the required minimum performance standards.

(3) HHSC makes the minimum performance standard measures and the associated HHSC benchmarks available on the HHSC website.

(4) HHSC monitors the performance of a nursing facility on an annual basis in accordance with the minimum performance standard measures and the associated HHSC benchmarks.

(5) HHSC may require a nursing facility that does not meet the minimum performance standard benchmarks to take corrective actions.

(6) HHSC monitors a nursing facility that has been required to initiate corrective actions in accordance with the minimum performance standard measures and the associated HHSC benchmarks and follows up with the nursing facility regarding its performance, as appropriate.

(d) HHSC coordination with Medicaid Managed Care Organizations (MCOs).

(1) HHSC shares minimum performance standards data results with STAR+PLUS MCOs, as appropriate.

(2) STAR+PLUS MCOs may act on the data, as appropriate.

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 February 3, 2023.

TRD-202300501

Karen Ray
Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: March 19, 2023

For further information, please call: (512) 826-4599



TITLE 13. CULTURAL RESOURCES

PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 18. TEXAS HOLOCAUST, GENOCIDE, AND ANTISEMITISM ADVISORY COMMISSION

13 TAC §18.9

The Texas Historical Commission (THC) proposes new rule §18.9, related to the creation of Administrative Grant Rules for the Texas Holocaust, Genocide, and Antisemitism Advisory Commission's (THGAAC) grant program, as authorized in Section 448.101(c) of H.B. 3257.

Chapter 18 creates a process for operations for the THGAAC's grant program.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for each of the first five years the proposed new rules are in effect, there will not be a fiscal impact on state or local government as a result of enforcing or administering the new rule as proposed. The related policy and procedure are in place for this rule and there is no anticipated additional cost as a result of the rulemaking.

PUBLIC BENEFIT/COST NOTE. Mr. Wolfe has also determined that for the first five-year period the rule is in effect, the anticipated public benefit will be the ability of Texas nonprofits to apply to receive grant funds, for the purpose of supporting Holocaust, genocide, and antisemitism educational programs.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with these new rules, as proposed. There is no effect on local economy for the first five years that the proposed new rules are in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022 and §2001.024(a)(6).

COSTS TO REGULATED PERSONS. The proposed new rules do not impose a cost on regulated persons, including another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. The proposed new rules provide an opportunity for the THC and THGAAC to support the operation and delegation educational programming to assist with implementation of goals and objectives for the THGAAC. There is no anticipated economic impact of these new rules. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing this new rule and therefore no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required. The proposed new rule does not affect small businesses, micro-businesses, or rural communities because the new rule only clarifies the administrative procedures with which to carry out existing statutes.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the new rules would be in effect, the proposed new sections: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the new rules would be in effect, the proposed new rules will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT. Comments on the proposed new rules may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY AND STATEMENT ON AUTHORITY. These new rules are proposed under the authority of Texas Government Code §448.102(b), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission.

CROSS REFERENCE TO STATUTE. The new rules implement §448 of the Texas Government Code.

§18.9. Administrative Grant Rules.

(a) Pursuant to Government Code §448.101(c) THC may provide matching grants to assist in the implementation of the THGAAC's goals and objectives.

(b) On an annual basis and with the advice of the THGAAC, THC shall set a maximum amount that will be available for grants and establish a funding cycle for such grants. Any project types that will be given scoring priority in that grant round will also be identified. All grants shall be awarded on a reimbursement basis, i.e. the grant recipient must provide proof that funds have been expended in compliance with the grant contract and request reimbursement from THC before payment will be made from the grant.

(c) Grants may be awarded for any of the following purposes:

(1) To combat antisemitism and to implement Holocaust and genocide courses of study and awareness programs;

(2) To support volunteers who have agreed to share, in classrooms, seminars, exhibits, or workshops, their verifiable knowledge and experiences regarding the Holocaust or other genocides;

(3) To support events memorializing the Holocaust and other genocides;

(4) To support events designed to enhance public awareness of the fight against antisemitism and continuing significance of the Holocaust and other genocides; and

(5) To support efforts to recognize International Holocaust Remembrance Day.

(d) Grant funds and allowable match may only be used to carry out the goals of the grant-funded project. Such funds may be used to pay the costs associated with providing or acquiring equipment, supplies, professional services, and associated travel expenses (within authorized State of Texas travel rates). Matching funds can also be used in limited instances to pay for an employee's salary as described below.

(e) Grant funds and allowable match may not be used for the following purposes:

(1) To acquire equipment that will have a useful life beyond the term of the project if similar equipment can be rented for less than the cost of acquisition;

(2) To administer the grant itself, such as costs associated with preparing and submitting deliverables, maintaining communications with program staff, or ensuring that work is carried out in accordance with the project's scope of work and budget;

(3) For construction-related costs including building renovation;

(4) For food, beverages, awards, honoraria, prizes or gifts;

or

(5) For costs associated with advertising or public relations efforts except those specifically allowed by 2 CFR §200.421.

(f) Applications will be accepted only from nonprofit entities headquartered in Texas and certified by the Internal Revenue Service as tax exempt under Internal Revenue Code Section 501(c), (d), (e), (f), or (k), or under Section 521(a), or providing instructional services to individuals through a public or private educational institution.

(g) All projects require a 50-50 match contribution toward the project's total cost. Match may take the form of cash or the value of in-kind donations of goods, services, or labor. Match must be used to pay for or provide materials or work eligible for program funding. If match is claimed for part of an employee's salary, it must represent duties that are not a part of the employee's permanent job responsibilities.

(h) On the advice of the THGAAC, THC may waive the match requirement if a grant applicant provides a persuasive argument for doing so. The waiver request must be included with the grant application

and explain why the match cannot be provided and describe any efforts made by the applicant to identify funds or other resources that could serve as match.

(i) THGAAC will notify potential applicants of the availability of grant funds on an annual basis through their website.

(j) A committee comprised of some combination of THGAAC staff and other individuals with experience in the grant program's project areas will score all applications using the following process:

(1) Applications will be distributed to reviewers together with a copy of scoring criteria and a rating form.

(2) Each reviewer will independently evaluate the proposals in relation to the specific requirements of the criteria and will assign a numerical value, depending on the points assigned to each criterion, and submit their rating forms to THGAAC staff. Reviewers may consider recommending a conditional award for funding any application.

(3) Grant selection criteria will include, but not be limited to, the following:

(A) Relevance of the proposed project to the THGAAC's mission;

(B) Qualifications of the applicant organization and/or any proposed contractors;

(C) The likely impact of the proposed project;

(D) The likelihood of project success;

(E) The applicant's past performance;

(F) Project costs and funds available;

(G) Urgency of the need for the grant;

(H) Public support for the request;

(I) Project timetable; and

(J) Geographic diversity within the state of Texas.

(4) Reviewers will not discuss application proposals with anyone other than THGAAC staff during the review process.

(5) THGAAC staff will compile the reviewer's scores and develop a report listing the applications in score order.

(6) THGAAC staff will schedule a meeting of the reviewers to discuss their scores and to make any necessary adjustments.

(7) THGAAC staff will compile the adjusted scores and provide a list of recommended grant awards to the THGAAC commissioners for their consideration.

(8) The THGAAC will include grant application review on their meeting agenda in accordance with the program timetable mentioned above. The members will vote to recommend award and/or denial of all grant applications, which recommendation will be submitted to the THC for further action.

(9) THC will include grant application review on their meeting agenda in accordance with the program timetable mentioned above. The members will vote to accept or not to accept the recommendations of the THGAAC.

(10) Applicants will be informed in writing of the action taken on their applications. Unsuccessful applicants will be counseled by THGAAC staff.

(k) A conflict of interest occurs when financial or other personal considerations may compromise or bias professional judgment and objectivity. Individuals with a conflict of interest will not be per-

mitted to review applications in any grant round where their conflict applies. Any reviewer who feels unable to evaluate a particular application fairly may withdraw from the review process for that application. THGAAC or THC commissioners associated with entities with grant applications being considered will recuse themselves from voting on those applications.

(l) Deliverables for funded applications will include a report from the grant recipient at completion of the project detailing the results of the project including an evaluation of the project's success. Final grant payment may be retained until receipt of an acceptable completion report.

(m) Grant recipients are subject to audit by the State of Texas and/or by an external auditor employed by the THGAAC or the THC in compliance with state audit requirements.

(n) The THGAAC and/or the THC shall have the right to use grant-funded resources in any educational or promotional materials.

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 February 6, 2023.

TRD-202300514

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: March 19, 2023

For further information, please call: (512) 463-6100



CHAPTER 21. HISTORY PROGRAMS

SUBCHAPTER B. OFFICIAL TEXAS HISTORICAL MARKER PROGRAM

13 TAC §21.13

The Texas Historical Commission (Commission) proposes amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 21, Subchapter B, §21.13, related to Recorded Texas Historic Landmark (RTHL) removal procedures. The proposed amendments clarify procedures for Recorded Texas Historical Landmark (RTHL) removal requests and the time period for marker removal requests. They also correct formatting and grammatical errors in the rule.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules because the amended definitions do not alter the scope of the historical marker program or costs associated with its administration.

PUBLIC BENEFIT. Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be greater clarity regarding procedures for Recorded Historical Texas Landmark (RTHL) designation and marker removal requests.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities,

small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. Because RTHL designation removal would take place only with landowner consent, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and 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. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code §442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission, and Texas Government Code §442.006(h), which requires the Commission to adopt rules for the historical marker program.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

§21.13. Removal of Markers and Monuments.

(a) Any individual, group, or county historical commission (CHC) may request removal of an Official Texas Historical Marker ("marker"), as defined in §21.3 of this title (relating to Definitions), or a monument ("monument") within the Commission's jurisdiction, as defined in §26.3 of this title (relating to Definitions). Staff of the Commission may also propose removal of a Recorded Texas Historic Landmark (hereafter referred to as "RTHL") marker if such a property no longer meets the criteria for designation established in §21.6 of this title (relating to Recorded Texas Historic Landmark Designation).

(b) With the exception of monuments that are State Antiquities Landmarks or included within the boundaries of State Antiquities Landmarks, which shall follow procedures as described in §191.097 and 191.098 of title 9 of the Natural Resources Code as well as applicable rules adopted thereunder, requests for removal of a historical marker or monument shall include:

(1) the [The] name and contact information for the requesting individual, group, or CHC;

(2) the [The] name and location of the marker or monument for which removal is requested;

(3) justification [Justification] for removal of the marker or monument;

(4) narrative [Narrative] history and photographs of the marker or monument;

(5) written [Written] owner consent for removal from the landowner for sites not located on state land; and

(6) a [A] plan explaining how the marker or monument will be removed in such a way as to protect its condition and be delivered to a location approved by the Commission; and [THC.]

(7) For RTHLs only, notification of any proposed work sufficient to meet the requirements of §21.11 of this title (relating to Review of Work on Recorded Texas Historic Landmarks).

(c) Marker and monument removal requests shall be submitted to the Commission at 1511 Colorado St., Austin, Texas [TX] 78701; by mail to P.O. Box 12276, Austin, Texas [TX] 78711; or by email to thc@thc.texas.gov. The Commission will send a copy of the request and supporting materials to the County Historical Commission (CHC) for the county in which the marker or monument is located, return receipt requested. In the absence of a formally-established CHC, a copy will be submitted to the county judge, return receipt requested.

(d) The CHC or county judge shall have 30 days from the date of receipt of the request to submit a response to the Commission if they wish to do so. The CHC's [CHC] or county judge's response shall consist of not more than 10 single-sided pages of material printed in a font size no smaller than 11 and shall be signed by the chair of the CHC or by the county judge.

(e) The Commission's History Programs Committee ("Committee") shall consider requests for removal of markers and monuments that are not State Antiquities Landmarks or located within the boundaries of [a] State Antiquities Landmarks, including those also governed by §17.2 of this title (relating to Review of Work on County Courthouses) and §442.008(a) of title 4 of the Government Code.

(f) The Committee shall include the request on the agenda of its next scheduled meeting after the applicable timeline has been fulfilled: [; assuming said meeting happens at least 20 days after the request is received by the Commission or expiration of the 30-day review period. If the 20-day deadline is not met, the request shall be on the agenda of the following meeting of the Committee.]

(1) For RTHLs, the Commission must receive a request for removal of the designation at least 90 days prior to the Committee meeting at which the request will be considered, to allow sufficient time for the notification and review process established in §21.11 of this title and Texas Government Code, §442.006(f).

(2) For all other markers and monuments, the Commission must receive a request for removal at least 20 days prior to the Committee meeting at which the request will be considered. Further, the 30-day review period referred to in subsection (d) of this section must have expired or a response received from the CHC or county judge before the Commission may take action on such a request.

(g) The Committee may choose to take public testimony on the request. If public testimony is invited, such testimony may be limited by the Committee chair to a period of time allocated per speaker.

(h) Upon consideration of a removal request, the Committee shall make a recommendation to the Commission on whether to approve or deny the removal request. The recommendation of the Com-

mittee shall be placed on the agenda of the full Commission meeting immediately following the Committee meeting for approval or denial.

(i) The Commission shall notify the requesting individual, group, or CHC, and CHC for the county in which the marker or monument is located of the Commission's decision.

(j) If the request is approved by the Commission, the person who submitted the removal request must arrange for removal of the marker or monument in such a way as to protect its condition [s] and deliver it to a location approved by the Commission [FHC] at the requestor's expense.

(k) Approval by the Commission of the removal of an RTHL marker constitutes removal of the designation on the property. Pursuant to §21.6 of this title, RTHL designation shall be effective until removed by the commission, whether or not the marker remains in place. Should the waiting period imposed under §21.11 of this title expire prior to Commission consideration of a marker removal request submitted pursuant to this rule, the property owner may proceed with their project as proposed. However, after expiration of the waiting period and before proceeding with any work that may damage the marker, such as demolition of a building on which a marker is mounted, the property owner must arrange for removal of the marker in such a way as to protect its condition and deliver it to a location approved by Commission staff at the owner's expense.

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 February 6, 2023.

TRD-202300513

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: March 19, 2023

For further information, please call: (512) 463-6100



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 565. HOME AND COMMUNITY-BASED (HCS) PROGRAM [AND COMMUNITY FIRST CHOICE (CFC)] CERTIFICATION STANDARDS

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §§565.2, 565.3, 565.5, 565.7, 565.9, 565.11, 565.13, 565.15, 565.17, 565.19, 565.21, 565.23, 565.25, 565.27, 565.29, 565.31, 565.33, 565.35, 565.37, 565.39, 565.41, 565.43, 565.47, and 565.49 in Title 26 Texas Administrative Code Chapter 565, Home and Community-Based Services (HCS) Program and Community First Choice (CFC) Certification Standards.

BACKGROUND AND PURPOSE

The purpose of the proposal is to draft new rules that describe the regulatory certification standards for HCS Medicaid waiver

program providers. Currently, rules describing HCS certification principles and rules regarding regulatory processes for HCS waiver program providers are in Title 40, Chapter 9, Subchapter D of the Texas Administrative Code.

The proposed rules describe certification standards regarding service delivery, rights of individuals, requirements related to abuse, neglect, and exploitation, staff member and service providers' requirements, and quality assurance. The proposed rules also include new requirements for emergency preparedness, fire drills, and evacuation drills in all residential types in the HCS program. Current requirements listed on the waiver survey and certification checklist that are not currently in rule are included in the proposed rules. The proposed rules set forth recommendations for increased oversight of HCS host home/companion care homes, clarify restraint and seclusion requirements, and add language for obtaining and using enclosed beds. The proposed rules also modify HHSC surveyor requirements to allow for survey flexibility as the HCS waiver program evolves.

The proposed rules reflect stakeholder engagement over the past two years.

SECTION-BY-SECTION SUMMARY

Proposed new sections listed in this paragraph replace and update rules in 40 TAC, Part 1, Chapter 9, Subchapter D, concerning Home and Community-based Services (HCS) Program. Sections 9.153, 9.171 - 9.175, 9.177 - 9.180, 9.182, 9.183, 9.187, and 9.188 are proposed for repeal elsewhere in this issue of the *Texas Register*.

The proposal changes the title of Chapter 565 from Home And Community-Based (HCS) Program and Community First Choice (CFC) Certification Standards to Home and Community-Based Services (HCS) Program Certification Standards.

Proposed new Subchapter B, Overview includes §565.2, Purpose, and §565.3, Definitions.

Proposed new §565.2, Purpose, describes the purpose and scope of the Home and Community-based program.

Proposed new §565.3, Definitions, describes terms used in the Home and Community-based program as it relates to Long-term Care Regulation and the Certification Standards.

Proposed new Subchapter C, Certification Standards: Individual's Rights, includes §565.5, Rights of Individuals.

Proposed new §565.5 Rights of Individuals, describes individual's rights in HCS programs and program providers' responsibility to ensure those rights are exercised.

Proposed new Subchapter D, Certification Standards: Staff member and Service Provider Requirements, includes §565.7, Staff Member and Service Provider Requirements; and §565.9, Program Provider Requirements.

Proposed new §565.7, Staff Member and Service Provider Requirements, describes the hiring requirements for a staff member and service provider of program providers.

Proposed new §565.9, Program Provider Requirements, describes the required registry checks program providers must perform on staff members and service providers.

Proposed new Subchapter E, Certification Standards: Service Delivery, includes §565.11, Service Delivery; §565.13, Nursing; §565.15, Individuals under the age of 22; §565.17, Pre-en-

rollment Minor Home Modification; §565.19, Community First Choice (CFC) Emergency Response Systems (ERS) Services; and §565.21, Transitional Assistance Service (TAS).

Proposed new §565.11, Service Delivery, describes the services available to an individual and how providers should deliver them, documentation program providers must maintain, instructions for back up plans, and suspension of services.

Proposed new §565.13, Nursing, describes the nursing services and how to deliver them along with instructions for the comprehensive nursing assessment. Proposed new §565.15, Individuals under the age of 22, describes additional requirements related to individuals who are under the age of 22.

Proposed new §565.17, Pre-enrollment Minor Home Modification, outlines mobility and accessibility requirements and minor home modifications.

Proposed new §565.19, Community First Choice (CFC) Emergency Response Systems (ERS) Services, details the criteria for services, how to deliver it, and installing/testing instructions.

Proposed new §565.21, Transitional Assistance Service (TAS), describes the TAS service and instructions for how to provide the service.

Proposed new Subchapter F, Certification Standards: Quality Assurance, includes §565.23, Residential Requirements; §565.25, Programmatic Requirements; §565.27, Finances and Rent; §565.29, Behavior Support Plan; §565.31, Requirements Related to Abuse, Neglect, and Exploitation; §565.33, Restraint; §565.35, Enclosed Beds; §565.37, Protective Devices; and §565.39 Prohibitions

Proposed new §565.23, Residential Requirements, describes the program providers' responsibilities for upkeep and maintenance of the residences. Requirements address outside areas, floors, walls and ceilings, kitchen, bathroom, and storage of chemicals and toxins. Requirements also include conditions for means of egress, emergency response plans, infection control, medication administration, fire extinguishers, and fire drills.

Proposed new §565.25, Programmatic Requirements, outlines the inspections program providers must do before an individual moves into a residence, reporting requirements for an individual's death and critical incidents, identification of an alternate contact to the Chief Executive Officer, retaliation prohibitions, and annual reviews.

Proposed new §565.27, Finances and Rent, establishes how program providers should charge an individual for rent and board in a three and four-person residence, how program providers should manage an individual's funds if they're the payee, and restrictions on what program providers cannot charge the individual.

Proposed new §565.29, Behavior Support Plan, outlines the process for obtaining a behavior support plan for an individual.

Proposed new §565.31, Requirements Related to Abuse, Neglect, and Exploitation, outlines program providers' responsibilities for documenting, reporting, and ensuring safety of the individual when incidents of abuse, neglect, and exploitation occur.

Proposed new §565.33, Restraints, describes when program providers may use restraint and when they must not use restraint, including required assessments, documentation, and notifications when restraint is used.

Proposed new §565.35, Enclosed Beds, describes program providers' responsibilities if they allow an individual to use an enclosed bed in a residence and the end date for all enclosed beds.

Proposed new §565.37, Protective Devices, describes program providers' responsibilities when implementing the use of protective devices, including required documentation and assessments.

Proposed new §565.39, Prohibitions, states that program providers must not use seclusion or an enclosed bed for behavioral management.

Proposed new Subchapter G, HHSC Actions, includes §565.41, HHSC Surveys of a Program Provider; §565.43, HHSC Approval of Four-Person Residences; §565.47, Amelioration; and §565.49, Program Provider Compliance and Corrective Action.

Proposed new §565.41, HHSC Surveys of a Program Provider, lists the type and frequency of surveys conducted by HHSC.

Proposed new §565.43, HHSC Approval of Four-Person Residences, describes how to obtain approval of a four-person residence.

Proposed new §565.47, Amelioration, allows HHSC to give program providers the opportunity for amelioration, in lieu of an administrative penalty for a violation. The proposed rule describes the circumstances under which program providers are, and are not, allowed the opportunity for amelioration and requirements for program providers seeking amelioration. The proposed rule requires HHSC to notify program providers regarding plan approval, or payment if a plan is denied, and it allows program providers to appeal the administrative penalty in accordance with 40 TAC §49.541 (relating to Contractor's Right to Appeal).

Proposed new §565.49, Program Provider Compliance and Corrective Action, outlines the requirements of HHSC, if it determines that program providers are, or are not, in compliance with the certification standards. The proposed rule requires program providers to submit a plan of correction for each concern identified by HHSC and outlines what happens if the plan needs to be revised, or if it is approved or not approved, and it details follow-up steps. The proposed rule describes administrative penalties for critical violations and HHSC's responsibilities in conducting surveys and citing program providers for violation of a certification standards.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;

- (5) the proposed rules will create new rules;
- (6) the proposed rules will not expand, limit, or repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities to comply with the proposed rules.

HHSC has no basis for an expectation of whether there will be an adverse economic effect on small businesses, micro-businesses, or rural communities. While a program providers' non-compliance with the proposed regulations may result in administrative penalties, HHSC does not have sufficient data to estimate the cost to those businesses.

HHSC determined that alternative methods to achieve the purpose of the proposed rules for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of individuals with intellectual and physical disabilities.

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.

PUBLIC BENEFIT AND COSTS

Stephen Pahl, Deputy Executive Commissioner for Regulatory Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be the health and safety of the individuals in the HCS program. HCS program providers, HHSC staff, and the public will benefit from the proposed rules because rules will clarify providers' requirements, which are intended to ensure health and safety.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules. The proposed rules update, clarify, and codify existing HHSC agency practices and requirements.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Kelly Donaldson at (512) 438-3161 in HHSC Regulatory Services Division.

Written comments on the proposal may be submitted to HHSC Long-term Care Regulation Policy and Rules, Mail Code E-370, 701 W. 51st Street, Austin, Texas 78751, or by email to HH-SCLTCRRules@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 22R074" in the subject line.

SUBCHAPTER B. OVERVIEW

26 TAC §565.2, §565.3

STATUTORY AUTHORITY

The proposed new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed new sections implement Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

§565.2. Purpose.

(a) The purpose of this chapter is to promote the health, safety, and welfare of the individuals in the Home and Community-based Services (HCS) program by establishing the minimum health and safety expectations and responsibilities of a HCS program provider.

(b) This chapter applies to program providers.

(c) The Texas Health and Human Services Commission will use the rules in this chapter to establish regulatory compliance by a program provider.

§565.3. Definitions.

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

(1) Abuse--Considered to be:

(A) physical abuse;

(B) sexual abuse; or

(C) verbal or emotional abuse.

(2) Actively involved--Significant, ongoing, and supportive involvement with an applicant or individual by a person, as determined by the applicant's or individual's service planning team or program provider, based on the person's:

(A) interactions with the applicant or individual;

(B) availability to the applicant or individual for assistance or support when needed; and

(C) knowledge of, sensitivity to, and advocacy for the applicant's or individual's needs, preferences, values, and beliefs.

(3) Activities of daily living (ADL)--Basic personal everyday activities, including tasks such as eating, toileting, grooming, dressing, bathing, and transferring.

(4) Actual harm--A negative outcome that compromises an individual's physical, mental, or emotional well-being but does not constitute an immediate threat.

(5) Alarm call--A signal transmitted from an individual's Community First Choice (CFC) emergency response services (ERS) equipment to the CFC ERS response center indicating that the individual needs immediate assistance.

(6) Alleged perpetrator--A person alleged to have committed an act of abuse, neglect, or exploitation of an individual.

(7) Applicant--A Texas resident seeking services in the Home and Community-based Services (HCS) Program.

(8) Behavioral emergency--A situation in which an individual's severely aggressive, destructive, violent, or self-injurious behavior:

(A) poses a substantial risk of imminent probable death of, or substantial bodily harm to, the individual or others;

(B) has not abated in response to preventive de-escalatory or redirection techniques;

(C) is not addressed in a written behavior support plan; and

(D) does not occur during a medical or dental procedure.

(9) Business day--Any day except a Saturday, Sunday, or national or state holiday listed in Texas Government Code §662.003(a) or (b).

(10) Calendar day--Any day, including weekends and holidays.

(11) Centers for Medicare and Medicaid Services (CMS)--The federal agency within the United States Department of Health and Human Services that administers the Medicare and Medicaid programs.

(12) Certification standard--A minimum standard for a program provider used by the Texas Health and Human Services Commission (HHSC) during a survey to ensure health and safety of an individual. Violations of a certification principle or standard are subject to administrative penalties.

(13) CFC--Community First Choice.

(14) CFC emergency response services (CFC ERS)--Backup systems and supports used to ensure continuity of services and supports. CFC ERS includes electronic devices and an array of available technology, personal emergency response systems, and other mobile communication devices.

(15) CFC ERS provider--The entity directly providing CFC ERS to an individual, which may be the program provider or a contractor of the program provider.

(16) CFC Financial management services (CFC FMS)--The term used for FMS on the individual plan of care (IPC) of an applicant or individual if the applicant or individual receives only CFC personal assistance services/habilitation (PAS/HAB) through the CDS option.

(17) CFC personal assistance services/habilitation (CFC PAS/HAB). A service that:

(A) consists of:

(i) personal assistance services that aid an individual in performing ADLs and instrumental activities of daily living (IADLs) based on the individual's person-centered service plan, including:

(I) non-skilled assistance with the performance of the ADLs and IADLs;

(II) household chores necessary to maintain the home as a clean, sanitary, and safe environment;

(III) escort services, which consist of accompanying and assisting an individual to access services or activities in the community, but do not include transporting an individual; and

(IV) assistance with health-related tasks; and

(ii) habilitation that aids an individual in acquiring, retaining, and improving self-help, socialization, and daily living skills and training the individual on ADLs, IADLs, and health-related tasks, such as:

(I) self-care;

(II) personal hygiene;

(III) household tasks;

(IV) mobility;

(V) money management;

(VI) community integration, including how to get around in the community;

(VII) use of adaptive equipment;

(VIII) personal decision making;

(IX) reduction of challenging behaviors to allow individuals to accomplish ADLs, IADLs, and health-related tasks; and

(X) self-administration of medication; and

(B) does not include transporting the individual, which means driving the individual from one location to another.

(18) CFC support consultation--The term used for support consultation on the IPC of an applicant or individual if the applicant or individual receives only CFC PAS/HAB through the CDS option.

(19) CFC support management--Training regarding how to select, manage, and dismiss an unlicensed service provider of CFC PAS/HAB, as described in the HCS Handbook.

(20) Chemical restraint--A medication used to control an individual's behavior or to restrict the individual's freedom of movement that is not a standard treatment for the individual's medical or psychological condition.

(21) Cognitive rehabilitation therapy--A service that:

(A) assists an individual in learning or relearning cognitive skills that have been lost or altered because of damage to brain cells or brain chemistry in order to enable the individual to compensate for lost cognitive functions; and

(B) includes reinforcing, strengthening, or reestablishing previously learned patterns of behavior, or establishing new patterns of cognitive activity or compensatory mechanisms for impaired neurological systems.

(22) Community resource coordination group (CRCG)--A local interagency group composed of public and private agencies that develops service plans for individuals whose needs can be met only through interagency coordination and cooperation. The group's role and responsibilities are described in the Memorandum of Understanding on Coordinated Services to Persons Needing Services from More Than One Agency, which is available on the HHSC website.

(23) Competitive employment--Employment that pays an individual at least minimum wage if the individual is not self-employed.

(24) Consumer directed services option (CDS option)--A service delivery option in which an individual or legally authorized representative employs and retains service providers and directs the delivery of program services.

(25) Contract--A provisional contract or a standard contract.

(26) Controlling person--A person who:

(A) has an ownership interest in a program provider;

(B) is an officer or director of a corporation that is a program provider;

(C) is a partner in a partnership that is a program provider;

(D) is a member or manager in a limited liability company that is a program provider;

(E) is a trustee or trust manager of a trust that is a program provider; or

(F) because of a personal, familial, or other relationship with a program provider, is in a position of actual control or authority with respect to the program provider, regardless of the person's title.

(27) Critical incident--An event listed in the HCS Provider User Guide found on the HHSC website.

(28) Critical violation--A violation for which HHSC may assess an administrative penalty before giving a program provider an opportunity to correct the violation. A critical violation:

(A) is an immediate threat;

(B) has resulted in actual harm and is widespread;

(C) has resulted in actual harm and is a pattern; or

(D) has the potential to result in actual harm and is widespread.

(29) DADS--Formerly the Texas Department of Aging and Disability Services. The functions have been transferred to the Texas Health and Human Services Commission.

(30) DFPS--The Department of Family and Protective Services.

(31) Emergency--An unexpected situation in which the absence of an immediate response could reasonably be expected to result in risk to the health and safety of an individual or another person.

(32) Emergency Plan--A written plan that describes the actions that will be taken to protect individuals, including evacuation or sheltering-in-place, in the event of an emergency such as a fire or natural disaster.

(33) Emergency situation--An unexpected situation involving an individual's health, safety, or welfare, of which a person of ordinary prudence would determine that the legally authorized representative (LAR) should be informed, such as:

(A) an individual needing emergency medical care;

(B) an individual being removed from his or her residence by law enforcement;

(C) an individual leaving his or her residence without notifying a staff member or service provider and not being located; and

(D) an individual being moved from his or her residence to protect the individual (for example, because of a hurricane, fire, or flood).

(34) Enclosed bed--A protective device that:

(A) is commercially produced;

(B) includes a 360-degree side enclosure;

(C) may or may not have a top cover or canopy; and

(D) must be appropriate for the size and weight of the individual.

(35) Exploitation--The illegal or improper act or process of using, or attempting to use, an individual or the resources of an individual for monetary or personal benefit, profit, or gain.

(36) Family-based alternative--A family setting in which the family provider or providers are specially trained to provide support and in-home care for children with disabilities or children who are medically fragile.

(37) Financial management services (FMS)--A service that is provided to an individual participating in the CDS option, as defined in 40 TAC §41.103 (relating to Definitions).

(38) Financial management services agency (FMSA)--An entity that provides financial management services to an individual participating in the CDS option, as defined in 40 TAC §41.103.

(39) Follow-up survey--A review by HHSC of a program provider to determine if the program provider has completed corrective action.

(40) Former military member--A person who served in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force:

(A) who declared and maintained Texas as the person's state of legal residence in the manner provided by the applicable military branch while on active duty; and

(B) who was killed in action or died while in service, or whose active duty otherwise ended.

(41) Four-person residence--A residence:

(A) that a program provider leases or owns;

(B) in which at least one person but no more than four persons receive:

(i) residential support;

(ii) supervised living;

(iii) a non-HCS Program service like residential support or supervised living (for example, services funded by DFPS or by a person's own resources); or

(iv) respite;

(C) that, if it is the residence of four persons, at least one of those persons receives residential support;

(D) that is not the residence of any persons other than a service provider, the service provider's spouse, or person with whom the service provider has a spousal relationship, or a person described in subparagraph (B) of this paragraph; and

(E) that is not a dwelling described in 40 TAC §9.155(a)(5)(H) (relating to Eligibility Criteria and Suspension of HCS Program Services and of CFC Services).

(42) General residential operation (GRO)--The term has the meaning set forth in Texas Human Resources Code §42.002.

(43) Good cause--As used in §565.19(a) of this chapter (relating to Community First Choice (CFC) Emergency Response Systems (ERS) Services), a reason outside the control of the CFC ERS provider, as determined by HHSC.

(44) Health-related tasks--Specific tasks related to the needs of an individual, which can be delegated or assigned by licensed health care professionals under state law to be performed by a service provider of CFC PAS/HAB. These include tasks delegated by a registered nurse (RN); health maintenance activities as defined in 22 TAC §225.4 (relating to Definitions), that may not require delegation; and activities assigned to a service provider of CFC PAS/HAB by a licensed physical therapist, occupational therapist, or speech-language pathologist.

(45) Home and Community-based Services Program (HCS Program)--The program operated by HHSC as authorized by CMS in accordance with §1915(c) of the Social Security Act.

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

(47) Instrumental activities of daily living (IADLs)--Activities related to living independently in the community, including meal planning and preparation; managing finances; shopping for food, clothing, and other essential items; performing essential household chores; communicating by phone or other media; and traveling around and participating in the community.

(48) ICAP--Inventory for Client and Agency Planning.

(49) ICF/IID--Intermediate care facility for individuals with an intellectual disability or related conditions. An ICF/IID is a facility in which the ICF/IID program is:

(A) licensed in accordance with Texas Health and Safety Code Chapter 252; or

(B) certified by HHSC, including a state supported living center.

(50) ICF/IID program--The Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions Program, which provides Medicaid-funded residential services to individuals with an intellectual disability or related conditions.

(51) Immediate threat--A situation that causes, or is likely to cause, serious injury, harm, impairment to, or the death of an individual.

(52) Implementation plan--A written document developed by the program provider that, for each HCS Program service, except for transportation provided as a supported home living activity, and CFC service, except for CFC support management, on the individual's IPC to be provided by the program provider, includes:

(A) a list of outcomes identified in the person-directed plan (PDP) that will be addressed using HCS Program and CFC services;

(B) specific objectives to address the outcomes required by subparagraph (A) of this paragraph that are:

(i) observable, measurable, and outcome-oriented;
and

(ii) derived from assessments of the individual's strengths, personal goals, and needs;

(C) a target date for completion of each objective;

(D) the number of units of HCS Program and CFC services needed to complete each objective;

(E) the frequency and duration of HCS Program and CFC services needed to complete each objective; and

(F) the signature and date of the individual, LAR, and program provider.

(53) Individual--A person enrolled in the HCS Program.

(54) Individual plan of care (IPC)--A written plan that:

(A) states:

(i) the type and amount of each HCS Program service and each CFC service, except for CFC support management, to be provided to the individual during an IPC year;

(ii) the services and supports to be provided to the individual through resources other than HCS Program services or CFC services, including natural supports, medical services, and educational services; and

(iii) if an individual will receive CFC support management; and

(B) is authorized by HHSC.

(55) Initial certification survey--A review by HHSC of a program provider with a provisional contract to determine if the program provider complies with the certification standards.

(56) Initial IPC--The first IPC for an individual developed before the individual's enrollment into the HCS Program.

(57) Intellectual disability--Significant sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(58) Intellectual Disability/Related Conditions Assessment (ID/RC Assessment)--A form used by HHSC for level of care (LOC) determination and level of need (LON) assignment.

(59) Intermittent survey--A review by HHSC of a program provider, which may originate from a complaint, that is not an initial certification survey, a recertification survey, or a follow-up survey, to determine if the program provider complies with the certification standards.

(60) IPC cost--Estimated annual cost of HCS Program services included on an IPC.

(61) IPC year--A 12-month time period starting on the date an initial or renewal IPC begins. A revised IPC does not change the begin or end date of an IPC year.

(62) Isolated--The scope of a violation that has affected a very limited number of individuals or that has occurred only occasionally.

(63) Legally authorized representative (LAR)--A person authorized by law to act on behalf of a person in a matter described in this subchapter, and may include a parent, guardian, or managing conservator of a minor, or the guardian of an adult.

(64) Level of care (LOC)--A determination given to an individual as part of the eligibility determination process based on data submitted on the ID/RC Assessment.

(65) Level of need (LON)--An assignment given by HHSC to an individual upon which reimbursement for host home/companion care, supervised living, residential support, and individualized skills and socialization is based.

(66) Licensed vocational nurse (LVN)--A person licensed to practice vocational nursing in accordance with Texas Occupations Code Chapter 301.

(67) Local intellectual and developmental disability authority (LIDDA)--An entity designated by the HHSC Executive Commissioner, in accordance with Texas Health and Safety Code §533A.035.

(68) Managed care organization--This term has the meaning set forth in Texas Government Code §536.001.

(69) Means of escape--A continuous and unobstructed path of travel from an occupied portion of a building to an outside area.

(70) Mechanical restraint--A mechanical device, material, or equipment used to control an individual's behavior by restricting the ability of the individual to freely move part or all of the individual's body.

(71) Medical Assistance Only Medicaid (MAO Medicaid)--A type of Medicaid for which an applicant or individual qualifies financially for Medicaid assistance but does not receive Supplemental Security Income benefits.

(72) Microboard--A program provider:

(A) that is a non-profit corporation:

(i) that is created and operated by no more than 10 persons, including an individual;

(ii) the purpose of which is to address the needs of the individual and directly manage the provision of HCS Program services or CFC services; and

(iii) in which each person operating the corporation participates in addressing the needs of the individual and directly managing the provision of HCS Program services or CFC services; and

(B) that has a service capacity designated in the HHSC data system of no more than three individuals.

(73) Military family member--A person who is the spouse or child (regardless of age) of:

(A) a military member; or

(B) a former military member.

(74) Military member--A member of the United States military serving in the Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force on active duty who has declared and maintains Texas as the member's state of legal residence in the manner provided by the applicable military branch.

(75) Natural supports--Unpaid persons, including family members, volunteers, neighbors, and friends, who assist an individual.

(76) Neglect--A negligent act or omission that caused physical or emotional injury or death to an individual or placed an individual at risk of physical or emotional injury or death.

(77) Nursing facility--A facility licensed in accordance with Texas Health and Safety Code Chapter 242.

(78) Pattern--The scope of a violation that is not widespread but represents repeated failures by the program provider to comply with certification standards and the failures:

(A) are found throughout the services provided by the program provider; or

(B) involve or affect the same individuals, service providers, or volunteers.

(79) Permanency planning--A philosophy and planning process that focuses on the outcome of family support for an applicant or individual under 22 years of age by facilitating a permanent living arrangement in which the primary feature is an enduring and nurturing parental relationship.

(80) Permanency Planning Review Screen--A screen in the HHSC data system, completed by a LIDDA, that identifies community supports needed to achieve an applicant's or individual's permanency planning outcomes and provides information necessary for approval to provide supervised living or residential support to the applicant or individual.

(81) Person-directed plan (PDP)--A written plan, based on person-directed planning and developed with an applicant or individual in accordance with the HHSC Person-Directed Plan form and discovery tool found on the HHSC website, that describes the supports and services necessary to achieve the desired outcomes identified by the applicant or individual (and LAR on the applicant's or individual's behalf) and ensure the applicant's or individual's health and safety.

(82) Person-directed planning--An ongoing process that empowers the applicant or individual (and the LAR on the applicant's or individual's behalf) to direct the development of a PDP. The process:

(A) identifies supports and services necessary to achieve the applicant's or individual's outcomes;

(B) identifies existing supports, including natural supports and other supports available to the applicant or individual and negotiates needed services system supports;

(C) occurs with the support of a group of people chosen by the applicant or individual (and the LAR on the applicant's or individual's behalf); and

(D) accommodates the applicant's or individual's style of interaction and preferences.

(83) Physical abuse--Any of the following:

(A) an act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, that caused physical injury or death to an individual or placed an individual at risk of physical injury or death;

(B) an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to an individual;

(C) the use of a restraint on an individual in a manner that is not in compliance with federal and state laws, rules, and regulations; or

(D) seclusion.

(84) Physical restraint--Any manual method used to control an individual's behavior, except for physical guidance or prompting of brief duration that an individual does not resist, that restricts:

(A) the free movement or normal functioning of all or a part of the individual's body; or

(B) normal access by an individual to a portion of the individual's body.

(85) Plan of correction--A plan documented on the HHSC Plan of Correction form that includes the corrective action that a program provider will take for each violation identified on a final survey report.

(86) Plan of removal--A written plan that describes the action a program provider will take to remove an immediate threat that HHSC identifies.

(87) Post 45-day follow-up survey--A follow-up survey conducted at least 46 calendar days after the exit conference of the survey in which the violation requiring corrective action was identified.

(88) Post-move monitoring visit--A visit conducted by the service coordinator in accordance with the Intellectual and Developmental Disability Preadmission Screening and Resident Review (IDD-PASRR) Handbook.

(89) Pre-enrollment minor home modifications--Minor home modifications, as described in the HCS Program Billing Guidelines, completed before an applicant is discharged from a nursing facility, an ICF/IID, or a GRO and before the effective date of the applicant's enrollment in the HCS Program.

(90) Pre-enrollment minor home modifications assessment--An assessment performed by a licensed professional as required by the HCS Program Billing Guidelines to determine the need for pre-enrollment minor home modifications.

(91) Pre-move site review--A review conducted by the service coordinator in accordance with HHSC's IDD-PASRR Handbook.

(92) Program provider--A "person" as defined in 40 TAC §49.102 (relating to Definitions) that has a contract with HHSC to provide HCS Program services, excluding an FMSA.

(93) Protective Device--An item or device, such as a safety vest, lap belt, bed rail, safety padding, adaptation to furniture, or helmet, used only to protect an individual from injury, or for body positioning of the individual to ensure health and safety, and not used to modify or control behavior. The device or item is considered a protective device only when used in accordance with §565.37 of this chapter (relating to Protective Devices).

(94) Provisional contract--A contract that HHSC enters into with a program provider in accordance with 40 TAC §49.208 (relating to Provisional Contract Application Approval) that has a term of no more than three years, not including any extension agreed to in accordance with §49.208(e).

(95) Public emergency personnel--Personnel of a sheriff's department, police department, emergency medical service, or fire department.

(96) Recertification survey--A review by HHSC of a program provider with a standard contract to determine if the program provider complies with the certification standards and will be certified for a new certification period.

(97) Registered nurse (RN)--A person licensed to practice professional nursing in accordance with Texas Occupations Code Chapter 301.

(98) Related condition--A severe and chronic disability that:

(A) is attributed to:

(i) cerebral palsy or epilepsy; or

(ii) any other condition, other than mental illness, found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior, similar to that of individuals with an intellectual disability, and requires treatment or services similar to those required for individuals with an intellectual disability;

(B) is manifested before the individual reaches age 22;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitation in at least three of the following areas of major life activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) capacity for independent living.

(99) Relative--A person related to another person within the fourth degree of consanguinity or within the second degree of affinity. A more detailed explanation of this term is included in the HCS Program Billing Guidelines.

(100) Renewal IPC--An IPC developed for an individual in accordance with 40 TAC §9.166(a) (relating to Renewal and Revision of an IPC).

(101) Repeated violation--A violation that is based on the same certification standard and involves the same HCS Program service or CFC service as a previous violation.

(102) Residence-- A host home/companion care, three-person, or four-person residence, as defined by the HCS Program Billing Guidelines.

(103) Residential survey--A review of a residence HHSC to determine if the program provider complies with §565.23 of this chapter (relating to Residential Requirements).

(104) Responder--A person designated to respond to an alarm call activated by an individual.

(105) Restraint--Any of the following:

(A) a physical restraint;

(B) a mechanical restraint; or

(C) a chemical restraint.

(106) Revised IPC--An initial IPC or a renewal IPC that is revised during an IPC year, in accordance with 40 TAC §9.166(b) or (d), to add a new HCS Program service or CFC service or change the amount of an existing service.

(107) Seclusion--The involuntary placement of an individual in an area from which the individual is prevented from leaving.

(108) Service backup plan--A plan that ensures continuity of critical program services if service delivery is interrupted.

(109) Service coordination--A service as defined in Chapter 331 of this title (relating to LIDDA Service Coordination).

(110) Service coordinator--An employee of a LIDDA who provides service coordination to an individual.

(111) Service planning team--One of the following:

(A) for an applicant or individual other than one described in subparagraphs (B) or (C) of this paragraph, a planning team consisting of:

(i) an applicant, individual, and LAR;

(ii) service coordinator; and

(iii) other persons chosen by the applicant, individual, or LAR, for example, a staff member of the program provider, a family member, a friend, or a teacher;

(B) for an applicant 21 years of age or older who is residing in a nursing facility and enrolling in the HCS Program, a planning team consisting of:

(i) the applicant and LAR;

(ii) a service coordinator;

(iii) a staff member of the program provider;

(iv) providers of specialized services;

(v) a nursing facility staff person who is familiar with the applicant's needs;

(vi) other persons chosen by the applicant or LAR, for example, a family member, friend, or teacher; and

(vii) at the discretion of the LIDDA, and with the approval of the individual or LAR, other persons who are directly involved in the delivery of services to persons with an intellectual or developmental disability; or

(C) for an individual 21 years of age or older who has enrolled in the HCS Program from a nursing facility or has enrolled in the HCS Program as a diversion from admission to a nursing facility, for 365 calendar days after enrollment, a planning team consisting of:

(i) the individual and LAR;

(ii) a service coordinator;

(iii) a staff member of the program provider;

(iv) other persons chosen by the individual or LAR, for example, a family member, a friend, or a teacher; and

(v) with the approval of the individual or LAR, other persons who are directly involved in the delivery of services to persons with an intellectual or developmental disability.

(112) Service provider--A person, who may be a staff member, who directly provides an HCS Program service or CFC service to an individual.

(113) Sexual abuse--Any of the following:

(A) sexual exploitation of an individual;

(B) non-consensual or unwelcomed sexual activity with an individual; or

(C) consensual sexual activity between an individual and a service provider, staff member, volunteer, or controlling person, unless a consensual sexual relationship with an adult individual existed before the service provider, staff member, volunteer, or controlling person became a service provider, staff member, volunteer, or controlling person.

(114) Sexual activity--An activity that is sexual in nature, including kissing, hugging, stroking, or fondling with sexual intent.

(115) Sexual exploitation--A pattern, practice, or scheme of conduct against an individual that can reasonably be construed as being for the purposes of sexual arousal or gratification of any person:

(A) which may include sexual contact; and

(B) does not include obtaining information about an individual's sexual history within standard accepted clinical practice.

(116) Specialized services--The services defined in §303.102 of this title (relating to Definitions).

(117) SSI--Supplemental Security Income.

(118) Staff member--An employee or contractor of an HCS Program provider.

(119) Standard contract--A contract that HHSC enters into with a program provider in accordance with 40 TAC §49.209 (relating to Standard Contract) that has a term of no more than five years, not including any extension agreed to in accordance with 40 TAC §49.209(d).

(120) State Medicaid claims administrator--The entity contracting with the state as the Medicaid claims administrator and fiscal agent.

(121) State supported living center--A state-supported and structured residential facility operated by HHSC to provide to persons with an intellectual disability a variety of services, including medical treatment, specialized therapy, and training in acquiring personal, social, and vocational skills, but does not include a community-based facility owned by HHSC.

(122) Support consultation--A service, as defined in 40 TAC §41.103, that is provided to an individual participating in the CDS option at the request of the individual or LAR.

(123) Survey--An initial certification survey, a recertification survey, a follow-up survey, and an intermittent survey.

(124) System check--A test of the CFC ERS equipment to determine if:

(A) the individual can successfully activate an alarm call; and

(B) the equipment is working properly.

(125) Three-person residence--A residence:

(A) that a program provider leases or owns;

(B) in which at least one person but no more than three persons receive:

(i) residential support;

(ii) supervised living;

(iii) a non-HCS Program service like residential support or supervised living (for example, services funded by DFPS or by a person's own resources); or

(iv) respite;

(C) that is not the residence of any person other than a service provider, the service provider's spouse, a person with whom the service provider has a spousal relationship, or a person described in subparagraph (B) of this paragraph; and

(D) that is not a dwelling described in 40 TAC §9.155(a)(5)(H).

(126) Transition plan--As described in §303.102 of this title, a written plan developed by the service planning team for an applicant who is residing in a nursing facility and enrolling in the HCS Program. A transition plan includes essential and nonessential services and supports the applicant needs to transition from a nursing facility to a community setting.

(127) Transition assistance services (TAS)--Services provided to assist an applicant in setting up a household in the community

before being discharged from a nursing facility, an ICF/IID, or a GRO and before enrolling in the HCS Program. TAS consists of:

(A) for an applicant whose proposed initial IPC does not include residential support, supervised living, or host home/companion care:

(i) paying security deposits required to lease a home, including an apartment, or to establish utility services for a home;

(ii) purchasing essential furnishings for a home, including a table, a bed, chairs, window blinds, eating utensils, and food preparation items;

(iii) paying for expenses required to move personal items, including furniture and clothing, into a home;

(iv) paying for services to ensure the health and safety of the applicant in a home, including pest eradication, allergen control, or a one-time cleaning before occupancy; and

(v) purchasing essential supplies for a home, including toilet paper, towels, and bed linens; and

(B) for an applicant whose initial proposed IPC includes residential support, supervised living, or host home/companion care:

(i) purchasing bedroom furniture;

(ii) purchasing personal linens for the bedroom and bathroom; and

(iii) paying for allergen control.

(128) Transportation plan--A written plan based on person-directed planning and developed with an applicant or individual using the HHSC Individual Transportation Plan form found on the HHSC website. A transportation plan is used to document how transportation as a supported home living activity will be delivered to support an individual's desired outcomes and purposes for transportation as identified in the PDP.

(129) Vendor hold--A temporary suspension of payments that are due to a program provider under a contract.

(130) Verbal or emotional abuse--Any act or use of verbal or other communication, including gestures:

(A) to:

(i) harass, intimidate, humiliate, or degrade an individual; or

(ii) threaten an individual with physical or emotional harm; and

(B) that:

(i) results in observable distress or harm to the individual; or

(ii) is of such a serious nature that a reasonable person would consider it harmful or a cause of distress.

(131) Violation--A finding by HHSC that a program provider is not or was not in compliance with a certification standard.

(132) Volunteer--A person who works for a program provider without compensation, other than reimbursement for actual expenses.

(133) Widespread--The scope of a violation that:

(A) is pervasive throughout the services provided by the program provider; or

(B) represents a systemic failure by the program provider that affects or has the potential to affect a large portion of, or all, individuals.

(134) Willfully interfering--Acting or not acting to intentionally prevent, interfere with, or impede, or to attempt to intentionally prevent, interfere with, or impede.

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 C. CERTIFICATION STANDARDS: INDIVIDUAL'S RIGHTS

26 TAC §565.5

STATUTORY AUTHORITY

The proposed new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed new section implements Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

§565.5. *Rights of Individuals.*

(a) The program provider cannot prohibit:

(1) an individual, or the legally authorized representative (LAR) on behalf of the individual, from exercising the same rights and responsibilities exercised by people without disabilities; and

(2) a LAR or family members from encouraging the individual to exercise the same rights and responsibilities exercised by people without disabilities.

(b) The program provider must develop and implement policies that ensure the individual is informed of his or her rights and can exercise his or her rights without interference, coercion, discrimination, or retaliation from the program provider. This includes the right to:

(1) manage, be trained to manage, or have assistance in managing financial affairs upon documentation of the individual's written request for assistance;

(2) access public accommodations;

(3) be informed of the requirements for participation;

(4) be informed, both orally and in writing, of all the HCS Program and CFC services available and rules pertaining to the individual's enrollment and participation in the program provider's program, including those related to the use of restraint, as well as any changes in these that occur;

(5) be informed of the individual plan of care (IPC), implementation plan, and transportation plan, including any restrictions affecting the individual's rights;

(6) participate in decisions and be informed of the reasons for decisions regarding plans for enrollment, service termination, transfer, relocation, or denial of Home and Community-based Services Program (HCS) Program or Community First Choice (CFC) services;

(7) be informed about the individual's own health, mental condition, and related progress;

(8) be informed of the name and qualifications of any person serving or treating the individual and to choose among various available service providers;

(9) receive visitors without prior notice to the program provider unless such rights are contraindicated by the individual's rights or the rights of other individuals;

(10) have privacy in visitation with family and other visitors;

(11) make and receive telephone calls in private;

(12) send and receive sealed and uncensored mail;

(13) attend or refuse to attend religious activities;

(14) participate in developing a pre-discharge plan that addresses assistance for the individual after he or she leaves the program;

(15) be free from the use of unauthorized restraints;

(16) live in a normative residential living environment;

(17) access free public schooling according to Texas Education Code;

(18) live where the individual is within proximity of and can access treatment and services that are best suited to meet the individual's needs and abilities and enhance that individual's strengths;

(19) have a personalized IPC, implementation plan, and transportation plan, based on individualized assessments that meet the individual's needs and abilities and enhance that individual's strengths;

(20) help decide what the implementation plan and transportation plan will be;

(21) be informed as to the progress or lack of progress being made in the execution of the implementation plan and transportation plan;

(22) choose from the same services that are available to all community members, including those without disabilities;

(23) be evaluated as needed, but at least annually, to determine the individual's strengths, needs, preferences, and appropriateness of the implementation plan and transportation plan;

(24) complain at any time to a staff member or service provider;

(25) receive appropriate support and assistance from a staff member or service provider to address concerns if the individual dislikes or disagrees with the services being rendered or thinks that his or her rights are being violated;

(26) live free from abuse, neglect, or exploitation in a healthful and safe environment;

(27) participate in decisions regarding the individual's living environment, including location, furnishings, personal property, other individuals residing in the residence, and moves to other residential locations;

(28) have service providers who are responsive to the individual and, at the same time, are responsible for the overall functioning of the HCS Program;

(29) have active personal assistance in exercising civil and self-advocacy rights attainment by provisions for:

(A) complaints;

(B) voter registration;

(C) citizenship information and education;

(D) advocacy services; and

(E) guardianship;

(30) receive counseling concerning the use of money;

(31) possess and to use money in personal and individualized ways or learn to do so;

(32) access all financial records regarding the individual's funds;

(33) have privacy during treatment and care of personal needs;

(34) have privacy during visits by his or her spouse if living apart;

(35) share a room when both spouses are living in the same residence;

(36) be free from serving as a source of labor when residing with persons other than family members;

(37) communicate, associate, and meet privately with any person of his or her choice, including other individuals, unless this violates the rights of another individual;

(38) participate in social, recreational, and community group activities;

(39) have his or her LAR involved in activities, including:

(A) being informed of all rights and responsibilities when the individual is enrolled in the program provider's program, as well as any changes in rights or responsibilities before they become effective;

(B) participating in the planning for HCS Program and CFC services; and

(C) advocating for all rights of the individual;

(40) be informed of the individual's option to transfer to other program providers as chosen by the individual or LAR as often as desired;

(41) complain to HHSC when the program provider's resolution of a complaint is unsatisfactory to the individual or LAR, and to be informed of the Intellectual and Developmental Disability Ombudsman telephone number to initiate complaints (1-800-252-8154); and

(42) have opportunities for leisure time activities, vacation periods, religious observances, holidays, and days off, consistent with

the individual's choice and routines of other members of the community.

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 D. CERTIFICATION STANDARDS: STAFF MEMBER AND SERVICE

26 TAC §565.7, §565.9

STATUTORY AUTHORITY

The proposed new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed new sections implement Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

§565.7. Staff Member and Service Provider Requirements.

(a) The program provider must employ or contract with a person who oversees the provision of Home and Community-based Services Program (HCS) Program services and CFC services to an individual. The person must:

(1) have at least three years paid work experience in planning and providing HCS Program services or CFC services to an individual with an intellectual disability or related condition as verified by written statements from the person's employer;

(2) have at least three years of experience planning and providing services like HCS Program services or CFC services to a person with an intellectual disability or related condition as verified by written statements from organizations or agencies that provided services to the person; or

(3) have at least three years of experience on a microboard with duties that include overseeing, planning, or providing services to an individual with an intellectual disability or related condition as verified, in a statement by the board of directors of the non-profit corporation that the person is a member of the microboard.

(b) The program provider must ensure that a staff member or service provider of individualized skills and socialization, supported home living, host home/companion care, supervised living, residential support, respite, supportive employment, and employment assistance:

(1) meets the criteria for employment in the HCS Billing Requirements and Appendix C of the HCS Program waiver application from CMS located on the Texas Health and Human Services Commission (HHSC) website; and

(2) is qualified to deliver required services from the person-directed plan, individual plan of care, and implementation plan to meet the needs of each individual it provides services to as evidence by:

(A) documented training specific to the individual's needs and characteristics conducted before service provision and at least every twelve months thereafter;

(B) observed competency; and

(C) if the service provider participates in developing an implementation plan for CFC personal assistance services/habilitation (CFC PAS/HAB), the service provider or staff member must complete the Online Introductory Course to Person Centered Planning training approved by HHSC within 90 days of hire.

(c) A program provider must develop and implement policy and procedures that ensure only qualified service providers administer nursing, dental, or professional therapies which includes:

(1) ensuring that the service providers:

(A) meet eligibility criteria in the HCS Billing Requirements and Waiver Application from the Centers for Medicare and Medicaid Services located on the HHSC website; and

(B) if providing behavioral support services, complete the web-based HCS and Texas Home Living Behavioral Support Services Provider Policy Training available on the HHSC website:

(i) before providing behavioral support services;

(ii) within 90 calendar days after the date HHSC issues notice to program providers that HHSC revised the web-based training; and

(iii) within three years after the most recent date of completion.

(2) putting safeguards in place to ensure:

(A) the service provider continues to be licensed and in good standing with its licensing board during the provision of services to an individual;

(B) the service provider only provides services that fall within the scope of its license as defined in the Texas Occupation Code;

(C) the program provider complies with each applicable regulation required by the State of Texas in ensuring that its operations, staff members and service providers meet state certification, licensure, and regulatory requirements for any tasks performed or services delivered in part or in entirety for the HCS Program; and

(D) the policy or practice is revised if a shortcoming is identified.

(d) A program provider must ensure that a service provider of transition assistance services (TAS):

(1) is at least 18 years of age;

(2) has a high school diploma or a certificate recognized by a state as the equivalent of a high school diploma;

(3) is not a relative of the applicant;

(4) is not the legally authorized representative (LAR) of the applicant;

(5) does not live with the applicant; and

(6) can provide TAS and complying with the documentation requirements described in §565.21(a)(2)(A) of this chapter (relating to Transitional Assistance Service (TAS)).

(e) A program provider must:

(1) ensure that a service provider of CFC PAS/HAB:

(A) is at least 18 years of age;

(B) has:

(i) a high school diploma or a certificate recognized by a state as the equivalent of a high school diploma; or

(ii) documentation of a proficiency evaluation of experience and competence to perform the job tasks that includes:

(I) a written competency-based assessment of the ability to document service delivery and observations of the individuals to be served; and

(II) at least three written personal references from persons not related by blood that indicate the ability to provide a safe, healthy environment for the individuals being served;

(C) is not:

(i) the spouse of the individual; or

(ii) a parent of the individual if the individual is a minor; and

(D) meets any other qualifications requested by the individual or LAR based on the individual's needs and preferences; and

(2) if requested by an individual or LAR:

(A) allow the individual or LAR to:

(i) train a CFC PAS/HAB service provider in the specific assistance needed by the individual; and

(ii) have the service provider perform CFC PAS/HAB in a manner that comports with the individual's personal, cultural, or religious preferences; and

(B) ensure that a CFC PAS/HAB service provider attends training by HHSC to meets any additional qualifications requested by the individual or LAR.

§565.9. Program Provider Requirements.

(a) The program provider must ensure the continuous availability of trained and qualified service providers to deliver the required services, as determined by the individual's needs and characteristics.

(b) The program provider must:

(1) comply with 40 Texas Administrative Code (TAC) §49.304 (relating to Background Checks);

(2) comply with 40 TAC §49.312 (relating to Personal Attendants), including when the service provider of supported home living or CFC personal assistance services/habilitation (CFC PAS/HAB) is employed by or contracts with a contractor of a program provider;

(3) obtain the criminal history record of the potential staff member or potential contractor from the Texas Department of Public Safety directly or through a private agency before hiring or contracting with the potential staff member;

(4) not employ or contract with a potential staff member, service provider, or volunteer who:

(A) has been convicted of an offense listed, and for the time periods set forth, in Texas Health and Safety Code §250.006;

(B) is a registered sex offender; or

(C) has been convicted of an offense that the program provider determines is a contraindication;

(5) search the following registries before hire or execution of a contract and every 12 months thereafter to determine if a staff member or service provider is eligible for employment:

(A) the Employee Misconduct Registry; and

(B) the Nurse Aide Registry;

(6) search the following registries before hire or execution of a contract and every month thereafter to determine if an employee or contractor is eligible for employment:

(A) the List of Excluded Individuals and Entities maintained by the United States Department of Health and Human Services; and

(B) the List of Excluded Individuals and Entities maintained by the Texas Health and Human Services Commission (HHSC) Office of Inspector General; and

(7) not hire or continue employment for a staff member or service provider who is listed on:

(A) the Employee Misconduct Registry as unemployed;

(B) the Nurse Aide Registry as revoked or suspended;

(C) the List of Excluded Individuals and Entities maintained by the United States Department of Health; or

(D) the List of Excluded Individuals and Entities maintained by Health and Human Services office of Inspector General or by HHSC Office of Inspector General.

(c) The program provider must develop and implement policy and procedures that ensure staff members and service providers without a valid driver's license and insurance do not transport individuals. This includes:

(1) a written policy requiring verification of a valid license and insurance according to Texas state law;

(2) an ongoing verification process to ensure a staff member and service provider continues to have a valid driver's license and insurance according to Texas state law; and

(3) revising a policy or practice if a shortcoming is identified.

(d) If the service provider of supported home living or CFC PAS/HAB is employed by or contracts with a contractor of a program provider, the program provider must ensure that the contractor complies with subsection (b)(2) of this section as if the contractor were the program provider.

(e) The program provider must employ or contract with a person or entity of the individual's or legally authorized representative's (LAR's) choice to provide a Home and Community-based Services Program or CFC service to the individual:

(1) if that person or entity:

(A) is qualified to provide the service; and

(B) is willing to contract with or be employed by the program provider to provide the service in accordance with this subchapter; or

(2) the program provider has documented good cause to not employ or contract with the individual or LAR's choice.

(f) If a program provider contracts with a person or entity to provide transition assistance services (TAS), the person or entity must have a contract to provide TAS in accordance with 40 TAC Chapter 49 (relating to Contracting for Community Services).

(g) The program provider must create and implement a policy that prevents:

(1) conflicts of interest between the program provider, a staff member, or a service provider and an individual, such as the acceptance of payment for goods or services (except payment for room and board) from which the program provider, staff member, or service provider could financially benefit;

(2) financial impropriety toward an individual including:

(A) unauthorized disclosure of information related to an individual's finances; and

(B) using an individual's funds for the purchase of goods that the individual cannot use;

(3) abuse, neglect, or exploitation of an individual;

(4) damage to, or prevention of an individual's access to, the individual's possessions; and

(5) threats of the actions described in paragraphs (2) - (4) of this subsection.

(h) A program provider must comply with 42 United States Code §1396a(w), regarding requirements about advance directives.

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

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SUBCHAPTER E. CERTIFICATION STANDARDS: SERVICE DELIVERY

26 TAC §§565.11, 565.13, 565.15, 565.17, 565.19, 565.21

STATUTORY AUTHORITY

The proposed new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code

§32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed new sections implement Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

§565.11. Service Delivery.

(a) The program provider must:

(1) serve an eligible applicant who has selected the program provider unless the program provider's enrollment has reached its service capacity as identified in the Texas Health and Human Services Commission (HHSC) data system;

(2) serve an eligible applicant without regard to age, sex, race, or level of disability;

(3) provide or obtain as needed and without delay all Home and Community-based Services Program (HCS) Program and Community First Choice (CFC) services for an individual;

(4) maintain a system of delivering HCS Program and CFC services that is continuously responsive to changes in the individual's personal goals, condition, abilities, and needs as identified by the service planning team;

(5) ensure that each applicant or individual, or legally authorized representative (LAR), chooses where the individual or applicant will reside from available options consistent with the applicant's or individual's needs;

(6) ensure that an individual's rights as identified in §565.5 of this chapter (relating to Rights of Individuals) are not violated, unless contraindications are documented with justification in a Behavior Support Plan;

(7) notify the service coordinator if a change in an individual's condition necessitates a change in residential, educational, or work settings;

(8) inform appropriate staff members, service providers, and the service coordinator when a circumstance or event occurs in an individual's life or a change to an individual's condition affects the provision of services to the individual;

(9) notify the service coordinator if the program provider has reason to believe that an individual is no longer eligible for HCS Program services or CFC services or an individual or LAR has requested termination of all HCS Program services or all CFC services;

(10) ensure that the individual plan of care (IPC) for each individual:

(A) is renewed or revised in accordance with 40 Texas Administrative Code (TAC) §9.166 (relating to Renewal and Revision of an IPC); and

(B) is authorized by the Texas Department of Aging and Disability Services (DADS) in accordance with 40 TAC §9.160 (relating to DADS Review of a Proposed IPC);

(11) ensure that HCS Program and CFC services identified in the individual's implementation plan and transportation plan are provided in an individualized manner and are based on the results of assessments of the individual's and the family's strengths, the individual's personal goals, the family's goals for the individual, and the individual's needs rather than which services are available;

(12) ensure that each individual's progress or lack of progress toward desired outcomes is documented in observable, measurable, or outcome-oriented terms;

(13) ensure that individuals who perform work for the program provider are paid on the basis of their production or performance and at a wage level commensurate with that paid to persons who are without disabilities and who would otherwise perform that work, and that compensation is based on local, state, and federal regulations, including Department of Labor regulations, as applicable;

(14) ensure that individuals who produce marketable goods and services in habilitation training programs are paid at a wage level commensurate with that paid to persons who are without disabilities and who would otherwise perform that work. Compensation is based on requirements contained in the Fair Labor Standards Act, which include:

(A) accurate recordings of individual production or performance;

(B) valid and current time studies or monitoring as appropriate; and

(C) prevailing wage rates;

(15) ensure that individuals provide no training, supervision, or care to other individuals unless they are qualified and compensated in accordance with local, state, and federal regulations, including Department of Labor regulations;

(16) ensure that adaptive aids are provided in accordance with the individual's person-directed plan (PDP), IPC, implementation plan, and Appendix C of the HCS Program waiver application, approved by the Centers for Medicare and Medicaid Services (CMS) and found on the HHSC website, and include the full range of lifts, mobility aids, control switches/pneumatic switches and devices, environmental control units, medically necessary supplies, and communication aids and repair and maintenance of the aids, as determined by the individual's needs;

(17) ensure the coordination and compatibility of HCS Program and CFC services with non-HCS Program services and non-CFC services together with an individual's service coordinator;

(18) ensure that an individual has a current implementation plan;

(19) ensure professional therapies:

(A) are provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website:

(i) audiology services;

(ii) speech/language pathology services;

(iii) occupational therapy services;

(iv) physical therapy services;

(v) dietary services;

(vi) social work services;

(vii) behavioral support; and

(viii) cognitive rehabilitation therapy; and

(B) if the service planning team determines that an individual may need cognitive rehabilitation therapy, the program provider:

(i) in coordination with the service coordinator, assists the individual in obtaining, in accordance with the Medicaid State Plan, a neurobehavioral or neuropsychological assessment and plan of care from a qualified professional as a non-HCS Program service; and

(ii) use a qualified professional as described in §565.7 of this chapter (relating to Staff Member and Service Provider Requirements) to provide and monitor the provision of cognitive rehabilitation therapy to the individual in accordance with the plan of care described in clause (i) of this subparagraph;

(20) ensure that individualized skills and socialization is provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website, including:

(A) assisting individuals in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in the community;

(B) offering and providing individuals with age-appropriate activities that enhance self-esteem and maximize functional level;

(C) complementing any professional therapies listed in the IPC;

(D) reinforcing skills or lessons taught in school, therapy, or other settings;

(E) offering training and support activities that promote the individual's integration and participation in the community;

(F) assisting the individual who cannot manage personal care needs during individualized skills and socialization activities; and

(G) providing transportation during activities as necessary for the individual's participation in individualized skills and socialization activities;

(21) ensure that dental treatment is provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website including:

(A) emergency dental treatment;

(B) preventive dental treatment;

(C) therapeutic dental treatment; and

(D) orthodontic dental treatment, excluding cosmetic orthodontia;

(22) ensure that minor home modifications are provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website but are limited to the following categories:

(A) purchase and repair of wheelchair ramps;

(B) modifications to bathroom facilities;

(C) modifications to kitchen facilities;

(D) specialized accessibility and safety adaptations or additions; and

(E) repair and maintenance of minor home modifications not covered by a warranty;

(23) ensure that supported home living:

(A) is available only to an individual who is not receiving:

(i) host home/companion care;

(ii) supervised living; or

(ii) residential support; and

(B) is available to an individual who is receiving foster care services from DFPS;

(24) ensure that supported home living is provided in accordance with the individual's PDP, IPC, implementation plan, transportation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website and includes the following elements:

(A) direct personal assistance with activities of daily living (grooming, eating, bathing, dressing, and personal hygiene);

(B) assisting with meal planning and preparation;

(C) providing transportation;

(D) securing transportation;

(E) assisting with housekeeping;

(F) assisting with ambulation and mobility;

(G) reinforcing professional therapy activities;

(H) assisting with medications and the performing tasks delegated by a registered nurse (RN);

(I) supervising of individuals' safety and security;

(J) facilitating inclusion in community activities, use of natural supports, social interaction, participation in leisure activities, and development of socially valued behaviors; and

(K) habilitation, exclusive of individualized skills and socialization;

(25) ensure that HCS host home/companion care is provided:

(A) by a host home/companion care provider who lives in the residence in which no more than three individuals or other persons receiving similar services are living at any one time; and

(B) in a residence in which the program provider does not hold a property interest;

(26) ensure that host home/companion care is provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website and includes the following elements:

(A) direct personal assistance with activities of daily living (grooming, eating, bathing, dressing, and personal hygiene);

(B) assisting with meal planning and preparation;

(C) securing and providing transportation;

(D) assisting with housekeeping;

(E) assisting with ambulation and mobility;

(F) reinforcing professional therapy activities;

(G) assisting with medications and the performance of tasks delegated by an RN;

(H) supervising of safety and security;

(I) facilitating inclusion in community activities, use of natural supports, social interaction, participation in leisure activities, and development of socially valued behaviors; and

(J) habilitation, exclusive of individualized skills and socialization;

(27) ensure that supervised living is provided:

(A) in a four-person residence that is approved in accordance with §565.23(i) of this chapter (relating to Residential Requirements) or a three-person residence;

(B) by a service provider who provides services and supports as needed by the individuals residing in the residence and is present in the residence and able to respond to the needs of the individuals during normal sleeping hours; and

(C) only with approval by the HHSC commissioner or designee for the initial six months and one six-month extension and only with approval by the HHSC Executive Commissioner after such 12-month period, if provided to an individual under 22 years of age;

(28) ensure that supervised living is provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website and includes the following elements:

(A) direct personal assistance with activities of daily living (grooming, eating, bathing, dressing, and personal hygiene);

(B) assisting with meal planning and preparation;

(C) securing and providing transportation;

(D) assisting with housekeeping;

(E) assisting with ambulation and mobility;

(F) reinforcing professional therapy activities;

(G) assisting with medications and the performance of tasks delegated by an RN;

(H) supervising of individuals' safety and security;

(I) facilitating inclusion in community activities, use of natural supports, social interaction, participation in leisure activities, and development of socially valued behaviors; and

(J) habilitation, exclusive of individualized skills and socialization;

(29) ensure that residential support is provided:

(A) in a four-person residence that is approved in accordance with §565.23(i) of this chapter or in a three-person residence;

(B) by a service provider who is present in the residence and awake whenever an individual is present in the residence;

(C) by service providers assigned on a daily shift schedule that includes at least one complete change of service providers each day; and

(D) only with approval by the HHSC commissioner or designee for the initial six months and one six-month extension and only with approval by the HHSC Executive Commissioner after such 12-month period, if provided to an individual under 22 years of age;

(30) ensure that residential support is provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website, and includes the following elements:

(A) direct personal assistance with activities of daily living (grooming, eating, bathing, dressing, and personal hygiene);

(B) assisting with meal planning and preparation;

(C) securing and providing transportation;

(D) assisting with housekeeping;

(E) assisting with ambulation and mobility;
(F) reinforcing professional therapy activities;
(G) assisting with medications and the performance of tasks delegated by an RN;

(H) supervising of individuals' safety and security;

(I) facilitating inclusion in community activities, use of natural supports, social interaction, participation in leisure activities, and development of socially valued behaviors; and

(J) habilitation, exclusive of individualized skills and socialization;

(31) if making a recommendation to the service planning team that the individual receive residential support, document the reasons for the recommendation, which may include:

(A) the individual's medical condition;

(B) a behavior displayed by the individual that poses a danger to the individual or to others; or

(C) the individual's need for assistance with activities of daily living during normal sleeping hours;

(32) ensure that respite is available on a 24-hour increment or any part of that increment to individuals living in their family homes;

(33) ensure that respite is provided in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website and:

(A) includes:

(i) training in self-help and independent living skills;

(ii) providing room and board when respite is provided in a setting other than the individual's normal residence;

(iii) assisting with:

(I) ongoing provision of needed waiver services;

and

(II) securing and providing transportation; and

(B) is only provided:

(i) to individuals who are not receiving residential support, supervised living, or host home/companion care; and

(ii) when the unpaid caregiver is temporarily unavailable to provide supports;

(34) provide respite in the residence of an individual or in other locations, including residences in which host home/companion care, supervised living, or residential support is provided or in a respite facility or camp, that:

(A) meets HCS Program requirements and is an environment that ensures the health and safety of the individual; and

(B) if respite is provided:

(i) in the residence of another individual, the program provider must obtain permission from that individual or LAR and ensure that the respite visit will cause no threat to the health, safety, or welfare of either individual;

(ii) in a respite facility, the program provider must obtain written approval from the local fire authority having jurisdiction stating that the facility and its operation meet the local fire ordinances

before initiating services in the facility if more than three individuals receive services in the facility at any one time; or

(iii) in a camp setting, the program provider must ensure the camp is accredited by the American Camp Association;

(35) ensure that employment assistance:

(A) is provided to an individual to help the individual locate competitive employment in the community;

(B) consists of a service provider:

(i) identifying an individual's employment preferences, job skills, and requirements for a work setting and work conditions;

(ii) locating prospective employers offering employment compatible with an individual's identified preferences, skills, and requirements;

(iii) contacting a prospective employer on behalf of an individual and negotiating the individual's employment;

(iv) transporting an individual to help the individual locate competitive employment in the community; and

(v) participating in service planning team meetings;

(C) is provided in accordance with an individual's PDP, IPC, implementation plan, and with Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website;

(D) is not provided to an individual with the individual present at the same time that respite, supported home living, individualized skills and socialization, supported employment, or CFC personal assistance services/habilitation (CFC PAS/HAB) is provided; and

(E) does not include using Medicaid funds paid by HHSC to the program provider for incentive payments, subsidies, or unrelated vocational training expenses, such as:

(i) paying an employer:

(I) to encourage the employer to hire an individual; or

(II) for supervision, training, support, or adaptations for an individual that the employer typically makes available to other workers without disabilities filling similar positions in the business; or

(ii) paying an individual:

(I) as an incentive to participate in employment assistance activities; or

(II) for expenses associated with the start-up costs or operating expenses of the individual's business;

(36) ensure that supported employment:

(A) is assistance provided to an individual:

(i) who, because of a disability, requires intensive, ongoing support to be self-employed, work from home, or perform in a work setting at which persons without disabilities are employed;

(ii) in order for the individual to sustain competitive employment; and

(iii) in accordance with the individual's PDP, IPC, implementation plan, and Appendix C of the HCS Program waiver application approved by CMS and found on the HHSC website;

(B) consists of a service provider:

(i) making employment adaptations, supervising, and providing training related to an individual's assessed needs;

(ii) transporting an individual to support the individual to be self-employed, work from home, or perform in a work setting; and

(iii) participating in service planning team meetings;

(C) is not provided to an individual with the individual present at the same time that respite, supported home living, individualized skills and socialization, supported employment, or CFC PAS/HAB is provided; and

(D) does not include:

(i) sheltered work or other similar types of vocational services furnished in specialized facilities; or

(ii) using Medicaid funds paid by HHSC to the program provider for incentive payments, subsidies, or unrelated vocational training expenses such as:

(I) paying an employer:

(-a-) to encourage the employer to hire an individual; or

(-b-) to supervise, train, support, or make adaptations for an individual that the employer typically makes available to other workers without disabilities filling similar positions in the business; or

(II) paying an individual:

(-a-) as an incentive to participate in supported employment activities; or

(-b-) for expenses associated with the start-up costs or operating expenses of the individual's business;

(37) ensure that CFC PAS/HAB is provided in accordance with the individual's PDP, IPC, and implementation plan;

(38) ensure that CFC support management is provided to an individual or LAR if:

(A) the individual is receiving CFC PAS/HAB; and

(B) the individual or LAR requests to receive CFC support management;

(39) inform the service coordinator of changes related to an individual's residential setting that do not require a change to the individual's IPC;

(40) maintain current information in the HHSC data system about the individual and the individual's LAR, including:

(A) the individual's full name, address, location code, and phone number; and

(B) the LAR's full name, address, and phone number;

(41) maintain a single record related to HCS Program and CFC services provided to an individual for an IPC year that includes:

(A) the IPC;

(B) the PDP and, if CFC PAS/HAB is included on the PDP, the completed HHSC HCS/TxHmL CFC PAS/HAB Assessment form;

(C) the implementation plan;

(D) a behavior support plan, if one has been developed;

(E) a transportation plan, if one is required;

(F) documentation that describes the individual's progress or lack of progress on the implementation plan;

(G) documentation that describes any changes to an individual's personal goals, condition, abilities, or needs;

(H) the Intellectual Disability/Related Conditions Assessment (ID/RC Assessment);

(I) documentation supporting the recommended level of need, including the Inventory for Client and Agency Planning booklet, assessments and interventions by qualified professionals, and time sheets of service providers;

(J) results and recommendations from individualized assessments that support the individual's current need for each service included in the IPC;

(K) documentation concerning any use of restraint as described in §565.33(a)(2) and (3) of this chapter (relating to Restraints);

(L) documentation related to the suspension of an individual's HCS Program services or CFC services;

(M) for an individual under 22 years of age, a copy of the permanency plan; and

(N) documentation required by subsection §565.17(a)(2) of this subchapter (relating to Pre-enrollment Minor Home Modification) and subsection §565.21(a)(2) of this subchapter (relating to Transitional Assistance Service (TAS));

(42) upon request by the service coordinator:

(A) permit the service coordinator access to the record that is required by paragraph (41) of this subsection; and

(B) provide the service coordinator a legible copy of a document in the record at no charge to the service coordinator;

(43) provide a copy of the following documents to the service coordinator:

(A) an individual's IPC; and

(B) an individual's ID/RC Assessment;

(44) if a physician delegates a medical act to an unlicensed service provider in accordance with Texas Occupations Code Chapter 157, and the program provider has concerns about the health or safety of the individual in performance of the medical act, communicate the concern to the delegating physician and take additional steps as necessary to ensure the health and safety of the individual;

(45) for an individual receiving host home/companion care, residential support, or supervised living, ensure that the individual or LAR is involved in planning the individual's residential relocation, except in the case of an emergency;

(46) for an HCS Program or CFC service identified on the PDP as critical to meeting the individual's health and safety:

(A) develop a service backup plan that:

(i) contains the name of the critical service;

(ii) specifies the time period in which an interruption to the critical service would result in an adverse effect to the individual's health or safety; and

(iii) in the event of a service interruption resulting in an adverse effect, as described in clause (ii) of this subparagraph, describe the actions the program provider will take to ensure the individual's health and safety;

(B) ensure that:

(i) if the action in the service backup plan required by subparagraph (A) of this paragraph identifies a natural support, that the natural support receives pertinent information about the individual's needs and can protect the individual's health and safety; and

(ii) a person identified in the service backup plan, if paid to provide the service, meets the qualifications described in this subchapter; and

(C) if the service backup plan required by subparagraph (A) of this paragraph is implemented:

(i) discuss the implementation of the service backup plan with the individual and the service providers or natural supports identified in the service backup plan to determine whether the plan was effective;

(ii) document whether the plan was effective; and

(iii) revise the plan if the program provider determines the plan was ineffective;

(47) for an applicant 21 years of age or older who is residing in a nursing facility and enrolling in the HCS Program:

(A) participate as a member of the service planning team, which includes attending service planning team meetings scheduled by the service coordinator;

(B) assist in the implementation of the applicant's transition plan as described in the plan; and

(C) be physically present for the pre-move site review and assist the service coordinator during the review as requested; and

(48) for 365 calendar days after an individual 21 years of age or older has enrolled in the HCS Program from a nursing facility or has enrolled in the HCS Program as a diversion from admission to a nursing facility:

(A) be physically present for each post-move monitoring visit and assist the service coordinator during the visit as requested;

(B) assist in the implementation of the individual's transition plan as described in the plan;

(C) participate as a member of the service planning team, which includes attending service planning team meetings scheduled by the service coordinator; and

(D) within one calendar day after becoming aware of an event or condition that may put the individual at risk of admission or readmission to a nursing facility, notify the service planning team of the event or condition.

(b) A program provider may suspend HCS Program services or CFC services because an individual is temporarily admitted to a setting described in 40 TAC §9.155(e) (relating to Eligibility Criteria and Suspension of HCS Program Services and of CFC Services).

(1) If a program provider suspends HCS Program services or CFC services, the program provider must:

(A) notify HHSC of the suspension by entering data in the HHSC data system in accordance with HHSC instructions; and

(B) notify the service coordinator of the suspension within one business day after services are suspended.

(2) A program provider may not suspend HCS Program services or CFC services for more than 270 calendar days without approval from HHSC as described in 40 TAC §9.190(e)(20)(C) (relat-

ing to LIDDA Requirements for Providing Service Coordination in the HCS Program).

§565.13. Nursing.

(a) A program provider must:

(1) ensure that nursing is provided in accordance with the individual's person-directed plan (PDP); individual plan of care (IPC); implementation plan; Texas Occupations Code Chapter 301 (Nursing Practice Act); 22 Texas Administrative Code (TAC) Chapter 217 (relating to Licensure, Peer Assistance and Practice); 22 TAC Chapter 224 (relating to Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments); 22 TAC Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions); and Appendix C of the HCS Program waiver application approved by the Centers for Medicare and Medicaid Services (CMS) and found on the Texas Health and Human Services Commission (HHSC) website, and consists of performing health care activities and monitoring the individual's health conditions;

(2) this includes:

(A) administering medication;

(B) monitoring the individual's use of medications;

(C) monitoring health risks, data, and information, including ensuring that an unlicensed service provider is performing only those nursing tasks identified from a nursing assessment;

(D) assisting the individual to secure emergency medical services;

(E) making referrals for appropriate medical services;

(F) performing health care procedures ordered or prescribed by a physician or medical practitioner and required by standards of professional practice or law to be performed by a registered nurse (RN) or licensed vocational nurse (LVN);

(G) delegating nursing tasks to an unlicensed service provider and supervising the performance of those tasks in accordance with state law and rules;

(H) teaching an unlicensed service provider about the specific health needs of an individual;

(I) performing an assessment of an individual's health condition;

(J) a registered nurse (RN) doing the following:

(i) performing a nursing assessment for each individual:

(I) before an unlicensed service provider performs a nursing task for the individual, unless a physician has delegated the task as a medical act under Texas Occupations Code Chapter 157, as documented by the physician; and

(II) as determined necessary by an RN, including if the individual's health needs change;

(ii) documenting information from performance of a nursing assessment;

(iii) if an individual is receiving a service through the consumer directed services (CDS) option, providing a copy of the documentation described in clause (ii) of this subparagraph to the individual's service coordinator;

(iv) developing the nursing service portion of an individual's implementation plan, which includes developing a plan and schedule for monitoring and supervising delegated nursing tasks; and

(v) making and documenting decisions related to the delegation of a nursing task to an unlicensed service provider; and

(K) in accordance with Texas Human Resources Code Chapter 161:

(i) allowing an unlicensed service provider to provide administration of medication to an individual without the delegation or oversight of an RN if:

(I) an RN has performed a nursing assessment and based on the results of the assessment, determined that the individual's health permits the administration of medication by an unlicensed service provider;

(II) the medication is:

(-a-) an oral medication;

(-b-) a topical medication; or

(-c-) a metered dose inhaler;

(III) the medication is administered to the individual for a predictable or stable condition; and

(IV) the unlicensed service provider has been:

(-a-) trained by an RN or a licensed vocational nurse (LVN) under the direction of an RN regarding the proper administration of medication; or

(-b-) determined to be competent by an RN or LVN under the direction of an RN regarding proper administration of medication, including through a demonstration of proper technique by the unlicensed service provider; and

(ii) ensuring that an RN or LVN under the supervision of an RN reviews the administration of medication to an individual by an unlicensed service provider at least annually and after any significant change in the individual's condition.

(b) A program provider may determine that an individual does not require a nursing assessment if:

(1) nursing services are not on the individual's IPC and the program provider has determined that no nursing task will be performed by an unlicensed service provider as documented on HHSC form "Nursing Task Screening Tool"; or

(2) a nursing task will be performed by an unlicensed service provider and a physician has delegated the task as a medical act under Texas Occupations Code Chapter 157, as documented by the physician.

(c) If an individual or LAR refuses a nursing assessment described in subsection (a)(1)(J)(i) of this section, the program provider must not:

(1) provide nursing services to the individual; or

(2) provide host home/companion care, residential support, supervised living, supported home living, respite, employment assistance, supported employment, individualized skills and socialization, or CFC PAS/HAB to the individual unless:

(A) an unlicensed service provider does not perform nursing tasks in the provision of the service; and

(B) the program provider determines that it can ensure the individual's health, safety, and welfare in the provision of the service.

(d) If an individual or LAR refuses a nursing assessment and the program provider determines that the program provider cannot ensure the individual's health, safety, and welfare in the provision of a service as described in subsection (c) of this section, the program provider must:

(1) immediately notify the individual or LAR and the individual's service coordinator, in writing, of the determination; and

(2) include in the notification required by paragraph (1) of this subsection the reasons for the determination and the services affected by the determination.

(e) If notified by the service coordinator that the individual or LAR refuses the nursing assessment after the discussion with the service coordinator as described in 40 TAC §9.190(e)(21)(A) (relating to LIDDA Requirements for Providing Service Coordination in the HCS Program), the program provider must immediately send the written notification described in subsection (d) of this section to HHSC.

§565.15. Individuals under the Age of 22.

The program provider must:

(1) request from and encourage the parent or legally authorized representative (LAR) of an individual under 22 years of age receiving supervised living or residential support to provide the program provider with the following information:

(A) the parent's or LAR's:

(i) name;

(ii) address;

(iii) telephone number;

(iv) driver license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

(v) place of employment and the employer's address and telephone number;

(B) name, address, and telephone number of a relative of the individual or other person whom the Texas Health and Human Services Commission (HHSC) or the program provider may contact in an emergency situation, a statement indicating the relationship between that person and the individual, and at the parent's or LAR's option:

(i) that person's driver license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

(ii) the name, address, and telephone number of that person's employer; and

(C) a signed acknowledgement of responsibility stating that the parent or LAR agrees to:

(i) notify the program provider of any changes to the contact information submitted; and

(ii) make reasonable efforts to participate in the individual's life and in planning activities for the individual;

(2) inform the parent or LAR that if the information described in paragraph (1) of this subsection is not provided or is not accurate and the service coordinator and HHSC are unable to locate the parent or LAR as described in 40 Texas Administrative Code (TAC) §9.190(e)(35) (relating to LIDDA Requirements for Providing Service Coordination in the HCS Program) and 40 TAC §9.189 (relating to Referral to DFPS), HHSC refers the case to DFPS;

(3) for an individual under 22 years of age receiving supervised living or residential support:

(A) make reasonable accommodations to promote the participation of the LAR in all planning and decision-making regarding the individual's care, including participating in meetings conducted by the program provider;

(B) take the following actions to assist a local intellectual and developmental disability authority (LIDDA) in conducting permanency planning:

(i) cooperate with the LIDDA responsible for conducting permanency planning by:

(I) allowing access to an individual's records or providing other information in a timely manner, as requested by the local authority or HHSC;

(II) participating in meetings to review the individual's permanency plan; and

(III) identifying, in coordination with the individual's LIDDA, activities, supports, and services that can be provided by the family, LAR, program provider, or the LIDDA to prepare the individual for an alternative living arrangement;

(ii) encourage regular contact between the individual and the LAR and, if desired by the individual and LAR, between the individual and advocates and friends in the community to continue supportive and nurturing relationships;

(iii) keep a copy of the individual's current permanency plan in the individual's record; and

(iv) refrain from providing the LAR with inaccurate or misleading information regarding the risks of moving the individual to another institutional setting or to a community setting;

(C) if an emergency situation occurs, attempt to notify the parent or LAR and service coordinator as soon as the emergency situation allows and request a response from the parent or LAR; and

(D) if the program provider determines it is unable to locate the parent or LAR, notify the service coordinator of such determination.

§565.17. Pre-enrollment Minor Home Modification.

The program provider must provide pre-enrollment minor home modifications and a pre-enrollment minor home modifications assessment in accordance with this subsection.

(1) The program provider must:

(A) complete a pre-enrollment minor home modifications assessment in accordance with the Home and Community-based Services (HCS) Program Billing Guidelines;

(B) provide pre-enrollment minor home modifications to an applicant for whom the program provider receives from the service coordinator a completed Pre-enrollment Minor Home Modifications/Assessments Authorization form authorized by the Texas Health and Human Services Commission (HHSC), as described in 40 Texas Administrative Code (TAC) §9.158(k)(8)(C) (relating to Process for Enrollment of Applicants);

(C) provide to the applicant the specific pre-enrollment minor home modifications identified on the form;

(D) provide the pre-enrollment minor home modifications for the applicant within the monetary amount identified on the form;

(E) ensure pre-enrollment minor home modifications and pre-enrollment minor home modifications assessments are provided in accordance with Appendix C of the HCS Program waiver application approved by the Centers for Medicare and Medicaid Services (CMS) and found on the HHSC website; and

(F) complete the pre-enrollment minor home modifications at least two days before the date of the applicant's discharge from the nursing facility, intermediate care facility for individuals with an intellectual disability or related conditions (ICF/IID), or general residential operation (GRO) unless the delay in completion is beyond the control of the program provider.

(2) If the program provider does not complete pre-enrollment minor home modifications in accordance with paragraph (1) of this subsection, the program provider must:

(A) document:

(i) a description of the pending modifications;

(ii) the reason for the delay;

(iii) the date the program provider anticipates it will complete the pending modifications or specific reasons why the program provider cannot anticipate a completion date; and

(iv) a description of the program provider's ongoing efforts to complete the modifications; and

(B) at least two days before the date of the applicant's discharge from the nursing facility, ICF/IID, or GRO, provide the information described in subparagraph (A) of this paragraph to:

(i) the applicant or legally authorized representative (LAR); and

(ii) the service coordinator.

(3) Within one business day after completion of the pre-enrollment minor home modifications, the program provider must notify the service coordinator and the applicant or LAR that the modifications have been completed.

§565.19. Community First Choice (CFC) Emergency Response Systems (ERS) Services.

CFC ERS must be provided in accordance with this section.

(1) A program provider must ensure that CFC ERS is provided only to an individual who:

(A) is not receiving host home/companion care, supervised living, or residential support;

(B) lives alone, who is alone for significant parts of the day, or has no regular caregiver for extended periods of time; and

(C) would otherwise require extensive routine supervision.

(2) A program provider must ensure that CFC ERS is provided in accordance with the individual's person-directed plan, individual plan of care (IPC), and implementation plan.

(3) A program provider must ensure that CFC ERS equipment is installed within 14 business days after one of the following dates, whichever is later:

(A) the date the Texas Health and Human Services Commission authorizes the proposed IPC that includes CFC ERS; or

(B) the effective date of the individual's IPC as determined by the service planning team.

(4) At the time CFC ERS equipment is installed, a program provider must ensure that:

(A) the equipment is installed in accordance with the manufacturer's installation instructions;

(B) an initial test of the equipment is made;

(C) the equipment has an alternate power source in the event of a power failure;

(D) the individual is trained on the use of the equipment, including:

(i) demonstrating how the equipment works; and

(ii) having the individual activate an alarm call;

(E) an explanation is given to the individual that the individual must:

(i) participate in a system check each month; and

(ii) contact the CFC ERS provider if:

(I) the individual's telephone number or address

changes; or

(II) one or more of the individual's responders

change; and

(F) the individual is informed that a responder, in response to an alarm call, may forcibly enter the individual's home if necessary.

(5) A program provider must ensure that the date and time of the CFC ERS equipment installation and compliance with the requirements in paragraphs (3) and (4) of this section are documented in the individual's record.

(6) A program provider must ensure that, on or before the date CFC ERS equipment is installed:

(A) an attempt is made to obtain from an individual, the names and telephone numbers of at least two responders, such as a relative or neighbor;

(B) public emergency personnel:

(i) are designated as a second responder if the individual provides the name of only one responder; or

(ii) are designated as the sole responder if the individual does not provide the names of any responders; and

(C) the name and telephone number of each responder is documented in the individual's record.

(7) At least once during each calendar month a program provider must ensure that a system check is conducted on a date and time agreed to by the individual.

(8) A program provider must ensure that the date, time, and result of the system check is documented in the individual's record.

(9) If, because of the system check:

(A) the equipment is working properly but the individual is unable to successfully activate an alarm call, the program provider must ensure that a request is made of the service coordinator to hold a service planning team meeting to determine if CFC ERS meets the individual's needs; or

(B) the equipment is not working properly, the program provider must ensure that, within three calendar days of the system check, the equipment is repaired or replaced.

(10) If a system check is not conducted in accordance with paragraph (7) of this section, the program provider must ensure that:

(A) the failure to comply is because of good cause; and

(B) the good cause is documented in the individual's record.

(11) A program provider must ensure that an alarm call is responded to 24 hours a day, seven days a week.

(12) A program provider must ensure that, if an alarm call is made, the CFC ERS provider:

(A) within 60 seconds of the alarm call, attempts to contact the individual to determine if an emergency exists;

(B) immediately contacts a responder after attempting to contact the individual, if:

(i) the CFC ERS provider confirms there is an emergency; or

(ii) the CFC ERS provider is unable to communicate with the individual; and

(C) documents in the individual's record when the information becomes available:

(i) the name of the individual;

(ii) the date and time of the alarm call, recorded in hours, minutes, and seconds;

(iii) the response time, recorded in seconds;

(iv) the time the individual was called in response to the alarm call, recorded in hours, minutes, and seconds;

(v) the name of the contacted responder, if applicable;

(vi) a brief description of the reason for the alarm call; and

(vii) if the reason for the alarm call is an emergency, a statement of how the emergency was resolved.

(13) If an alarm call results in a responder being dispatched to the individual's home for an emergency, the program provider must ensure that:

(A) the service coordinator receives written notice of the alarm call within one business day after the alarm call;

(B) if the CFC ERS provider is a contracted provider, the program provider receives written notice from the contracted provider within one business day after the alarm call; and

(C) the written notices required by subparagraphs (A) and (B) of this paragraph are maintained in the individual's record.

(14) A program provider must ensure that, if an equipment failure occurs, other than during a system check required by paragraph (7) of this section:

(A) the individual is informed of the equipment failure; and

(B) the equipment is replaced within one business day after the failure becomes known by the CFC ERS provider.

(15) If an individual is not informed of the equipment failure and the equipment is not replaced in compliance with paragraph (14) of this section, the program provider must ensure that:

(A) the failure to comply is because of good cause; and

(B) as soon as possible, the individual is informed of the equipment failure and the equipment is replaced.

(16) A program provider must ensure that, if the CFC ERS equipment registers five or more "low battery" signals in a 72-hour period:

(A) a visit to an individual's home is made to conduct a system check within five business days after the low battery signals occur; and

(B) if the battery is defective, the battery is replaced during the visit.

(17) A program provider must ensure that, if a system check or battery replacement is not made in accordance with paragraph (16) of this section:

(A) the failure to comply is because of good cause; and

(B) as soon as possible, the program provide makes a system check or battery replacement.

(18) A program provider must document in an individual's record:

(A) the date the equipment failure or low battery signal became known by the CFC ERS provider;

(B) the equipment or subscriber number;

(C) a description of the problem;

(D) the date the equipment or battery was repaired or replaced; and

(E) the good cause for failure to comply as described in paragraphs (15)(A) and (17)(A) of this section.

§565.21. Transitional Assistance Service (TAS).

The program provider must provide TAS in accordance with this section.

(1) The program provider must:

(A) provide TAS to an applicant for whom the program provider receives from the service coordinator a completed Form 8604, Transition Assistance Services (TAS) Assessment and Authorization authorized by HHSC, as described in 40 Texas Administrative Code §9.158(k)(6)(C) (relating to Process for Enrollment of Applicants);

(B) purchase TAS for the applicant within the monetary amount identified on the form;

(C) deliver to the applicant the specific TAS identified on the form;

(D) ensure TAS is provided in accordance with the individual's person-directed plan and Appendix C of the HCS Program waiver application approved by the Centers for Medicare and Medicaid and found on the HHSC website; and

(E) complete the delivery of TAS at least two days before the date of the applicant's discharge from the nursing facility, ICF/IID, or GRO unless the delay in completion is beyond the control of the program provider.

(2) If the program provider does not deliver TAS in accordance with paragraph (1) of this section, the program provider must:

(A) document the following:

(i) a description of the pending TAS;

(ii) the reason for the delay;

(iii) the date the program provider anticipates it will deliver the pending TAS or specific reasons why the program provider cannot anticipate a delivery date; and

(iv) a description of the program provider's ongoing efforts to deliver the TAS; and

(B) at least two days before the date of the applicant's discharge from the nursing facility, ICF/IID, or GRO, provide the information described in subparagraph (A) of this paragraph to:

(i) the applicant or LAR; and

(ii) the service coordinator.

(3) Within one business day after the TAS has been delivered, the program provider must notify the service coordinator and the applicant or LAR that the TAS has been delivered.

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

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



SUBCHAPTER F. CERTIFICATION STANDARDS: QUALITY ASSURANCE

26 TAC §§565.23, 565.25, 565.27, 565.29, 565.31, 565.33, 565.35, 565.37, 565.39

STATUTORY AUTHORITY

The proposed new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed new sections implement Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

§565.23. Residential Requirements.

(a) This applies to all three-person and four-person residences and host home/companion care settings, unless otherwise specified.

(b) A program provider must ensure that:

(1) the residence, neighborhood, and community meet the needs of the individual and provide an environment that ensures the health, safety, and welfare of the individual;

(2) the home is modified to meet the specific adaptive needs of the individual;

(3) adaptive equipment is not broken and is functional for the individual;

(4) mattresses are off the floor and a mattress cover is utilized unless contraindicated and documented by the service planning team;

(5) home furnishings are in good repair;

(6) the home is clean and sanitary;

(7) the home is free of infestations including bugs, rodents, and other pests;

(8) the walls, ceilings, floors, and windows are in good condition and not hazardous to the individual;

(9) the bathrooms are functional and safe to use;

(10) there is hot water available at sinks and in bathing facilities;

(11) the temperature of the hot water at sinks and bathing facilities does not exceed 120 degrees Fahrenheit unless the program provider, in accordance with subsection (c) of this section, conducts a competency-based skills assessment showing that all individuals in the residence can independently regulate the temperature of the hot water from the sinks and bathing facilities;

(12) the major home appliances are in working order, including kitchen appliances and heating and cooling systems;

(13) the individual has a door lock on the inside of the individual's bedroom door, if requested by the individual or LAR, unless contraindications are documented with justification by the service planning team;

(14) the lock installed in accordance with paragraph (13) of this subsection:

(A) is a single-action lock;

(B) can be unlocked with a key from the outside of the door by the program provider; and

(C) is not purchased and installed at the individual's or LAR's expense;

(15) household cleaners and chemicals are stored securely;

(16) perishable foods are refrigerated or stored safely;

(17) animals and pets are kept free of disease and vaccinated as required by Texas Health and Safety Code, Chapter 826; and

(18) the interior and exterior of the home:

(A) is free of accumulation of waste and trash;

(B) is accessible and free of hazards to an individual;

(C) does not compromise the health or safety of an individual.

(c) If the program provider conducts the competency-based skills assessment described in subsection (b)(11) of this section:

(1) the assessment must:

(A) be conducted by a staff member who is not a service provider of residential support, supervised living, or host home/companion care who works or lives in the residence;

(B) be conducted for each individual;

(C) evaluate the individual's cognitive and physical ability to independently mix or regulate the hot water temperature without assistance or guidance from each sink and bathing facility in the residence; and

(D) be based on a face-to-face demonstration by the individual; and

(2) the program provider must:

(A) complete the assessment at least annually;

(B) document the results of the assessment; and

(C) keep a copy of the results in the residence.

(d) The program provider must ensure that each residence has:

(1) exterior doors that are unobstructed and accessible to all individuals living in the residence;

(2) two means of escape from the residence;

(3) two means of escape from an individual's bedroom, unless the program provider has a fire sprinkler system that is checked and maintained according to Texas Insurance Code, Chapter 6003, at which point there can be one means of escape from an individual's bedroom;

(4) working smoke alarms in each bedroom and immediately outside the bedrooms; and

(5) fire extinguishers that are:

(A) accessible and unobstructed to the service provider;

(B) on each level of the home;

(C) serviced or replaced after each use; and

(D) if unused, serviced according to the manufacturer's instructions, or as required by the state or local fire marshal.

(e) The program provider, as it relates to fire drills, must:

(1) conduct at least one fire drill every 90 days with two drills during sleeping hours at each residence;

(2) ensure that each staff member participates in a fire drill within 90 days of hire and at least annually thereafter;

(3) ensure that the staff member can explain the emergency plans for the residence;

(4) provide training for a staff member who does not follow the emergency plan during the fire drill; and

(5) revise the emergency plan to ensure the individual can exit the residence safely if the individual is unable to exit the home according to the emergency plan.

(f) The program provider, as it relates to emergency plans, must:

(1) ensure that a staff member reviews the emergency plans for each individual at a residence before providing services;

(2) instruct staff members on where to locate the emergency plans at the residence; and

(3) maintain documentation related to emergency preparedness accessible to staff members at the residence, including:

(A) emergency plans that address:

(i) the relevant emergencies given the geographic location;

(ii) the needs of the individuals living in the residence; and

(iii) fire drill responses; and

(B) emergency numbers publicly posted in an area of the residence that is easily accessible to staff members.

(g) A program provider must implement and maintain personnel practices that safeguard individuals against infectious and communicable diseases, which includes:

(1) using standard precautions in the care of all individuals, including hand hygiene and maintaining a sanitary environment to avoid sources and transmission of infections;

(2) creating written policies for the prevention and control of communicable diseases among employees and individuals, including the appropriate use of transmission-based precautions and protective measures the program provider must take if an employee contracts a communicable disease; and

(3) revising a policy or practice if a shortcoming is identified.

(h) A program provider must implement and maintain medication administration and storage practices that safeguard an individual's medication, which includes:

(1) creating written policies for preventing unauthorized access to medications;

(2) using a procedure that ensures safe medication administration to the individual;

(3) ensuring staff are trained and knowledgeable about the individuals' medications;

(4) ensuring staff who are administering medications have been trained and delegated by a registered nurse (RN);

(5) maintaining accurate, current, and accessible documentation of medication administration; and

(6) revising a policy or practice if a shortcoming is identified.

(i) A program provider must comply with the requirements in this subsection regarding a four-person residence.

(1) Before providing residential support in a four-person residence, the program provider must:

(A) obtain an inspection by the local fire marshal, or the Texas State Fire Marshal's office in locations where there is no local fire marshal, and correct any items cited by the local fire marshal or Texas State Fire Marshal's Office to the satisfaction of those authorities; and

(B) obtain Texas Health and Human Services Commission (HHSC) approval of the residence in accordance with §565.43 of this chapter (relating to HHSC Approval of Four Person Residences).

(2) HHSC inspects for certification, as described in paragraph (1)(A) of this subsection, only if the program provider submits to the HHSC Architectural Unit:

(A) one of the following:

(i) if the four-person residence is located in a jurisdiction with a local fire safety authority:

(I) a completed HHSC Form 5606, Life Safety Code Certification, available on the HHSC website, documenting that the local fire safety authority having jurisdiction refused to inspect for

certification using the code (i.e., the Life Safety Code or International Fire Code) for that jurisdiction; and

(II) written documentation from the Texas State Fire Marshal's Office that it refused to inspect for certification using the Life Safety Code; or

(ii) if the four-person residence is located in a jurisdiction without a local fire safety authority, written documentation from the Texas State Fire Marshal's Office that it refused to inspect for certification using the Life Safety Code; and

(B) a completed HHSC Form 5604, HCS Program Provider Request for Life Safety Inspection, available on the HHSC website.

(3) The program provider must:

(A) obtain the certification required by this subsection annually; and

(B) ensure that a four-person residence:

(i) contains a copy of the most recent inspection of the residence by the local fire safety authority, Texas State Fire Marshal's Office, or HHSC; and

(ii) is in continuous compliance with all applicable local building codes and ordinances and state and federal laws, rules, and regulations.

§565.25. Programmatic Requirements.

(a) Before providing services to an individual in a residence in which supervised living or residential support is provided, and annually thereafter, the program provider must:

(1) conduct an on-site inspection to ensure that, based on the individual's needs, the environment is safe, accessible and suited for the individual's abilities, and complies with applicable federal, state, and local regulations for the community in which the individual lives;

(2) complete any action identified in the on-site inspection for a residence in which supervised living or residential support will be provided:

(A) before an individual moves in;

(B) within 30 days if an individual is already in the residence; and

(C) document justification for any actions that cannot be completed before the individual moving in or within 30 days with a plan for completion.

(b) Before providing services to an individual in a residence in which host home/companion care is provided and quarterly thereafter, the program provider must:

(1) conduct an on-site inspection to ensure that, based on the individual's needs, the environment is safe, accessible, and suited for the individual's abilities and needs, and complies with applicable federal, state, and local regulations for the community in which the individual lives; and

(2) require proof of completion of any action identified in the on-site inspection for a residence in which host home/companion care will be provided to ensure that the residence meets the needs of the individual:

(A) before an individual moves in; or

(B) within 30 days if an individual is already in the residence; and

(C) document justification for any actions that cannot be completed before the individual moving in or within 30 days and include a plan for completion.

(c) The program provider must establish an ongoing consumer/advocate advisory committee composed of individuals, legally authorized representatives (LARs), community representatives, and family members that meets at least quarterly. The committee:

(1) at least annually, reviews the information provided to the committee by the program provider in accordance with subsection (l)(6) of this section; and

(2) based on the information reviewed, makes recommendations to the program provider for improvements to the processes and operations of the program provider.

(d) The program provider must make available all records, reports, and other information related to the delivery of HCS Program and CFC services as requested by the Texas Health and Human Services Commission (HHSC), other authorized agencies, or the Centers for Medicare and Medicaid and deliver such items, as requested, to a specified location.

(e) The program provider must establish a procedure to assess at least annually the satisfaction of all individuals and LARs in the program provider's services and act within 60 days regarding any areas of dissatisfaction.

(f) The program provider must comply with 40 Texas Administrative Code (TAC) §49.309 (relating to Complaint Process).

(g) In all respite facilities and all residences in which a service provider of residential assistance or the program provider hold a property interest, the program provider must post in a conspicuous location:

(1) the name, address, and telephone number of the program provider;

(2) the effective date of the contract; and

(3) the name of the legal entity named on the contract.

(h) A program provider must report the death of an individual:

(1) to HHSC and the local intellectual and developmental disability authority by the end of the next business day after the program provider becomes aware of the death; and

(2) if the program provider reasonably believes that the LAR does not know of the individual's death, to the LAR as soon as possible, but not later than 24 hours after the program provider becomes aware of the death.

(i) A program provider must not retaliate against:

(1) a staff member, service provider, individual, or other person who files a complaint, presents a grievance, or otherwise provides good faith information relating to the possible abuse, neglect, or exploitation of an individual, including:

(A) use of seclusion; and

(B) use of a restraint not in compliance with federal and state laws, rules, and regulations; and

(2) an individual because a person on behalf of the individual files a complaint, presents a grievance, or otherwise provides good faith information relating to the possible abuse, neglect, or exploitation of an individual, including:

(A) use of seclusion; and

(B) use of a restraint not in compliance with federal and state laws, rules, and regulations.

(j) A program provider must enter critical incident data in the HHSC data system no later than the last calendar day of the month that follows the month being reported in accordance with the HCS Provider User Guide found on the HHSC website.

(k) A program provider must ensure that:

(1) the name and phone number of an alternate to the Chief Executive Officer (CEO) of the program provider is entered in the HHSC data system; and

(2) the alternate to the CEO:

(A) performs the duties of the CEO during the CEO's absence; and

(B) acts as the contact person in an HHSC investigation if the CEO is named as an alleged perpetrator of abuse, neglect, or exploitation of an individual, and complies with §565.31(d) - (f) of this subchapter (relating to Requirements Related to the Abuse, Neglect, and Exploitation).

(l) At least annually, the program provider must:

(1) evaluate information about the satisfaction of individuals and LARs with the program provider's services and identify program process improvements to increase the satisfaction;

(2) review complaints, as described in 40 TAC §49.309, and identify program process improvements to reduce the need for filing complaints;

(3) review all final investigative reports from HHSC and, based on the review, identify program process improvements that help prevent the occurrence of abuse, neglect, and exploitation and improve the delivery of services;

(4) review the reasons for terminating HCS Program or CFC services and identify any related need for program process improvements;

(5) evaluate critical incident data described in subsection (j) of this section, compare the program provider's use of restraint to aggregate data provided by HHSC on the HHSC website, and identify program process improvements that help prevent the reoccurrence of restraints and improve service delivery;

(6) provide all information the program provider reviewed, evaluated, and created as described in paragraphs (1) - (5) of this subsection to the consumer/advocate advisory committee required by subsection (c) of this section;

(7) implement any program process improvements identified by the program provider in accordance with this subsection; and

(8) review recommendations made by the consumer/advocate advisory committee as described in subsection (c)(2) of this section and implement the recommendations approved by the program provider.

(m) The program provider must ensure that all personal information concerning an individual is kept confidential, such as lists of names, addresses, and records obtained by the program provider, and that the use or disclosure of such information and records is limited to purposes directly connected with the administration of the program provider's HCS Program or provision of CFC services and is otherwise neither directly nor indirectly used or disclosed unless the consent of the individual to whom the information applies or the individual's LAR is obtained beforehand.

(n) The program provider must include the individual or LAR in planning the individual's residential relocation, except in cases of emergency.

§565.27. Finances and Rent.

(a) The program provider must comply with this subsection regarding charges against an individual's personal funds.

(1) The program provider must, in accordance with this paragraph, collect a monthly amount for room from an individual who lives in a three-person or four-person residence. The cost for room must consist only of:

(A) an amount equal to:

(i) rent of a comparable dwelling in the same geographical area that is unfurnished; or

(ii) the program provider's ownership expenses, limited to the interest portion of a mortgage payment, depreciation expense, property taxes, neighborhood association fees, and property insurance; and

(B) the cost of:

(i) shared appliances, electronics, and housewares;

(ii) shared furniture;

(iii) monitoring for a security system;

(iv) monitoring for a fire alarm system;

(v) property maintenance, including personnel costs, supplies, lawn maintenance, pest control services, carpet cleaning, septic tank services, and painting;

(vi) utilities, limited to electricity, gas, water, garbage collection, and a landline telephone; and

(vii) shared television and Internet service used by the individuals who live in the residence.

(2) Except as provided in subparagraphs (B) and (C) of this paragraph, a program provider must collect a monthly amount for board from an individual who lives in a three-person or four-person residence.

(A) The cost for board must consist only of the cost of food, including food purchased for an individual to consume while away from the residence as a replacement for food and snacks normally prepared in the residence, and of supplies used for cooking and serving, such as utensils and paper products.

(B) A program provider is not required to collect a monthly amount for board from an individual if collecting such an amount may make the individual ineligible for the Supplemental Nutrition Assistance Program operated by the Texas Health and Human Services Commission (HHSC).

(C) A program provider must not collect a monthly amount for board from an individual if the individual chooses to purchase the individual's own food, as documented in the individual's implementation plan.

(3) To determine the maximum room and board charge for each individual, a program provider must:

(A) develop a process or formula that divides the rent equitably and considers:

(i) the number of residents receiving HCS Program services or similar services that the residence has been developed to support plus the number of service providers and other persons who live in the residence; and

(ii) the features or space to which an individual has exclusive or shared access, unless the additional space is requested and needed for accessibility purposes;

(B) divide the board cost described in paragraph (2) of this subsection by the number of persons consuming the food; and

(C) add the amounts calculated in accordance with subparagraphs (A) and (B) of this paragraph.

(4) A program provider must not increase the charge for room and board because a resident moves from the residence.

(5) A program provider:

(A) must not charge an individual a room and board amount that exceeds an amount determined in accordance with paragraphs (1) - (3) of this subsection; and

(B) must maintain documentation demonstrating that the room and board charge was determined in accordance with paragraphs (1) - (3) of this subsection.

(6) Before an individual or legally authorized representative (LAR) selects a residence, a program provider must provide the room and board charge, in writing, to the individual or LAR.

(7) Except as provided in paragraph (8) of this subsection, a program provider may not charge or collect payment from any person for room and board provided to an individual receiving host home/companion care.

(8) If a program provider makes a payment to an individual's host home/companion care provider while waiting for the individual's federal or state benefits to be approved, the program provider may seek reimbursement from the individual for such payments.

(9) For a program provider who manages personal funds of an individual who receives host home/companion care, the program provider:

(A) must pay the agreed upon amount for the host home/companion care services;

(B) must pay the host home/companion care provider directly from the individual's account;

(C) may pay a room and board charge for the individual that is less than the host home/companion care provider's cost of room and board, as determined using the calculations described in paragraphs (1) and (2) of this subsection, for a three-person or four-person residence, divided by the number of persons living in the host home/companion care provider's home; and

(D) must not pay a host home/companion care provider a room and board charge that exceeds the host home/companion care provider's cost of room and board, as determined using the calculations described in paragraphs (1) and (2) of this subsection for a three-person or four-person residence, divided by the number of persons living in the host home/companion care provider's home.

(10) For an item or service other than room and board, the program provider must apply a consistent method in assessing a charge against the individual's personal funds that ensures that the charge for the item or service is reasonable and comparable to the cost of a similar item or service generally available in the community.

(b) The program provider must inform the individual and LAR orally or in writing of any charges assessed by the program provider against the individual's personal funds, the purpose of those charges, and effects of the charges in relation to the individual's financial status.

(c) The program provider must ensure that the individual or LAR has agreed in writing to all charges assessed by the program provider against the individual's personal funds before the charges are assessed.

(d) The program provider must not assess charges against the individual's personal funds for costs for items or services reimbursed through the HCS Program or through CFC.

(e) At the written request of an individual or LAR, the program provider must manage the individual's personal funds entrusted to the program provider, without charge to the individual or LAR in accordance with this subsection.

(1) The program provider must not commingle the individual's personal funds with the program provider's funds.

(2) The program provider must maintain a separate, detailed record of:

(A) all deposits into the individual's account; and

(B) all expenditures from the individual's account.

(3) If an expenditure is for the individual to use as personal spending money, the program provider must have a process to show the individual acknowledged receiving the funds.

(4) The program provider may accrue an expense for necessary items and services for which the individual's personal funds are not available for payment, such as room and board, medical and dental services, legal fees or fines, and essential clothing.

(5) If an expense is accrued as described in paragraph (3) of this subsection, the program provider must enter a written payment plan with the individual or LAR for reimbursement of the funds.

§565.29. Behavior Support Plan.

If the program provider determines that an individual's behavior may require the implementation of behavior management techniques involving intrusive interventions or restriction of the individual's rights, the program provider must comply with this section.

(1) The program provider must:

(A) obtain an assessment of the individual's needs and current level and severity of the behavior; and

(B) ensure that a service provider of behavioral support services:

(i) develops, with input from the individual, legally authorized representative (LAR), program provider, and actively involved persons, a behavior support plan that includes the use of techniques appropriate to the level and severity of the behavior; and

(ii) considers the effects of the techniques on the individual's physical and psychological well-being in developing the plan.

(2) The behavior support plan must:

(A) describe how the behavioral data concerning the behavior is collected and monitored;

(B) allow for the decrease in the use of the techniques based on the behavioral data; and

(C) allow for revision of the plan when desired behavior is not shown, or the techniques are not effective.

(3) Before implementation of the behavior support plan, the program provider must:

(A) obtain written consent from the individual or LAR to implement the plan;

(B) provide written notification to the individual or LAR of the right to discontinue implementation of the plan at any time; and

(C) notify the individual's service coordinator of the plan.

(4) The program provider must, at least annually:

(A) review the effectiveness of the techniques and determine whether the behavior support plan needs to be continued; and

(B) notify the service coordinator if the plan needs to be continued.

§565.31. Requirements Related to Abuse, Neglect, and Exploitation.

(a) A program provider must:

(1) ensure that an individual and legally authorized representative (LAR) are, at the time the individual begins receiving a Home and Community-based Services (HCS) Program or Community First Choice (CFC) service and at least annually thereafter:

(A) informed of how to report allegations of abuse, neglect, or exploitation to the Texas Department of Family and Protective Services (DFPS) and given the toll-free telephone number, 1-800-647-7418, in writing; and

(B) educated about protecting the individual from abuse, neglect, and exploitation;

(2) ensure that each staff member, service provider, and volunteer are:

(A) trained and knowledgeable of:

(i) acts that constitute abuse, neglect, and exploitation;

(ii) signs and symptoms of abuse, neglect, and exploitation; and

(iii) methods to prevent abuse, neglect, and exploitation;

(B) instructed to report to DFPS immediately, but not later than one hour after having knowledge or suspicion, that an individual has been or is being abused, neglected, or exploited, by:

(i) calling the DFPS Abuse Hotline toll-free telephone number, 1-800-647-7418; or

(ii) using the DFPS Abuse Hotline website; and

(C) given the instructions described in subparagraph (B) of this paragraph in writing;

(3) ensure that each staff member, service provider, and volunteer sign an acknowledgement that they understand all individuals must live free of abuse, neglect, and exploitation; and

(4) conduct the activities described in paragraph (2) and (3) of this subsection before a staff member, service provider, or volunteer assumes job duties and at least annually thereafter.

(b) If a program provider, staff member, service provider, volunteer, or controlling person knows or suspects an individual is being or has been abused, neglected, or exploited, the program provider must report or ensure that the person with knowledge or suspicion reports the allegation of abuse, neglect, or exploitation to DFPS immediately, but not later than one hour after having knowledge or suspicion, by:

(1) calling the DFPS Abuse Hotline toll-free telephone number, 1-800-647-7418; or

(2) using the DFPS Abuse Hotline website.

(c) If a report required by subsection (b) of this section alleges abuse, neglect, or exploitation by a person who is not a service provider, staff member, volunteer, or controlling person, a program provider must:

(1) assess the individual and allegation and as necessary:

(A) obtain appropriate medical or psychological services for the individual; and

(B) assist in obtaining ongoing medical or psychological services for the individual;

(2) discuss with the individual or LAR safety measures, including alternative residential settings that may help ensure the individual's safety;

(3) when taking the actions described in paragraphs (1) and (2) of this subsection, avoid compromising the investigation or further traumatizing the individual; and

(4) preserve and protect evidence related to the allegation.

(d) If a report required by subsection (b) of this section alleges abuse, neglect, or exploitation by a service provider, staff member, volunteer, or controlling person; or if a program provider is notified by HHSC of an allegation of abuse, neglect, or exploitation by a service provider, staff member, volunteer, or controlling person, the program provider must:

(1) assess the individual and allegation as necessary:

(A) obtain appropriate medical or psychological services for the individual; and

(B) assist in obtaining ongoing medical or psychological services for the individual;

(2) take actions to secure the safety of the individual, including if necessary, ensuring that the alleged perpetrator does not have contact with the individual or any other individual until HHSC completes the investigation;

(3) when taking the actions described in paragraphs (1) and (2) of this subsection, avoid compromising the investigation or further traumatizing the individual;

(4) preserve and protect evidence related to the allegation; and

(5) notify, as soon as possible, but no later than 24 hours after the program provider reports or is notified of the allegation, the individual, the LAR, and the service coordinator of:

(A) the allegation report; and

(B) the actions the program provider has taken or will take based on the allegation, the condition of the individual, and the nature and severity of any harm to the individual, including the actions required by paragraph (2) of this subsection.

(e) During an HHSC investigation of an alleged perpetrator who is a service provider, staff member, volunteer, or controlling person, a program provider must:

(1) cooperate with the investigation as requested by HHSC, including providing documentation and participating in an interview;

(2) provide HHSC access to:

(A) sites owned, operated, or controlled by the program provider;

(B) individuals, service providers, staff members, volunteers, and controlling persons; and

(C) evidence pertinent to the investigation of the allegation; and

(3) ensure that staff members, service providers, volunteers, and controlling persons comply with paragraphs (1) and (2) of this subsection.

(f) After a program provider receives a final investigative report from HHSC for an investigation described in subsection (e) of this section, the program provider must:

(1) if the allegation of abuse, neglect, or exploitation is confirmed by HHSC:

(A) review the report, including any concerns and recommendations by HHSC; and

(B) take action within the program provider's authority to prevent the reoccurrence of abuse, neglect or exploitation, including disciplinary action against the service provider, staff member, or volunteer confirmed to have committed abuse, neglect, or exploitation;

(2) if the allegation of abuse, neglect, or exploitation is unconfirmed, inconclusive, or unfounded:

(A) review the report, including any concerns and recommendations by HHSC; and

(B) take appropriate action within the program provider's authority, to ensure the individual's safety, as necessary;

(3) immediately, but not later than five calendar days after the date the program provider receives the HHSC final investigative report:

(A) notify the individual, the LAR, and the service coordinator of:

(i) the investigation finding; and

(ii) the action taken by the program provider in response to the HHSC investigation as required by paragraphs (1) and (2) of this subsection; and

(B) notify the individual or LAR of:

(i) the process to appeal the investigation finding as described in Chapter 711, Subchapter J of this title (relating to Appealing the Investigation Finding); and

(ii) the process for requesting a copy of the investigative report from the program provider;

(4) within 14 calendar days after the date the program provider receives the final investigative report, complete and send to HHSC the Form 8494, Notification Regarding an Investigation of Abuse, Neglect or Exploitation, located on the HHSC website; and

(5) upon request of the individual or LAR, provide to the individual or LAR a copy of the HHSC final investigative report after removing any information that would reveal the identity of the reporter or of any individual who is not the alleged victim.

§565.33. Restraints.

(a) Within 30 calendar days of receiving services from a program provider and annually thereafter, a program provider must:

(1) with the involvement of a physician, identify:

(A) the individual's known physical or medical conditions that might constitute a risk to the individual during the use of restraint;

(B) the individual's ability to communicate; and

(C) other factors that must be taken into account if the use of restraint is considered, including the individual's:

(i) cognitive functioning level;

(ii) height;

(iii) weight;

(iv) emotional condition that could contraindicate the use of restraint, including whether the individual has a history of having been physically or sexually abused; and

(v) age;

(2) document the conditions and factors identified in accordance with paragraph (1) of this subsection, and, as applicable, limitations on specific restraint techniques or mechanical restraint devices in the individual's record; and

(3) review and update with a physician, registered nurse (RN), or licensed vocational nurse (LVN), at least annually or when a condition or factor documented in accordance with paragraph (2) of this subsection changes significantly, information in the individual's record related to the identified condition, factor, or limitation.

(b) A program provider may use a restraint:

(1) in a behavioral emergency;

(2) as part of a behavior support plan that addresses inappropriate behavior exhibited voluntarily by an individual;

(3) during or as a follow-up to a medical or dental procedure or treatment of an injury if the restraint is ordered by the physician or dentist as necessary to protect the individual or others or promote the healing of wounds;

(4) to protect the individual from involuntary self-injury; and

(5) if used as a protective device in accordance with §565.37 of this subchapter (relating to Protective Devices).

(c) A program provider must not use restraint:

(1) in a manner that:

(A) restricts circulation;

(B) obstructs the individual's airway, including the placement of anything in, on, or over the individual's mouth or nose;

(C) impairs the individual's breathing by putting pressure on the individual's torso;

(D) interferes with the individual's ability to communicate;

(E) places the individual in a prone or supine position;

(F) extends muscle groups away from each other;

(G) uses hyperextension of joints;

(H) uses pressure points or pain; or

(I) secures the individual to a stationary object while the individual is in a standing position;

(2) for disciplinary purposes, that is, as retaliation or retribution;

(3) for the convenience of a staff member or service provider or other individuals; or

(4) as a substitute for effective treatment or habilitation.

(d) If a program provider restrains an individual as provided in subsection (b) of this section, the program provider must:

(1) take into account the conditions, factors, and limitations on specific restraint techniques or mechanical restraint devices documented in accordance with subsection (a)(2) and (3) of this section;

(2) use the minimal amount of force or pressure that is reasonable and necessary to ensure the safety of the individual and others; and

(3) safeguard the individual's dignity, privacy, and well-being.

(e) In a circumstance described in subsection (b)(1) or (2) of this section, a program provider may use only a restraint hold in which the individual's limbs are held close to the body to limit or prevent movement and that does not violate the provisions of subsection (c)(1) of this section.

(f) A program provider must release an individual from restraint:

(1) as soon as the individual no longer poses a risk of imminent physical harm to the individual or others;

(2) if the individual in restraint experiences a medical emergency, as soon as possible as indicated by the medical emergency; or

(3) as soon as an individual in a restraint hold described in subsection (e) of this section who moves toward the floor reaches the floor.

(g) After restraining an individual in a behavioral emergency, a program provider must:

(1) as soon as possible but no later than one hour after the use of restraint, notify an RN or LVN of the restraint;

(2) ensure that medical services are obtained for the individual as necessary;

(3) as soon as possible but no later than 24 hours after the use of restraint, notify one of the following persons, if there is such a person, that the individual has been restrained:

(A) the individual's legally authorized representative;

or

(B) a person actively involved with the individual, unless the release of this information would violate other law; and

(4) notify the individual's service coordinator by the end of the first business day after the use of restraint.

(h) If, under the Health Insurance Portability and Accountability Act, the program provider is a "covered entity," as defined in 45 Code of Federal Regulations (CFR) §160.103, any notification provided under subsection (g)(3)(B) of this section must be to a person to whom the program provider is allowed to release information under 45 CFR §164.510.

§565.35. Enclosed Beds.

(a) The program provider may allow the use of an enclosed bed in a residence if the enclosed bed is purchased, obtained, and in compliance with the requirements in subsection (c) of this section prior to January 1, 2023.

(b) An enclosed bed is prohibited in a residence if it is purchased or obtained on or after January 1, 2023, even if it complies with subsection (c) of this section.

(c) If the program provider allows the use of an enclosed bed in a residence, the program provider must:

(1) visually inspect the enclosed bed to ensure it meets the criteria of an enclosed bed as defined in §565.3 of this chapter (related to Definitions);

(2) ensure that a physician, occupational therapist, or physical therapist:

(A) conducts an annual assessment to determine:

(i) if the individual has a medical need for the enclosed bed;

(ii) that less restrictive methods would be ineffective in protecting the individual, and the reasons for that determination;

(iii) the circumstances under which the enclosed may be used;

(iv) how to use the enclosed and any contraindications specific to the individual;

(v) how and when to document the use of the enclosed bed; and

(vi) how to monitor the use of the enclosed bed to ensure it is being used in accordance with the assessment; and

(B) follows up after any significant change to determine:

(i) if the individual still has a medical need for the enclosed bed; and

(ii) that less restrictive methods would be ineffective in protecting the individual, and the reasons for that determination;

(3) obtain and retain the following documentation:

(A) a letter of medical necessity from the prescribing physician or professional therapist;

(B) documentation of at least two alternative measures, durable medical equipment, or supplies that have been tried and have failed to meet the individual's medical needs or have been ruled out as appropriate and an explanation of why they have failed or have been ruled out; and

(C) a receipt from a durable medical equipment company for the enclosed bed;

(4) develop and implement policies and procedures that require:

(A) routine checks of the enclosure bed to ensure it is in good repair and safe for the individual;

(B) a documented quarterly review by a registered nurse (RN) or professional therapist to ensure the enclosed bed is still safe and necessary given the individual's current needs and other less restrictive options available;

(C) a meeting with the individual's Interdisciplinary Team to determine if there is a less restrictive option available by conducting a review annually, or sooner if the RN or professional therapist has determined there is a significant change to the individual's condition; and

(D) an order for the enclosed bed updated annually, or sooner if the RN has determined there is a significant change to the individual's condition.

(d) To prevent misuse or overuse of the enclosed bed, the program provider must:

(1) develop and implement a usage plan that details when the enclosed bed will be used that is consistent with the assessment and order;

(2) require any staff member who provides services to an individual with an enclosed bed to read and document understanding of the usage plan before providing services; and

(3) make the usage plan readily available to staff members providing services.

(e) Program providers may only allow commercially produced enclosed beds.

(f) All enclosed beds must be prohibited after December 31, 2027.

§565.37. Protective Devices.

(a) If a protective device is used, the program provider must ensure that it is used in accordance with this section.

(b) A program provider must not use a protective device:

(1) to modify or control an individual's behavior;

(2) for disciplinary purposes;

(3) for staff convenience; or

(4) as a substitute for an effective, less restrictive method.

(c) If a need for a protective device is identified, the program provider must ensure that a physician, occupational therapist, physical therapist, or registered nurse (RN):

(1) conducts an initial assessment to determine:

(A) if the individual has a medical need for a protective device;

(B) that less restrictive methods would be ineffective in protecting the individual, and the reasons for that determination;

(C) the type of protective device to be used, which must be the least restrictive protective device that will protect the individual;

(D) the circumstances under which the protective device may be used;

(E) how to use the protective device and any contraindications specific to the individual;

(F) how and when to document the use of the protective device; and

(G) how to monitor the use of the protective device to ensure it is being used in accordance with the assessment; and

(2) then annually and after any significant change to determine:

(A) if the individual has a medical need for a protective device;

(B) that less restrictive methods would be ineffective in protecting the individual, and the reasons for that determination; and

(C) the type of protective device to be used, which must be the least restrictive protective device that will protect the individual.

(d) Before a program provider uses a protective device, the program provider must:

(1) obtain and retain in the individual's record:

(A) an order for the use of the protective device identified in the initial assessment;

(B) complete initial and subsequent assessments from subsection (c) of this section; and

(C) consent of the individual or legally authorized representative (LAR) to use the protective device;

(2) provide oral and written notification to the individual or LAR of the right at any time to withdraw consent for the use of the protective device; and

(3) develop a policy and procedure to ensure that each service provider who will use the protective device has been trained in the proper use of the protective device, in accordance with the initial assessment.

§565.39. Prohibitions.

(a) A program provider must not use seclusion.

(b) An enclosed bed must not be used for behavioral management.

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

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



SUBCHAPTER G. HHSC ACTIONS

26 TAC §§565.41, 565.43, 565.47, 565.49

STATUTORY AUTHORITY

The proposed new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed new sections implement Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

§565.41. HHSC Surveys of a Program Provider.

(a) A program provider must be in continuous compliance with the certification standards contained in this subchapter that apply to program providers.

(b) The Texas Health and Human Services Commission (HHSC) conducts the following unannounced surveys:

(1) an initial certification survey;

(2) a recertification survey;

(3) a follow-up survey;

(4) a residential survey; and

(5) an intermittent survey.

(c) HHSC conducts an initial certification survey within 120 calendar days after the date HHSC approves the enrollment or transfer of the first individual to receive HCS Program services from the program provider.

(d) HHSC may conduct an intermittent survey at any time during a certification period.

(e) HHSC may conduct a combination of two or more different types of surveys at the same time.

(f) If HHSC certifies a program provider after completion of an initial or a recertification survey, the certification period is for no more than 365 calendar days.

(g) HHSC may choose not to conduct a recertification survey of a program provider that has a standard contract if the program provider is not the program provider for one or more individuals for at least 60 consecutive calendar days during the period beginning the first day of the certification period to be surveyed through the 121st calendar day before the end of the certification period.

(h) During a survey, HHSC may:

(1) review the HCS Program or CFC services provided to any individual to determine if a program provider complies with the certification standards; and

(2) determine if a program provider has implemented an approved plan for amelioration as described in §565.47 of this subchapter (relating to Amelioration).

(i) HHSC conducts an exit conference at the end of a survey, at a time and location determined by HHSC. At the exit conference, HHSC informs a program provider of preliminary findings, in writing, including findings that may result in a critical violation.

(j) If HHSC identifies a finding that may be a critical violation not discussed during an exit conference, HHSC holds a new exit conference with a program provider to discuss the finding.

(k) In addition to the surveys described in this section, HHSC conducts, at least annually, an unannounced visit of each residence in which residential support or supervised living is provided to determine if the residence provides a safe and healthy environment that complies with the certification standards.

(l) Based on the information obtained from a visit described in subsection (k) of this section, HHSC may:

(1) require the program provider to complete corrective action before the residential visit ends;

(2) require the program provider to submit, before the residential visit ends, a written plan describing how the safety of the individuals will be protected until corrective action is completed;

(3) require the program provider to submit evidence of corrective action within a time period determined by HHSC; or

(4) conduct an intermittent survey of the program provider.

(m) Based on a survey, HHSC acts as described in §565.49 of this subchapter (relating to Program Provider Compliance and Corrective Action).

(n) HHSC may evaluate the health and safety of an individual at any time.

(o) HHSC may conduct an unannounced residential survey of a residence in which host home/companion care, residential support, or supervised living is provided to determine if the residence provides a safe environment.

§565.43. HHSC Approval of Four Person Residences.

(a) A program provider must obtain written approval from the Texas Health and Human Services Commission (HHSC) in accordance with subsection (b) of this section before providing residential support in a four-person residence.

(b) To obtain approval of a four-person residence, the program provider must submit the following written documentation to HHSC:

(1) the address and county of the residence;

(2) certification from the program provider that the program provider intends to provide residential support to one or more individuals who will live in the residence;

(3) one of the certifications required by §565.23(i)(1)(A) of this chapter (relating to Residential Requirements); and

(4) written certification from the program provider that the residence to be approved is not the residence of any person other than a person permitted to live in a "four-person residence," as defined in §565.3 of this chapter (relating to Definitions).

(c) HHSC notifies the program provider in writing of its approval or disapproval of the four-person residence within 14 calendar days after HHSC receives the documentation specified in subsection (b) of this section.

§565.47. Amelioration.

(a) In lieu of requiring payment for an administrative penalty imposed against a program provider in accordance with §565.45 of this chapter (relating to Administrative Penalties), the Texas Health and Human Services Commission (HHSC) may give the program provider the opportunity for amelioration in accordance with this section.

(b) HHSC does not give a program provider the opportunity for amelioration:

(1) more than three times in a two-year period;

(2) more than one time in a two-year period for the same or similar violation;

(3) for a critical violation that is an immediate threat; or

(4) for the actions or failures to act described in §565.45(a)(2) of this chapter.

(c) HHSC gives a program provider the opportunity for amelioration in the notice required by 40 TAC §49.535(c) (relating to Administrative Penalties in the HCS and TxHmL Programs). If the program provider does not notify HHSC that the program provider chooses amelioration within the required period described in the notice, the program provider forfeits the opportunity to choose amelioration and HHSC requires the program provider to pay the administrative penalty in accordance with 40 TAC §49.535(f).

(d) If a program provider chooses amelioration in accordance with the notice required by 40 TAC §49.535(c), the program provider

must submit a written plan for amelioration to HHSC within 45 calendar days after the date of the notice required by 40 TAC §49.535(c). If a program provider does not submit a plan for amelioration within 45 calendar days, HHSC requires the program provider to pay the administrative penalty in accordance with 40 TAC §49.535(d)(1).

(e) A plan for amelioration must include:

(1) proposed changes to the management or operation of the program provider that will improve services or the quality of care for the individuals;

(2) the ways in which and the extent to which the proposed changes will improve services or quality of care for the individuals through measurable outcomes;

(3) clear goals to be achieved through the proposed changes;

(4) a timeline for implementing the proposed changes;

(5) specific actions necessary to implement the proposed changes;

(6) the cost of the proposed changes; and

(7) an agreement to waive the program provider's right to appeal the imposition of the administrative penalty if HHSC approves the plan for amelioration.

(f) The cost of the proposed changes must be incurred by the program provider after HHSC approves the plan for amelioration. If HHSC approves the plan and the cost of the proposed changes is less than the amount of the administrative penalty, HHSC requires the program provider to pay the difference between the cost of the proposed changes and the administrative penalty.

(g) HHSC may require a plan for amelioration to propose changes that result in conditions exceeding the requirements of this subchapter.

(h) HHSC notifies a program provider of its decision to approve or deny a plan for amelioration within 45 calendar days after the date HHSC receives the plan. During the 45-day period, HHSC may allow the program provider an opportunity to revise the plan.

(1) If HHSC approves the plan:

(A) the program provider must implement the plan; and

(B) HHSC:

(i) requires the program provider to pay the amount of the difference between the cost of the proposed changes and the administrative penalty, if any; and

(ii) determines in one or more surveys conducted in accordance with §565.41 of this subchapter (relating to HHSC Surveys of a Program Provider) if the program provider has implemented the plan.

(2) If HHSC denies the plan, HHSC requires the program provider to pay the amount of the administrative penalty in accordance with 40 TAC §49.535(d)(2). The program provider may appeal the administrative penalty in accordance with 40 TAC §49.541 (relating to Contractor's Right to Appeal).

(i) If HHSC determines that a program provider did not implement an approved plan for amelioration, HHSC requires the program provider to pay the amount of the administrative penalty in accordance with 40 TAC §49.535(d)(3). The program provider may appeal the sole issue of whether the plan for amelioration was implemented.

§565.49. Program Provider Compliance and Corrective Action.

(a) If the Texas Health and Human Services Commission (HHSC) determines from a survey that a program provider complies with the certification standards, HHSC:

(1) sends the program provider a final survey report stating that the program provider complies with the certification standards;

(2) does not require any action by the program provider; and

(3) if the survey is an initial or a recertification survey, certifies the program provider as described in 40 Texas Administrative Code (TAC) §9.171(f) (relating to HHSC Surveys and Residential Visits of a Program Provider).

(b) If HHSC determines from a survey that a program provider is not in compliance with a certification standards and the violation is an immediate threat, HHSC notifies the program provider of the determination. The program provider must immediately provide HHSC with a plan of removal.

(c) In a plan of removal provided in accordance with subsection (b) of this section, a program provider must specify the time by which the program provider will remove the immediate threat. HHSC approves or disapproves the plan of removal and monitors to ensure the immediate threat is removed.

(d) If a program provider that is required to provide a plan of removal does not provide a plan of removal, HHSC does not approve the program provider's plan of removal, or the program provider does not implement the plan of removal approved by HHSC, HHSC:

(1) denies or terminates certification of the program provider; and

(2) coordinates with the local intellectual and developmental disability authorities (LIDDAs) the immediate provision of alternative services for the individuals.

(e) If HHSC determines from a survey that a program provider is not in compliance with a certification standard, HHSC sends to the program provider, within 10 business days after the date of the exit conference:

(1) a final survey report with a list of violations;

(2) a letter notifying the program provider that the program provider may request an informal dispute resolution to dispute a violation in the final survey report; and

(3) if HHSC imposes an administrative penalty in accordance with 40 TAC §9.181 (relating to Administrative Penalties), a written notice of the administrative penalty as described in 40 TAC §49.535(b) (relating to Administrative Penalties in the HCS and TxHmL Programs).

(f) If HHSC determines from an initial certification survey, recertification survey, or intermittent survey that a program provider is not in compliance with the certification standards, the program provider must submit to HHSC, within 14 calendar days after the date the program provider receives the final survey report, a plan of correction for each violation identified by HHSC in the final survey report. The program provider must submit a plan of correction in accordance with this subsection even if the program provider disagrees with the violation or requests an informal dispute resolution.

(g) In a plan of correction submitted in accordance with subsection (f) of this section, a program provider must specify a date by which the program provider will complete corrective action for each violation and such date must:

(1) for a critical violation, be no later than 30 calendar days after the date of the survey exit conference; and

(2) for a violation that is not a critical violation, be no later than 45 calendar days after the date of the survey exit conference.

(h) After HHSC receives the plan of correction required by subsection (f) of this section, HHSC notifies the program provider whether the plan is approved or not approved.

(i) If HHSC does not approve a plan of correction required by subsection (f) of this section, the program provider must submit a revised plan of correction within five business days after the date of HHSC's notice that the plan of correction was not approved. After HHSC receives the revised plan of correction, HHSC notifies the program provider whether the revised plan is approved or not approved.

(j) If the program provider does not submit a plan of correction required by subsection (f) of this section or a revised plan of correction required by subsection (i) of this section, or if HHSC notifies the program provider that a revised plan of correction is not approved, HHSC:

(1) imposes a vendor hold against the program provider until HHSC approves a plan of correction submitted by the program provider; or

(2) denies or terminates certification of the program provider.

(k) If HHSC approves a plan of correction, HHSC takes the following actions to determine if a program provider has completed its corrective action:

(1) requests that the program provider submit evidence of correction to HHSC; and

(2) conducts:

(A) for a critical violation, a follow-up survey after the date specified in the plan of correction for correcting the violation but within 45 calendar days after the survey exit conference, unless HHSC conducts an earlier follow-up survey as described in subsection (l) of this section; or

(B) for a violation that is not critical, a post 45-day follow-up survey, unless HHSC conducts an earlier follow-up survey as described in subsection (l) of this section.

(l) At the request of a program provider, HHSC may conduct a follow-up survey earlier than the timeframes described in subsection (k)(2) of this section.

(1) If HHSC determines from the earlier follow-up survey that corrective action has been completed and the program provider has not yet submitted a plan of correction to HHSC in accordance with subsection (f) of this section, the program provider must include the corrective action taken on the plan of correction that is submitted.

(2) If HHSC determines from the earlier follow-up survey that corrective action has not been completed for a violation that is not critical, HHSC conducts the post 45-day follow-up survey.

(m) If HHSC determines from a follow-up survey described in subsections (k)(2)(A) or (l) of this section that the program provider has completed corrective action for a critical violation, the administrative penalty stops accruing on the date corrective action was completed, as determined by HHSC. HHSC sends the program provider a written notice as described in 40 TAC §49.535(c).

(n) If HHSC determines from a follow-up survey described in subsections (k)(2)(A) or (l) of this section that the program provider has not completed the corrective action for a critical violation, HHSC:

(1) continues the administrative penalty and conducts another follow-up survey to determine if the program provider completed the corrective action;

(2) imposes a vendor hold against the program provider; or

(3) denies or terminates certification of the program provider.

(o) HHSC takes the actions described in this subsection regarding a follow-up survey described in subsection (n)(1) of this section.

(1) If HHSC determines from the survey that the program provider has completed the corrective action, the administrative penalty stops accruing on the date corrective action was completed, as determined by HHSC. HHSC sends the program provider a written notice as described in 40 TAC §49.535(c).

(2) If HHSC determines from the survey that the program provider has not completed the corrective action, the administrative penalty stops accruing and HHSC:

(A) imposes a vendor hold against the program provider; or

(B) denies or terminates certification of the program provider.

(p) If HHSC determines from a post 45-day follow-up survey or an earlier survey described in subsection (l) of this section that a program provider has completed corrective action for a violation that is not critical, HHSC does not impose an administrative penalty for the non-critical violation.

(q) If HHSC determines from a post 45-day follow-up survey that a program provider has not completed corrective action for a violation that is not critical, HHSC:

(1) imposes an administrative penalty for the non-critical violation in accordance with 40 TAC §9.181 (relating to Administrative Penalties);

(2) notifies the program provider of the administrative penalty, as described in 40 TAC §49.535(b); and

(3) conducts a survey:

(A) at least 31 calendar days after the date of the post 45-day exit conference of the follow-up survey; or

(B) earlier than 31 calendar days after the date of the exit conference of the post 45-day follow-up survey if the program provider has submitted evidence of corrective action to HHSC during the 30-day period.

(r) HHSC takes the actions described in this subsection regarding a survey described in subsection (q)(3) of this section.

(1) If HHSC determines from the survey that the program provider has completed corrective action, the administrative penalty stops accruing on the date corrective action was completed, as determined by HHSC. HHSC sends the program provider a written notice as described in 40 TAC §49.535(c).

(2) If HHSC determines from the survey that the program provider has not completed the corrective action, the administrative penalty stops accruing and HHSC:

(A) imposes a vendor hold against the program provider; or

(B) denies or terminates certification of the program provider.

(s) If HHSC determines that a program provider committed any of the actions described in 40 TAC §9.181(a)(2), HHSC takes one of the following actions:

(1) imposes an administrative penalty against the program provider as described in 40 TAC §9.181;

(2) imposes a vendor hold against the program provider; or

(3) denies or terminates certification of the program provider.

(t) If HHSC imposes a vendor hold in accordance with this section:

(1) for a program provider with a provisional contract, HHSC initiates termination of the program provider's contract in accordance with 40 TAC §49.534 (relating to Termination of Contract by HHSC); or

(2) for a program provider with a standard contract, HHSC conducts a survey at least 31 calendar days after the effective date of the vendor hold to determine if the program provider completed the corrective action required to release the vendor hold and:

(A) if the program provider completed the corrective action, HHSC releases the vendor hold; or

(B) if the program provider has not completed the corrective action, HHSC denies or terminates certification.

(u) If HHSC determines that a program provider is out of compliance with §565.9(b)(2) of this chapter (relating to Program Provider Requirements), corrective action required by HHSC may include the program provider paying or ensuring payment to a service provider of supported home living or CFC PAS/HAB who was not paid the wages required by §565.9(b)(2) of this chapter, the difference between the amount required and the amount paid to the service provider.

(v) HHSC does not cite a program provider for violation of a certification standard based solely on the action or inaction of a person who is not a service provider or a staff member. HHSC may cite a program provider for violation of a certification standard based on the program provider's response to the action or inaction of such a person.

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 February 1, 2023.

TRD-202300489

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: March 19, 2023

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



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

SUBCHAPTER A. FEES

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

31 TAC §53.2

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §53.2, concerning License Issuance Procedures, Fees, Possession, and Exemption Rules.

The proposed amendment would authorize reciprocal license privileges regarding the activities of freshwater fishing guides in the shared boundary waters of Texas and Louisiana. The department has entered into a reciprocity agreement with the Louisiana Department of Wildlife and Fisheries to allow appropriately licensed residents of both states to engage in business as freshwater fishing guides in the shared boundary fresh waters of either state.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be minimal fiscal implications to the department as a result of administering the rule. The proposed rule, if adopted, could result in Louisiana residents who currently hold Texas non-resident fishing guide licenses electing to purchase Louisiana resident guide licenses, since reciprocal privileges would be established. The department estimates that the maximum revenue loss to the department would not exceed \$9,000 per year. There will be no fiscal implications to other units of state or local government.

There will be no effect on persons required to comply with the rule as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be consistency of regulations on shared border waters with Louisiana.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rule as proposed does not directly regulate any small business, microbusiness, or rural community, there will be no adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the proposed rule.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; create a new regulation (to create reciprocal license privileges); not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Assistant Commander Les Casterline, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4853; email: le.fisheries@tpwd.texas.gov or via the department website at www.tpwd.texas.gov.

The amendment is proposed under Parks and Wildlife Code, §41.003, which authorizes the director to negotiate for the commission with the proper representatives of each state having a common border with Texas to allow reciprocal fishing on rivers and lakes on the common boundary between Texas and the border state, and under Parks and Wildlife Code, §41.006, which authorizes the commission to make regulations conforming to an agreement under §41.003 for the conservation of fish and wildlife.

The proposed amendment affects Parks and Wildlife Code, Chapter 41.

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

(a) - (d) (No change.)

(e) A Louisiana resident who holds a valid Louisiana license equivalent to the Texas freshwater fishing guide license may engage in business as a fishing guide on all Texas waters north of the Interstate Highway 10 bridge across the Sabine River that form a common boundary between Texas and Louisiana, provided the State of Louisiana allows a reciprocal privilege to persons who hold a valid Texas resident freshwater fishing guide license. Except as may be specifically provided elsewhere in this chapter or Parks and Wildlife Code, no person may take or attempt to take fish in Texas public waters without first having obtained a Texas license valid for that purpose.

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

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

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

(1) - (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.

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300508

James Murphy
General Counsel

Texas Parks and Wildlife Department

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



CHAPTER 57. FISHERIES

The Texas Parks and Wildlife Department proposes the repeal of §57.985 and amendments to 31 TAC §§57.971 - 57.974, 57.981, and 57.992, concerning the Statewide Recreational and Commercial Fishing Proclamation.

The proposed repeal of §57.985, concerning Largemouth Bass - Special Bag, Possession, and Length Limits, is necessary to rescind what was, in effect, a temporary regulation that is no longer necessary because its provisions are now contained in §57.981(d)(1)(C)(iii).

The proposed amendment to §57.971, concerning Definitions, would alter the definition for "community fishing lake" and add new definitions for "descending device" and "venting tool." The alteration to the definition of community fishing lake would replace the term "public park" with the phrase "municipal, city, county, or state park" to exclude federal parklands (which are not regulated by the department) and to clarify that the provisions of the subchapter with respect to angling on community fishing lakes apply to waterbodies at all levels of political jurisdiction within the state.

The proposed amendment also would define "descending device" and "venting tool." Federal law (50 CFR Part 622) requires anglers on commercial vessels, charter vessels and headboats (for-hire vessels), and private recreational vessels to have a descending device or venting tool rigged and ready to use when fishing for Gulf reef fish in federal waters, which is intended to reduce release mortality caused by barotrauma (the lethal expansion of gases inside a fish when it is caught at depth and quickly brought to the surface). The proposed amendment to §57.972, concerning General Rules, would require a descending device or venting tool be rigged, present, and ready for use while fishing for reef fish, and be deployed when returning reef fish to the water; thus, the terms must be defined for purposes of compliance and enforcement.

The proposed amendment to §57.973, concerning Devices, Means and Methods, would consist of several actions.

Several components of this proposed rulemaking would affect harvest regulations on community fishing lakes (CFLs). CFLs are currently defined as "all public impoundments 75 acres or smaller located totally within an incorporated city limits or a public park, and all impoundments of any size lying totally within the boundaries of a state park." Because the overwhelming majority of CFLs are proximally located to urban and suburban environments, the department believes they are an ideal "gateway"

to the angling experience for the uninitiated and curious public. The department wishes to encourage new participants to the angling experience and believes that making the experience less intimidating/confusing is crucial to that goal. Therefore, the proposed amendments in concert would result in a single harvest regulation applicable on all CFLs (with certain specific exceptions based on management goals on specific lakes), which the department believes will make the angling experience less daunting to those unfamiliar with it as well as making compliance and enforcement easier for all concerned. Historically, the department has treated virtually all state park lakes, irrespective of size, as CFLs. The proposed CFL rules would result in harvest regulations on several lakes associated with certain state parks no longer being under CFL rules (because of their size); however, the department wishes to retain certain restrictions governing means and methods (restriction of method of take to pole-and-line only, limitation to not more than two taking devices per angler) on those water bodies, which is necessary, given high angling pressure typical on those water bodies, to equitably distribute angling opportunity and reduce user conflicts. Therefore, those state park water bodies must be identified for those restrictions to apply, which is accomplished by proposed new subsection (b)(4) and the proposed amendment to subsection (c)(2).

The proposed amendment would remove Gibbons Creek Reservoir in Grimes County from special gear restriction rules because the Texas Municipal Power Authority, which owns the land surrounding Gibbons Creek Reservoir, no longer allows public access to the reservoir. Therefore, the special restrictions are no longer necessary since the high angling pressure that originally necessitated them will be greatly reduced.

The proposed amendment to §57.974, concerning Reservoir Boundaries, would add boundary descriptions for two reservoirs, correct an inaccurate boundary description, and remove the boundary description for one reservoir. In cases where harvest regulations on a stream are different from those on a reservoir created by impounding the stream, angler confusion can occur; therefore, boundary descriptions are necessary to specifically delineate the physical point separating the differential harvest rules. The proposed amendment would add boundary descriptions for Choke Canyon Reservoir in Live Oak and McMullen counties and O. H. Ivie Reservoir in Concho, Coleman, and Runnels counties, correct an erroneous roadway description in the boundary for Lake Conroe in Montgomery and Walker counties, and eliminate the description for Gibbons Creek Reservoir in Grimes County for reason discussed earlier in this preamble.

The proposed amendment to §57.981, concerning Bag, Possession, and Length Limits, consists of several actions. As indicated earlier in this preamble, one aspect of this proposed rulemaking is the implementation of a single harvest regulation on CFLs. Under current rule, harvest regulations on CFLs consist of the statewide standards for various species and numerous special exceptions. The proposed amendment would create new subsection (d)(2) to implement a bag limit of five fish, all species combined, to include not more than one black bass of greater than 14 inches in length. By imposing a standard bag limit, the department intends to make angling opportunity less intimidating for those who are curious or simply wish to engage in angling activity during a park visit. Because CFLs are routinely stocked by the department, fish population and population structure management are less complicated than on much larger waterbodies. In this context, the proposed bag limit for CFLs is more a matter of equitable distribution of angling opportunity than of concrete

management goals for fish populations. As mentioned earlier in this preamble, the revised definition of CFLs would exclude larger waterbodies associated with state parks; therefore, various portions of current rules must be altered to address harvest management on those waterbodies, in particular, various special exceptions in current rules for largemouth bass and blue and channel catfish. Current subsection (d)(1)(G)(v)-(vii) must be eliminated to accommodate the new CFL standards, although the department notes that special exceptions for blue and channel catfish on lakes Bellwood (Smith County) and Tankersley (Titus County) would be eliminated and the statewide standard catfish harvest rules would apply on those waterbodies. Current special exceptions for largemouth bass would be removed on Lake Bright, Cleburne State Park, Meridian State Park, Rusk State Park, Buescher State Park, and Lake Lakewood. Finally, the proposed amendment would impose the CFL bag limits on seven waterbodies that are not CFLs, but which department biologists believe, based on angling pressure and population data, are best managed under that standard. Lakes Abilene, Raven, and Sheldon would be added to the exceptions for blue and channel catfish because they are state park lakes that would no longer be managed as CFLs.

Under current rule, largemouth bass on Lake Nasworthy in Tom Green County are managed under a special exception to the statewide standard, which consists of a 14- to 18-inch slot length limit. Fisheries data at Lake Nasworthy indicate that no change in largemouth bass abundance, size structure, or growth resulted from the implementation of the slot length limit. Harvest is low and the harvest of additional largemouth bass less than 14 inches is needed to restructure the population. Therefore, the proposed amendment would remove the special exception and harvest regulations would revert to the statewide standard.

The proposed amendment also would implement a catch-and-release restriction for harvest of largemouth bass on Lake Forest Park in Denton County. The lake has been undergoing renovation activities including dam replacement, silt removal, fish habitat improvements, and fish stocking. The catch-and-release restriction is intended to protect the initial year-classes of stocked largemouth bass to develop into a quality, self-sustaining population.

Additionally, what was previously known as the Bedford Boys Ranch Lake in Tarrant County has been renamed; therefore, the proposed amendment would reflect that fact. The new name is Generations Park.

As mentioned previously in this preamble, the proposed amendments would result in the removal of exceptions to the statewide harvest regulations that are specific to Gibbons Creek Reservoir in Grimes County; thus, the department notes that harvest regulation on Gibbons Creek will revert to the statewide standard for all species.

Finally, the proposed amendment would alter recreational bag and possession limits for cobia and prohibit the recreational retention or landing of shortfin mako sharks, both in response to federal actions. The National Marine Fisheries Service has prohibited the recreational and retention or landing of shortfin mako sharks in response to population concerns. The proposed amendment is therefore necessary to conform state regulations with federal regulations. Similarly, concerns with declining stocks of cobia in the Gulf of Mexico have resulted in federal changes that reduce the daily bag limit (from two fish to one fish) and implement a boat limit of two fish. The proposed

amendment would make Texas rules consistent with federal rules.

The proposed amendment to §57.992, concerning Bag, Possession, and Length Limits would implement federal actions regarding cobia and shortfin mako sharks with respect to commercial fishing. Those actions are identical to the actions described in the proposed amendment to §57.981 and are proposed for the same reasons.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the rules.

Mr. Macdonald also has determined that for each of the first five years that the rules as proposed are in effect:

The public benefit anticipated as a result of enforcing or administering the proposed rules will be the dispensation of the agency's statutory duty to protect and conserve the resources of this state, the duty to equitably distribute opportunity for the enjoyment of those resources among the citizens, and the execution of the commission's policy to maximize recreational opportunity within the precepts of sound biological management practices.

There will be no adverse economic effect on persons required to comply with the rules as proposed.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's direct adverse economic impacts" to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that, with the exception of the proposed amendment to §57.992, proposed rules regulate various aspects of recreational license privileges that allow individual persons to pursue and harvest public wildlife resources in this state and therefore do not directly affect small businesses, micro-businesses, or rural communities. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required. With respect to the proposed amendment to §57.992, which affects commercial fisheries, the rules are necessary to comport state rules with federal rules and affect conduct that would be unlawful under federal law without respect to state action.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not exert a direct economic impact on local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; not create a new regulation, but modify existing regulations; not limit or repeal an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Michael Tennant (Inland Fisheries) at (512) 389-8754, e-mail: michael.tennant@tpwd.texas.gov, Dakus Geeslin (Coastal Fisheries) at cfish@tpwd.texas.gov, or Assistant Commander Les Casterline (Aquatic Enforcement) at le.fisheries@tpwd.texas.gov. Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/.

SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

DIVISION 1. GENERAL PROVISIONS

31 TAC §§57.971 - 57.974

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

The proposed amendments affect Parks and Wildlife Code, Chapter 61.

§57.971. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms in this subchapter shall have the meanings assigned in the Texas Parks and Wildlife Code.

(1) - (7) (No change.)

(8) Community fishing lake (CFL)--All public impoundments 75 acres or smaller located totally within an incorporated city limits or a municipal, city, county, or state park [public park, and all impoundments of any size lying totally within the boundaries of a state park].

(9) - (12) (No change.)

(13) Descending device--An instrument capable of releasing a fish at the depth from which the fish was caught.

(A) A descending device must be a weighted hook, lip clamp, or container that will hold the fish while it is lowered to depth

to effect release. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

(B) A descending device must use a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (15.2-m) length of line.

(14) [(13)] Dip net--A mesh bag suspended from a frame attached to a handle.

(15) [(14)] Final processing--The cleaning of a dead wildlife resource for cooking or storage purposes.

(16) [(15)] Fish--

(A) - (B) (No change.)

(17) [(16)] Fishing--Taking or attempting to take aquatic animal life by any means.

(18) [(17)] Fish length--That straight-line measurement (while the fish is lying on its side) from the tip of the snout (jaw closed) to the extreme tip of the tail when the tail is squeezed together or rotated to produce the maximum overall length.

(19) [(18)] Fish species names--The names of fishes are those prescribed by the American Fisheries Society in the most recent edition of "Common and Scientific Names of Fishes from The United States, Canada and Mexico."

(20) [(19)] Fishing guide--A person who, for compensation, accompanies, assists, or transports a person or persons engaged in fishing in the water of this state.

(21) [(20)] Fishing guide deck hand--A person in the employ of a fishing guide who assists in operating a boat for compensation to accompany or to transport a person or persons engaged in fishing in the water of this state.

(22) [(21)] Folding panel trap--A metallic or non-metallic mesh trap, the side panels hinged to fold flat when not in use, and suspended in the water by multiple lines.

(23) [(22)] Gaff--Any hand-held pole with a hook attached directly to the pole.

(24) [(23)] Gear tag--A tag constructed of material as durable as the device to which it is attached. The gear tag must be legible, contain the name and address, or customer number, of the person using the device, and, except for saltwater trotlines and crab traps fished under a commercial license, the date the device was set out.

(25) [(24)] Gig--Any hand-held shaft with single or multiple points.

(26) [(25)] Handfishing--Fishing by the use of hands only and without any other fishing devices such as gaff, pole hook, trap, stick, or spear.

(27) [(26)] Headboat--A vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

(28) [(27)] Inside waters--All bays, inlets, outlets, passes, rivers, streams, and other bodies of water landward from the shoreline of the state along the Gulf of Mexico and contiguous to, or connected

with, but not a part of, the Gulf of Mexico and within which the tide regularly rises and falls.

(29) [(28)] Jug line--A fishing line with five or less hooks and a gear tag tied to a free-floating device.

(30) [(29)] Lawful archery equipment--Longbow, recurved bow, and compound bow.

(31) [(30)] License year--The period of time for which an annual fishing license is valid.

(32) [(31)] Natural bait--A whole or cut-up portion of a fish or shellfish or a whole or cut-up portion of plant material in its natural state, provided that none of these may be altered beyond cutting into portions.

(33) [(32)] Paddle craft--Any non-motorized vessel.

(34) [(33)] Paddle-craft fishing guide--A person who, for compensation, accompanies, assists, or transports a person or persons by means of a non-motorized vessel engaged in fishing in the coastal waters of this state.

(35) [(34)] Pole and line--A line with hook, attached to a pole. This gear includes rod and reel.

(36) [(35)] Possession limit--The maximum number of a wildlife resource that may be lawfully possessed at one time.

(37) [(36)] Purse seine--A net with flotation on the corkline adequate to support the net in open water without touching bottom, with a rope or wire cable strung through rings attached along the bottom edge to close the bottom of the net.

(38) [(37)] Residence--A permanent structure where a person regularly sleeps and keeps personal belongings such as furniture and clothes, but does not include a temporary abode or dwelling such as a hunting or fishing club, or any club house, cabin, tent, or trailer house or mobile home used as a hunting or fishing camp, or any hotel, motel, or rooming house used on a temporary basis.

(39) [(38)] Sail line--A type of trotline with one end of the main line fixed on the shore, the other end of the main line attached to a wind-powered floating device or sail.

(40) [(39)] Sand Pump--A self-contained, hand-held, hand-operated suction device used to remove and capture Callianassid ghost shrimp (*Callichirus islagrande*) from their burrows.

(41) [(40)] Seine--A section of non-metallic mesh webbing, the top edge buoyed upwards by a floatline and the bottom edge weighted.

(42) [(41)] Spear--Any shaft with single or multiple points, barbed or barbless, which may be propelled by any means, but does not include arrows.

(43) [(42)] Spear gun--Any hand-operated device designed and used for propelling a spear, but does not include the crossbow.

(44) [(43)] Throwline--A fishing line with:

(A) - (D) (No change.)

(45) [(44)] Trap--A rigid device of various designs and dimensions used to entrap aquatic life, including a man-made device such as a box, barrel, or pipe.

(46) [(45)] Trawl--A bag-shaped net which is dragged along the bottom or through the water to catch aquatic life.

(47) [(46)] Trotline--A nonmetallic main fishing line with:

(A) - (D) (No change.)

(48) [(47)] Umbrella net--A non-metallic mesh net that is suspended horizontally in the water by multiple lines attached to a rigid frame.

(49) Venting tool--A device capable of penetrating the abdomen of a fish for purposes of releasing gases accumulated in the body cavity as a result of retrieving the fish from depth.

(A) A venting tool must be a sharpened, hollow instrument that allows air to escape (such as a hypodermic syringe with the plunger removed) of at least a 16-gauge, with an outside diameter of no less than 0.065 inches (1.65 mm).

(B) A device that is not hollow, such as a knife or an ice pick, is not a venting tool.

(50) [(48)] Wildlife resources--For the purposes of this subchapter, all aquatic animal life.

§57.972. General Rules.

(a) - (f) (No change.)

(g) It is unlawful:

(1) - (11) (No change.)

(12) for any person to take, kill, or possess more than 15 univalve snails (all species), to include no more than two of each of the following species: lightening whelk, horse conch, Florida fighting conch, pear whelk, banded tulip, and Florida rocksnail; [øf]

(13) for any person to fish for any species of reef fish as defined in 50 C.F.R. Part 622 unless the person:

(A) is also in possession of a descending device or venting tool that is rigged and ready for use; and

(B) deploys the descending device or venting tool on all fish exhibiting signs of barotrauma (a condition caused by expansion of gases inside a fish, such as the stomach coming out of the mouth, bulging eyes, bloated belly, and/or distended intestines) that are:

(i) released following catch; and

(ii) are reef fish as described in this paragraph; or

(14) [(13)] for any person to:

(A) - (G) (No change.)

(h) - (j) (No change.)

§57.973. Devices, Means and Methods.

(a) (No change.)

(b) Game and non-game fish may be taken only by pole and line in or on:

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

(4) the following lakes:

(A) Abilene (Abilene State Park in Taylor County);

(B) Cleburne (Cleburne State Park in Johnson County);

(C) Elm (Brazos Bend State Park in Fort Bend County);

(D) Fort Parker (Fort Parker State Park in Limestone County);

(E) Mineral Wells (Mineral Wells State Park in Parker County);

(F) Pilant (Brazos Bend State Park in Fort Bend County);

(G) Purtis Creek (Purtis Creek State Park in Henderson and Van Zandt counties);

(H) Raven (Huntsville State Park in Walker County);

(I) Sheldon (Sheldon Lake State Park in Harris County);

(J) Tucker (Palo Pinto Mountains State Park in Palo Pinto and Stephens counties); and

(K) Deputy Darren Goforth Park Lake (Harris County);

(5) [(4)] Brushy Creek (Williamson County) from the Brushy Creek Reservoir dam downstream to the Williamson/Milam county line;

(6) [(5)] Canyon Lake Project #6 (Lubbock County);

(7) [(6)] Lake Pflugerville (Travis County);

(8) [(7)] North Concho River (Tom Green County) from O.C. Fisher Dam to Bell Street Dam;

(9) [(8)] South Concho River (Tom Green County) from Lone Wolf Dam to Bell Street Dam; and

(10) [(9)] Wheeler Branch (Somervell County).

(c) No person may employ more than two pole-and-line devices at the same time on:

(1) (No change.)

(2) community fishing lakes and the following lakes: [that are not within or part of a state park]

(A) Abilene (Abilene State Park in Taylor County);

(B) Cleburne (Cleburne State Park in Johnson County);

(C) Elm (Brazos Bend State Park in Fort Bend County);

(D) Fort Parker (Fort Parker State Park in Limestone County);

(E) Mineral Wells (Mineral Wells State Park in Parker County);

(F) Pilant (Brazos Bend State Park in Fort Bend County);

(G) Raven (Huntsville State Park in Walker County);

(H) Sheldon (Sheldon Lake State Park in Harris County);

(I) Tucker (Palo Pinto Mountains State Park in Palo Pinto and Stephens counties); and

(J) Deputy Darren Goforth Park Lake (Harris County);

(3) - (6) (No change.)

(d) - (f) (No change.)

(g) Device restrictions. Devices legally used for taking fresh or saltwater fish or shrimp may be used to take crab as authorized by this subchapter.

(1) - (8) (No change.)

(9) Jugline. For use in fresh water only. Non-game fish, channel catfish, blue catfish, and flathead catfish may be taken with a jugline. It is unlawful to use a jugline:

(A) - (C) (No change.)

(D) in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, [Gibbons Creek Reservoir in Grimes County,] Lake Naconiche in Nacogdoches County, and Tankersley Reservoir in Titus County.

(10) - (20) (No change.)

(21) Throwline. For use in fresh water only.

(A) (No change.)

(B) It is unlawful to use a throwline in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, [Gibbons Creek Reservoir in Grimes County,] Lake Naconiche in Nacogdoches County, and Tankersley Reservoir in Titus County.

(C) (No change.)

(22) Trotline.

(A) - (B) (No change.)

(C) In fresh water, it is unlawful to use a trotline:

(i) (No change.)

(ii) in [Gibbons Creek Reservoir in Grimes County,] Lake Bastrop in Bastrop County, Lakes Coffee Mill and Davy Crockett in Fannin County, Fayette County Reservoir in Fayette County, Pinkston Reservoir in Shelby County, Lake Bryan in Brazos County, Bellwood Lake in Smith County, Dixieland Reservoir in Cameron County, Boerne City Park Lake in Kendall County, Lake Naconiche in Nacogdoches County, and Tankersley Reservoir in Titus County;

(iii) - (iv) (No change.)

(D) (No change.)

(23) (No change.)

§57.974. *Reservoir Boundaries.*

Reservoir boundaries for daily bag, possession, and length limits.

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

(4) Choke Canyon Reservoir in Live Oak and McMullen counties comprises all impounded waters of the Frio River from the Choke Canyon Dam upstream to the State Highway 16 bridge, including all waters of San Miguel Creek downstream from the State Highway 16 bridge.

(5) [(4)] Cooper Lake in Delta and Hopkins counties comprises all waters within the Corps of Engineers lands on Cooper Lake upstream from State Highway 19/154 and downstream from F.M. Road 71.

(6) [(5)] Falcon International Reservoir in Starr and Zapata counties comprises all impounded waters of the Rio Grande from the Falcon Dam upstream to the Zapata/Webb County line.

[(6) Gibbons Creek Reservoir in Grimes County comprises all impounded waters within the Texas Municipal Power Agency property boundaries.]

(7) (No change.)

(8) Lake Conroe in Montgomery and Walker counties comprises all impounded waters of the West Fork of the San Jacinto River from the Lake Conroe dam upstream to F.M. Road 1791 [1790] bridge.

(9) - (20) (No change.)

(21) O. H. Ivie Reservoir in Concho, Coleman, and Runnels counties comprises all impounded waters of the Colorado and Concho rivers from the S.W. Freese Dam upstream to:

(A) the F.M. 129 bridge on the Colorado River; and

(B) the confluence of Amos Creek and the Concho River.

(22) [(21)] Purdis Creek State Park Lake in Henderson and Van Zandt Counties comprises all waters within the Purdis Creek State Park boundaries.

(23) [(22)] Sam Rayburn Reservoir in Angelina, Jasper, Nacogdoches, Sabine, and San Augustine counties comprises all impounded waters of the Angelina River from the Sam Rayburn Dam upstream to the Union Pacific railroad bridge.

(24) [(23)] Toledo Bend Reservoir in Newton, Sabine, and Shelby counties comprises all impounded waters of the Sabine River from the Toledo Bend Reservoir Dam upstream to the Texas/Louisiana state line.

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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James Murphy

General Counsel

Texas Parks and Wildlife Department

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



DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

31 TAC §57.981

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

The proposed amendments affect Parks and Wildlife Code, Chapter 61.

§57.981. *Bag, Possession, and Length Limits.*

(a) - (b) (No change.)

(c) There are no bag, possession, or length limits on game or non-game fish, except as provided in this subchapter.

(1) - (4) (No change.)

(5) Except as provided in subsection (d) of this section, the statewide daily bag and length limits shall be as follows.

(A) - (C) (No change.)

(D) Cobia.

(i) Daily bag limit: 1. No more than two cobia may be possessed on a vessel at any time [2].

(ii) - (iii) (No change.)

(E) - (O) (No change.)

(P) Shark: all species (including hybrids and subspecies).

(i) - (iii) (No change.)

(iv) The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time:

(I) - (XVI) (No change.)

(XVII) Shortfin mako;

(XVIII) [(XVII)] Silky;

(XIX) [(XVIII)] Sixgill;

(XX) [(XIX)] Smalltail;

(XXI) [(XX)] Whale; and

(XXII) [(XXI)] White.

(v) (No change.)

(Q) - (X) (No change.)

(d) Exceptions to statewide daily bag, possession, and length limits shall be as follows:

(1) Freshwater species.

(A) - (B) (No change.)

(C) Bass: largemouth

(i) - (iii) (No change.)

(iv) Lakes [Bright (Williamson County);] Casa Blanca (Webb County), [Cleburne State Park (Johnson County);] Fairfield (Freestone County), Gilmer (Upshur County), Marine Creek Reservoir (Tarrant County), [Meridian State Park (Bosque County);] Pflugerville (Travis County), [Rusk State Park (Cherokee County);] and Welsh (Titus County).

(I) - (II) (No change.)

(v) Generations Park [Bedford Boys Ranch Lake] (Tarrant County), Buck Lake (Kimble County), Lake Forest Park (Denton County), Lake Kyle (Hays County), and Nelson Park Lake (Taylor County).

(I) - (III) (No change.)

(vi) (No change.)

[(vii) Lake Nasworthy (Tom Green).]

[(I)] Daily bag limit: 5-]

[(II)] Minimum length limit: 14 - 18 inch slot limit.]

[(III)] It is unlawful to retain largemouth bass between 14 and 18 inches in length.]

(vii) [(viii)] Lakes Athens (Henderson County), Bastrop (Bastrop County), [Buescher State Park (Bastrop County);] Houston County (Houston County), Joe Pool (Dallas, Ellis, and Tarrant counties), Lady Bird (Travis County), Murvaul (Panola County), Pinkston (Shelby County), Timpson (Shelby County), Walter E. Long (Travis County), and Wheeler Branch (Somervell County).

(I) - (III) (No change.)

(viii) [(ix)] Lakes Fayette County (Fayette County), Fork (Wood Rains and Hopkins counties), [Gibbons Creek Reservoir (Grimes County);] and Monticello (Titus County).

(I) - (III) (No change.)

~~(x) Lake Lakewood (Williamson County);]~~

~~(I) Daily bag limit: 3;]~~

~~(II) Minimum length limit: 18 inches.]~~

(D) - (F) (No change.)

(G) Catfish: channel and blue catfish, their hybrids and subspecies.

(i) - (iv) (No change.)

(v) [~~Brushy Creek (Williamson County) from the Brushy Creek Reservoir dam downstream to the Williamson/Milam county line, Canyon Lake Project #6 (Lubbock County); North Concho River (Tom Green County) from O.C. Fisher Dam to Bell Street Dam, and South Concho River (Tom Green County) from Lone Wolf Dam to Bell Street Dam;~~]

~~(I) Daily bag limit: 5 (in any combination);]~~

~~(II) Minimum length limit: No limit.]~~

~~(vi) Community fishing lakes.]~~

~~(I) Daily bag limit: 5 (in any combination).]~~

~~(II) Minimum length limit: No limit.]~~

~~(vii) Lakes Bellwood (Smith County); Dixieland (Cameron County); and Tankersley (Titus County);]~~

~~(I) Daily bag limit: 5 (in any combination);]~~

~~(II) Minimum length limit: 12 inches.]~~

~~(viii)] Lakes Belton (Bell and Coryell counties), Bob Sandlin (Camp, Franklin, and Titus counties), Conroe (Montgomery and Walker counties), Hubbard Creek (Stephens County), Kirby (Taylor County), Lavon (Collin County), Lewisville (Denton County), Palestine (Cherokee, Anderson, Henderson, and Smith counties), Ray Hubbard (Collin, Dallas, Kaufman, and Rockwall counties), Richland-Chambers (Freestone and Navarro counties), Tawakoni (Hunt, Rains, and Van Zandt counties), and Waco (McClennan).~~

(I) - (III) (No change.)

(vi) [(ix)] Lakes Abilene (Taylor County), Braunig (Bexar County), Calaveras (Bexar County), Choke Canyon (Live Oak and McMullen counties), Fayette County (Fayette County), [and] Proctor (Comanche County), Raven (Walker County), and Sheldon (Harris County).

(I) - (II) (No change.)

(H) - (N) (No change.)

(2) Except as specifically provided elsewhere in this subchapter, the daily bag limit on the waterbodies enumerated in this para-

graph is 5 fish (all species combined), to include not more than 1 black bass (Micropterus spp.) of greater than 14 inches in length.

(A) All CFLs;

(B) Brushy Creek (Williamson County) from the Brushy Creek Reservoir dam downstream to the Williamson/Milam county line;

(C) Canyon Lake Project #6 (Lubbock County);

(D) Deputy Darren Goforth Park Lake (Harris County);

(E) Elm (Fort Bend County);

(F) Tucker Lake (Stephens and Palo Pinto counties);

(G) North Concho River (Tom Green County) from O.C. Fisher Dam to Bell Street Dam; and

(H) South Concho River (Tom Green County) from Lone Wolf Dam to Bell Street Dam.

(3) [(2)] Saltwater species. There are no exceptions to the provisions established in subsection (c)(5) 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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James Murphy
General Counsel

Texas Parks and Wildlife Department

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31 TAC §57.985

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

The proposed repeal affects Parks and Wildlife Code, Chapter 61.

§57.985. *Largemouth Bass - Special Bag, Possession, and Length Limits.*

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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James Murphy
General Counsel
Texas Parks and Wildlife Department
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For further information, please call: (512) 389-4775



DIVISION 3. STATEWIDE COMMERCIAL FISHING PROCLAMATION

31 TAC §57.992

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

The proposed amendment affects Parks and Wildlife Code, Chapter 61.

§57.992. *Bag, Possession, and Length Limits.*

- (a) (No change.)
- (b) There are no bag, possession, or length limits on game fish, non-game fish, or shellfish, except as otherwise provided in this subchapter.
 - (1) - (3) (No change.)
 - (4) The statewide daily bag and length limits for commercial fishing shall be as follows.
 - (A) - (B) (No change.)
 - (C) Cobia.
 - (i) Daily bag limit: 1. No more than two cobia may be possessed on a vessel at any time [2].
 - (ii) - (iii) (No change.)
 - (D) - (I) (No change.)
 - (J) Shark: all species (including hybrids and subspecies).
 - (i) - (iii) (No change.)
 - (iv) The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time:
 - (I) - (XVI) (No change.)
 - (XVII) Shortfin mako;
 - (XVIII) [~~(XVIII)~~] Silky;
 - (XIX) [~~(XVIII)~~] Sixgill;
 - (XX) [~~(XIX)~~] Smalltail;
 - (XXI) [~~(XX)~~] Whale; and
 - (XXII) [~~(XXI)~~] White.

(v) (No change.)

(K) - (N) (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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James Murphy
General Counsel
Texas Parks and Wildlife Department
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For further information, please call: (512) 389-4775



CHAPTER 65. WILDLIFE SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

31 TAC §§65.314 - 65.320

The Texas Parks and Wildlife Department (the department) proposes amendments to 31 TAC §§65.314 - 65.320, concerning the Migratory Game Bird Proclamation.

The United States Fish and Wildlife Service (Service) issues annual frameworks for the hunting of migratory game birds in the United States. Regulations adopted by individual states may be more restrictive than the federal frameworks but may not be less restrictive. Responsibility for establishing seasons, bag limits, means, methods, and devices for harvesting migratory game birds within Service frameworks is delegated to the Texas Parks and Wildlife Commission (Commission) under Parks and Wildlife Code, Chapter 64, Subchapter C.

With one exception, the proposed amendments specify the season dates for hunting the various species of migratory game birds for 2023-2024 seasons. The proposed rules retain the season structure and bag limits for all species of migratory game birds from last year while adjusting the season dates to allow for calendar shift (i.e., to ensure that seasons open on the desired day of the week), since dates from a previous year do not fall on the same days in following years.

The exception mentioned earlier in this preamble is an amendment to §65.318, concerning Sandhill Crane, which would clarify that federal sandhill crane permit required by the subsection is not valid unless it is issued by the department (i.e., a federal crane permit issued by another state is not valid to hunt sandhill crane in Texas).

Shaun Oldenburger, Wildlife Division Small Game Program Director, has determined that for the first five years that the amendments as proposed are in effect, there will be no additional fiscal implications to state or local governments of enforcing or administering the rules as proposed.

Mr. Oldenburger also has determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the rules as proposed will be the department's discharge of its statutory obligation to manage and conserve the state's populations of migratory game birds for the

use and enjoyment of the public, consistent with the principles of sound biological management.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules regulate various aspects of recreational license privileges that allow individual persons to pursue and harvest migratory game bird resources in this state and, therefore, do not directly affect small businesses, micro-businesses, or rural communities. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

There also will be no adverse economic effect on persons required to comply with the rules as proposed.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; not create a new regulation, expand or limit an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Shaun Oldenburger (Small Game Program Director) at 512-389-4778, e-mail: shaun.oldenburger@tpwd.texas.gov or via the department website at www.tpwd.texas.gov.

The amendments are proposed under Parks and Wildlife Code, Chapter 64, which authorizes the Commission and the Executive Director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

The proposed amendments affect Parks and Wildlife Code, Chapter 64.

§65.314. *Doves (Mourning, White-Winged, White-Tipped, White-Fronted Doves).*

(a) (No change.)

(b) Seasons; Daily Bag Limits.

(1) North Zone.

(A) Dates: September 1 - November 12, 2023 and December 15-31, 2023 [~~September 1 - November 13, 2022 and December 17, 2022 - January 1, 2023~~].

(B) (No change.)

(2) Central Zone.

(A) Dates: September 1 - October 29, 2023 and December 15, 2023 - January 14, 2024 [~~September 1 - October 30, 2022 and December 17, 2022 - January 15, 2023~~].

(B) (No change.)

(3) South Zone and Special White-winged Dove Area.

(A) Dates: September 1-3 and 8-10, 2023; September 14 - October 29, 2023; and December 15, 2023 - January 21, 2024 [~~September 2-4 and 9-11, 2022; September 14 - October 30, 2022; and December 17, 2022 - January 22, 2023~~].

(B) (No change.)

§65.315. *Ducks, Coots, Mergansers, and Teal.*

(a) (No change.)

(b) Season dates and bag limits.

(1) HPMMU.

(A) For all species other than "dusky ducks": October 28-29, 2023 and November 3, 2023 - January 28, 2024 [~~October 29-30, 2022 and November 4, 2022 - January 29, 2023~~]; and

(B) "dusky ducks": November 6, 2023 - January 28, 2024 [~~November 7, 2022 - January 29, 2023~~].

(2) North Zone.

(A) For all species other than "dusky ducks": November 11-26, 2023 and December 2, 2023 - January 28, 2024 [~~November 12-27, 2022 and December 3, 2022 - January 29, 2023~~]; and

(B) "dusky ducks": November 16-26, 2023 and December 2, 2023 - January 28, 2024 [~~November 17-27, 2022 and December 3, 2022 - January 29, 2023~~].

(3) South Zone.

(A) For all species other than "dusky ducks": November 4-26, 2023 and December 9, 2023 - January 28, 2024 [~~November 5-27, 2022 and December 10, 2022 - January 29, 2023~~]; and

(B) "dusky ducks": November 9-26, 2023 and December 9, 2023 - January 28, 2024 [~~November 10-27, 2022 and December 10, 2022 - January 29, 2023~~].

(4) September teal-only season.

(A) (No change.)

(B) Dates: September 9-24, 2023 [~~September 10-25, 2022~~].

(c) (No change.)

§65.316. *Geese.*

(a) (No change.)
(b) Season dates and bag limits.
(1) Western Zone.
(A) Light geese: November 4, 2023 - February 4, 2024 [~~November 5, 2022 - February 5, 2023~~]. The daily bag limit for light geese is 10, and there is no possession limit.

(B) Dark geese: November 4, 2023 - February 4, 2024 [~~November 5, 2022 - February 5, 2023~~]. The daily bag limit for dark geese is five, to include no more than two white-fronted geese.

(2) Eastern Zone.

(A) Light geese: November 4, 2023 - January 28, 2024 [~~November 5, 2022 - January 29, 2023~~]. The daily bag limit for light geese is 10, and there is no possession limit.

(B) Dark geese:

(i) Season: November 4, 2023 - January 28, 2024 [~~November 5, 2022 - January 29, 2023~~];

(ii) (No change.)

(c) September Canada goose season. Canada geese may be hunted in the Eastern Zone during the season established by this subsection. The season is closed for all other species of geese during the season established by this subsection.

(1) Season dates: September 9-24, 2023 [~~September 10-25, 2022~~].

(2) (No change.)

(d) Light Goose Conservation Order. The provisions of paragraphs (1) - (3) of this subsection apply only to the hunting of light geese. All provisions of this subchapter continue in effect unless specifically provided otherwise in this section; however, where this section conflicts with the provisions of this subchapter, this section prevails.

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

(4) Season dates.

(A) From January 29 - March 10, 2024 [~~January 30 - March 12, 2023~~], the take of light geese is lawful in the Eastern Zone.

(B) From February 5 - March 10, 2024 [~~February 6 - March 12, 2023~~], the take of light geese is lawful in the Western Zone.

§65.317. *Special Youth, Active-Duty [Active Duty] Military, and Military Veteran Seasons.*

(a) Special Youth Waterfowl Season. There shall be a Special Youth Season for waterfowl, during which the hunting, taking, and possession of geese, ducks, mergansers, and coots is restricted to licensed hunters 16 years of age and younger accompanied by a person 18 years of age or older, except for persons hunting by means of falconry under the provisions of §65.320 of this title (relating to Extended Falconry Seasons).

(1) HPMMU:

(A) season dates: October 21-22, 2023 [~~October 22 - 23, 2022~~];

(B) (No change.)

(2) North Duck Zone:

(A) season dates: November 4-5, 2023 [~~November 5 - 6, 2022~~];

(B) (No change.)

(3) South Duck Zone:

(A) season dates: October 28-29, 2023 [~~October 29 - 30, 2022~~];

(B) (No change.)

(b) Special Active-Duty Military and Military Veteran Migratory Game Bird Season.

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

(3) Season Dates and Bag Limits.

(A) HPMMU:

(i) season dates: October 21-22, 2023 [~~October 22 - 23, 2022~~];

(ii) (No change.)

(B) North Duck Zone:

(i) season dates: November 4-5, 2023 [~~November 5 - 6, 2022~~];

(ii) (No change.)

(C) South Duck Zone:

(i) season dates: October 28-29, 2023 [~~October 29 - 30, 2022~~];

(ii) (No change.)

(4) (No change.)

§65.318. *Sandhill Crane.*

(a) (No change.)

(b) Season dates and bag limits.

(1) Zone A: October 28, 2023 - January 28, 2024 [~~October 29, 2022 - January 29, 2023~~]. The daily bag limit is three.

(2) Zone B: November 24, 2023 - January 28, 2024 [~~November 25, 2022 - January 29, 2023~~]. The daily bag limit is three.

(3) Zone C: December 16, 2023 - January 21, 2024 [~~December 17, 2022 - January 22, 2023~~]. The daily bag limit is two.

(c) No person may hunt sandhill cranes in this state unless that person has obtained a department-issued federal sandhill crane permit valid for the season in which the hunting occurs. The permit required by this subsection is free.

§65.319. *Gallinules, Rails, Snipe, Woodcock.*

(a) Gallinules (moorhen or common gallinule and purple gallinule) may be taken in any county of this state during the season established in this subsection.

(1) Season dates: September 9-24 and November 4 - December 27, 2023 [~~September 10-25 and November 5 - December 28, 2022~~].

(2) (No change.)

(b) Rails may be taken in any county of this state during the season established by this subsection.

(1) Season dates: September 9-24 and November 4 - December 27, 2023 [~~September 10-25 and November 5 - December 28, 2022~~].

(2) (No change.)

(c) Snipe may be taken in any county of this state during the season established by this subsection.

(1) Season dates: November 4, 2023 - February 18, 2024 [~~November 5, 2022 - February 19, 2023~~].

(2) (No change.)

(d) Woodcock may be taken in any county of this state during the season established by this subsection.

(1) Season dates: December 18, 2023 - January 31, 2024 [~~December 18, 2022 - January 31, 2023~~].

(2) (No change.)

§65.320. Extended Falconry Seasons.

It is lawful to take the species of migratory birds listed in this section by means of falconry during the seasons established by this section.

(1) Mourning doves, white-winged doves, and white-tipped doves: November 17 - December 3, 2023 [~~November 18 - December 4, 2022~~].

(2) Duck, gallinule, moorhen, rail, and woodcock: January 29 - February 12, 2024 [~~January 30 - February 13, 2023~~].

(3) - (4) (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.

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300509

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: March 19, 2023

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



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

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

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

40 TAC §§9.153, 9.171 - 9.175, 9.177 - 9.180, 9.182, 9.183, 9.187, 9.188

As required by Texas Government Code §531.0202(b), the Department of Aging and Disability Services (DADS) was abolished effective September 1, 2017, after all its functions were transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code §531.0201 and §531.02011. Rules of the former DADS

are codified in Texas Administrative Code (TAC), Title 40, Part 1, and will be repealed or administratively transferred to 26 TAC, Health and Human Services, as appropriate. Until such action is taken, the rules in Title 40, Part 1 govern functions previously performed by DADS that have transferred to HHSC. Texas Government Code §531.0055, requires the Executive Commissioner of HHSC to adopt rules for the operation and provision of services by the health and human services system, including rules in Title 40, Part 1. Therefore, the Executive Commissioner of HHSC proposes the repeal of §§9.153, 9.171 - 9.175, 9.177 - 9.180, 9.182, 9.183, 9.187, and 9.188. in 40 TAC Chapter 9, Subchapter D, concerning Home and Community-based Services (HCS) Program and Community First Choice (CFC).

BACKGROUND AND PURPOSE

The purpose of the proposal is to repeal rules for the HCS Program, a Medicaid waiver program authorized under §1915(c) of the Social Security Act that provides services to individuals with intellectual disabilities. The rules in 40 TAC Chapter 9, Subchapter D, describe the regulatory certification principles for HCS Medicaid waiver program providers. HHSC is proposing new rules regarding the HCS Program in 26 TAC Chapter 565 elsewhere in this issue of the *Texas Register*. The proposed rules describe certification standards regarding service delivery, rights of individuals, requirements related to abuse, neglect, and exploitation, staff member and service provider requirements, and quality assurance. The proposed rules also include new requirements for emergency preparedness, fire drills, and evacuation drills in all residential types in the HCS program. Current requirements listed on the waiver survey and certification checklist that are not currently in rule are included in the proposed new rules. The proposed rules set forth recommendations for increased oversight of HCS host home/companion care homes, clarify restraint and seclusion requirements, and add language for obtaining and using enclosed beds. The proposed rules also modify HHSC surveyor requirements to allow for survey flexibility as the HCS waiver program evolves. Therefore, the rules in 40 TAC Chapter 9, Subchapter D, that address the topics covered by the proposed new rules in 26 TAC Chapter 565 are no longer needed.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§9.153, 9.171 - 9.175, 9.177 - 9.180, 9.182, 9.183, 9.187, and 9.188 removes rules that are no longer necessary because they cover topics addressed in proposed new rules.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the repeals will be in effect, enforcing or administering the repeals does not have foreseeable implications relating to costs or revenues to state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the sections will be repealed:

- (1) the proposed repeals will not create or eliminate a government program;
- (2) implementation of the proposed repeals will not affect the number of HHSC employee positions;
- (3) implementation of the proposed repeals will result in no assumed change in future legislative appropriations;

- (4) the proposed repeals will not affect fees paid to HHSC;
- (5) the proposed repeals will not create new rules;
- (6) the proposed repeals will repeal existing rules;
- (7) the proposed repeals will not change the number of individuals subject to the repeals; and
- (8) the proposed repeals will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the proposed repeals. The proposed repeals do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the repealed rules.

LOCAL EMPLOYMENT IMPACT

The proposed repeals will not affect a local economy.

COSTS TO REGULATED PERSONS

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

PUBLIC BENEFIT AND COSTS

Stephen Pahl, Deputy Executive Commissioner, has determined that for each year of the first five years the repeals are in effect, the public will benefit from clearer rules that explain the policies and requirements of the HCS Program.

Trey Wood has also determined that for the first five years the repeals are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed repeals because the repeals will not require these persons to alter their current business practices.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Kelly Donaldson at (512) 438-3161 in HHSC Regulatory Services Division.

Written comments on the proposal may be submitted to HHSC Long-term Care Regulation Policy and Rules, Mail Code E-370, 701 W. 51st Street, Austin, Texas 78751, or by email to HH-SCLTCRRules@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00p.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 post-

marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 22R074" in the subject line.

STATUTORY AUTHORITY

The proposed repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The proposed repeals implement Texas Government Code §531.0055, §531.021, and Chapter 531, Subchapter A-1, and Texas Human Resources Code §32.021.

- §9.153. *Definitions.*
- §9.171. *HHSC Surveys and Residential Visits of a Program Provider.*
- §9.172. *Certification Principles: Mission, Development, and Philosophy of Program Operations.*
- §9.173. *Certification Principles: Rights of Individuals.*
- §9.174. *Certification Principles: Service Delivery.*
- §9.175. *Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual.*
- §9.177. *Certification Principles: Staff Member and Service Provider Requirements.*
- §9.178. *Certification Principles: Quality Assurance.*
- §9.179. *Certification Principles: Restraint.*
- §9.180. *Certification Principles: Prohibitions.*
- §9.182. *Amelioration.*
- §9.183. *Program Provider Compliance and Corrective Action.*
- §9.187. *Other Program Provider Responsibilities.*
- §9.188. *HHSC Approval of Residences.*

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 February 1, 2023.

TRD-202300481
 Karen Ray
 Chief Counsel
 Department of Aging and Disability Services
 Earliest possible date of adoption: March 19, 2023
 For further information, please call: (512) 438-3161



ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 372. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS

SUBCHAPTER B. ELIGIBILITY

DIVISION 6. RESOURCES

1 TAC §372.354

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §372.354, concerning Treatment of Resources in TANF. The amendment to §372.354 is adopted without changes to the proposed text as published in the October 14, 2022, issue of the *Texas Register* (47 TexReg 6708). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to align policy regarding the treatment of prepaid burial insurance policies and prepaid funeral plans (referred to collectively as "funeral agreements") for the Temporary Assistance for Needy Families (TANF) program with recently changed resource policy under the Supplemental Nutrition Assistance Program (SNAP). HHSC is excluding the full amount of funeral agreements as a resource when determining eligibility for TANF. HHSC is also excluding the value of one burial plot per household member.

COMMENTS

The 31-day comment period ended November 14, 2022.

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

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §31.003, which requires the Executive Commissioner to adopt rules related to distribution of TANF benefits.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300559

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: February 26, 2023

Proposal publication date: October 14, 2022

For further information, please call: (512) 206-4621



SUBCHAPTER D. APPLICATION PROCESS

DIVISION 2. INTERVIEW

1 TAC §372.957

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §372.957, concerning Periodic Eligibility Review. The amendment to §372.957 is adopted without changes to the proposed text as published in the October 21, 2022, issue of the *Texas Register* (47 TexReg 6952). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to align the section with the implementation of Senate Bill (S.B.) 224, 87th Legislature, Regular Session, 2021, which required HHSC to simplify certification and recertification requirements for eligible households in which all members are elderly (60 years of age or older) or disabled and have no earned income who are certified on or after September 1, 2021.

COMMENTS

The 31-day comment period ended November 21, 2022.

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

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §33.002, which requires the Executive Commissioner to adopt rules related to distribution of SNAP benefits.

§372.957. *Periodic Eligibility Review.*

(a) In some TANF cases, the Texas Health and Human Services Commission (HHSC) elects to review eligibility every 12 months, but in most cases, HHSC reviews eligibility every six months.

(b) SNAP eligibility periods vary from one to 12 months, based on household circumstances and as determined by HHSC, except:

(1) as explained in §372.654 of this chapter (relating to SNAP-CAP Certification Process); and

(2) for a household in which all members are elderly or disabled with no earned income, the eligibility period is 36 months (as approved by the U.S. Department of Agriculture, Food and Nutrition Service).

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300558

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: February 26, 2023

Proposal publication date: October 21, 2022

For further information, please call: (512) 206-4621



TITLE 13. CULTURAL RESOURCES

PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 18. TEXAS HOLOCAUST, GENOCIDE, AND ANTISEMITISM ADVISORY COMMISSION

13 TAC §§18.1, 18.3, 18.5, 18.7

The Texas Historical Commission (THC) adopts new Chapter 18, §§18.1, 18.3, 18.5, and 18.7 related to the creation of Administrative Rules for the Texas Holocaust, Genocide, and Antisemitism Advisory Commission (THGAAC). New §§18.3, 18.5, and 18.7 are adopted with changes to the proposed text as published in the November 18, 2022, issue of the *Texas Register* (47 TexReg 7632). The changes are for grammar and punctuation corrections. These rules will be republished. New §18.1 is adopted without changes to the proposed text as published in the November 18, 2022, issue of the *Texas Register* (47 TexReg 7632). This rule will not be republished.

Chapter 18 creates a process for operations for the THGAAC

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for each of the first five years the proposed new rules are in effect, there will not be a fiscal impact on state or local government as a result of enforcing or administering the new rule as proposed. The related policy and procedure are in place for this rule and there is no anticipated additional cost as a result of the rulemaking.

PUBLIC BENEFIT/COST NOTE. Mr. Wolfe has also determined that for the first five-year period the rule is in effect, the anticipated public benefit will be enhanced transparency on agency policy and procedure.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with these new rules, as proposed. There is no effect on local economy for the first five years that the proposed new rules are in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022 and 2001.024(a)(6).

COSTS TO REGULATED PERSONS. The proposed new rules do not impose a cost on regulated persons, including another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. The proposed new rules provide an opportunity for the THC and THGAAC to support the operation and delegation of decisions and authorities to assist with implementation of goals and objectives for the THGAAC. There is no anticipated economic impact of these new rules. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing this new rule and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required. The proposed new rule does not affect small businesses, micro-businesses, or rural communities because the new rule only clarifies the administrative procedures with which to carry out existing statutes.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the new rules would be in effect, the proposed new sections: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the new rules would be in effect, the proposed new rules will not positively or adversely affect the Texas economy.

No comments were received on the proposed rule.

STATUTORY AUTHORITY AND STATEMENT ON AUTHORITY. These new rules are proposed under the authority of Texas Government Code §448.102(b), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission.

CROSS REFERENCE TO STATUTE. The new rules implement Section 448 of the Texas Government Code.

§18.3. Administration.

(a) The THGAAC shall hold regular quarterly meetings. The THGAAC may hold such other meetings at such other times and places as it may schedule in formal session. The chair may call special meetings of the advisory commission at his or her discretion, provided that 10-days' notification is given to the advisory commission members. The chair shall call special meetings of the advisory commission at any time upon written request to the chair signed by a quorum of the THGAAC, provided that 10-days' notification is given to the advisory commission members. Members of the public shall be provided with a reasonable opportunity to appear before the THGAAC at every meeting of the THGAAC and to speak on any issue under the jurisdiction of the THGAAC. The time for each person to speak may be limited by the chair to expedite the business of the advisory commission.

(b) Five members of the advisory commission constitutes a quorum authorized to transact businesses of the advisory commission.

(c) No proxies for advisory commission members are allowed.

(d) At the last quarterly meeting in odd-numbered years beginning in 2023, the chair shall appoint three people to serve on a nominating committee, including a chair of that committee. The positions available for nomination by the committee are the vice-chair and secretary. The nominating committee will nominate only one person for each elective office on the advisory commission. A committee member shall contact each person it wishes to nominate in order to obtain the person's acceptance of nomination. An advisory commission member may hold only one elective office on the advisory commission at a time. The chair may appoint an interim nominating committee to bring forward candidates for vice-chair and secretary for the advisory commission's consideration, to serve until the first nominating committee is created under this subsection in 2023 and an election can be held.

(e) The nominating committee will present its report of nominees at the first advisory commission meeting in even-numbered years beginning in 2024. The chair shall call for further nominations from the floor. After all nominations are made, the chair will close the nominations and ask for a vote by voice or show of hands. If there is a simple majority for one person for an elective office, that person is deemed elected. If there is not a majority for any one person in an office, the advisory commission shall hold an election runoff for each such office between the two people receiving the highest number of votes for that office.

(f) In the event of a vacancy in any elective office of the advisory commission, an election shall be held at the next advisory commission meeting, except the first advisory commission meeting of odd-numbered years, to fill such vacancy. The chair shall call for nominations from the floor. After all nominations are made, the chair will close the nominations and ask for discussion. Upon the close of discussion, the chair will ask for a vote. If there is a simple majority for one person, that person is elected. If there is not a majority for any one person, an election runoff shall immediately be held between the two people receiving the highest number of votes.

(g) The chair shall perform such duties as are properly required of him or her by the advisory commission. The chair shall preside at all meetings, shall have general supervision of the affairs of the advisory commission, and shall have authority to interpret and carry out all decisions of the advisory commission.

(h) The vice-chair shall perform such duties as the advisory commission or the chair may direct. The vice-chair shall preside over advisory commission meetings and carry out the chair's duties if the chair is absent or unavailable.

(i) The secretary shall certify the minutes of all meetings of the advisory commission after the advisory commission has approved them and shall perform such other duties as may be prescribed by the advisory commission or the chair. The secretary shall preside over commission meetings and carry out the chair and the vice-chair's duties if the chair and the vice-chair are absent or unavailable.

(j) The executive committee consists of the chair, vice-chair, secretary, and immediate past chair of the THGAAC if that person is still a member of the advisory commission, as well as other members of the advisory commission appointed by the chair, not to exceed four members total. The committee may act on behalf of the advisory commission with its advance approval. In the absence of advance approval by the advisory commission, any action of the executive committee may be placed on the agenda of the next meeting of the advisory commission for ratification.

(k) The chair may appoint such additional committees from the members of the THGAAC as the chair deems necessary, consistent with the duties of the THGAAC as defined in Government Code §448.101. The chair serves as a non-voting ex officio member on each committee except the nominating committee.

(l) THC shall provide to THGAAC such staff positions as are authorized and funded by the Texas legislature to carry out THGAAC duties. Staff will be provided with office space and with necessary and appropriate equipment and vehicles to carry out their assignments. Staff must meet all standards and requirements for employment by THC and shall perform duties in accordance with direction received from THGAAC. If THGAAC members are dissatisfied with staff performance, they shall report this to the executive director of THC, and the two entities shall work together to attempt to resolve performance issues. Any final decision on hiring, assigning, placing under probation, or terminating an employee is solely the responsibility of the executive director of THC.

(m) Staff job classifications, salaries, benefits, assigned equipment, vehicles, and staff policies and procedures shall be consistent with those used by THC for its internal affairs and shall be subject to approval by the executive director of THC.

(n) The executive director of THGAAC shall report directly to the executive director of THC, who shall be responsible for developing THGAAC's executive director's workplan and for overseeing and rating performance under that plan. In developing said workplan and any performance reviews thereunder, the executive director of THC shall consult with the chairs of THC and THGAAC.

(o) THC may choose to assign one or more THC commissioners or THC staff members as liaisons to THGAAC. Such THC liaisons shall be permitted to attend public portions of any and all meetings of the THGAAC.

(p) The THGAAC's chair or other member or staff of the advisory commission will present a formal report on recent THGAAC activities at each THC quarterly meeting.

(q) THC shall provide administrative services to THGAAC including budgeting, purchasing, accounting, human resources, information technology, fleet management, and office maintenance. THC shall be reimbursed for costs associated with its performance of the duties described herein, and will withdraw such amounts from the legislative appropriation supporting THGAAC.

(r) THGAAC commissioners shall be entitled to reimbursement of reasonable expenses incurred in attending publicly-posted meetings of the THGAAC and its committees. In addition, commissioners shall be entitled to reimbursement for travel expenses incurred while transacting advisory commission business if, in advance of such travel, the commissioner obtains written approval for reimbursement from the commission chair.

§18.5. *Contracts.*

(a) The THC may enter into contracts with one or more non-profit organizations to assist the advisory commission in fulfilling its duties.

(b) Each such contract shall clearly establish the role of the non-profit, the nature of the relationship between the non-profit and the THC and the THGAAC, the performance expectations for the non-profit, any requirements or expectations regarding the activities and the employees of the non-profit, the THC's expectations regarding ownership of products developed by the non-profit, the THC's long-term goals for the THGAAC and the non-profit's role in achieving those goals, a system for evaluating the non-profit's performance, and what

support, if any, THC will provide to the non-profit in fulfillment of the contract.

(c) The provisions of TAC, Title 13, Part 2, Ch 11, Subchapter A, §11.9 (relating to Donations and Relationships with Affiliated Non-Profit Organizations) will apply to any relationship between the THC, THGAAC, and a non-profit organization pursuant to this section.

§18.7. *Related Non-Profit Organization.*

The THC may enter into a relationship with a non-profit organization, the purpose of which is to raise funds for or provide services or other benefits to the THGAAC. The relationship between the non-profit and THGAAC, including the detailed roles of each entity, must be reduced to writing in a Memorandum of Understanding (MOU), which must be approved by the THC to be effective. Also included in the MOU will be performance expectations for the non-profit, any requirements or expectations regarding the activities and the employees of the non-profit, and the THC's expectations regarding ownership of products developed by the non-profit.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300511

Mark Wolfe

Executive Director

Texas Historical Commission

Effective date: February 26, 2023

Proposal publication date: November 18, 2022

For further information, please call: (512) 463-6100



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER C. OTHER PROVISIONS

19 TAC §74.27

The State Board of Education (SBOE) adopts an amendment to §74.27, concerning innovative courses and programs. The amendment is adopted without changes to the proposed text as published in the October 7, 2022 issue of the *Texas Register* (47 TexReg 6550) and will not be republished. The amendment updates the rule to require that applicants for innovative courses must have piloted the proposed course in a Texas school prior to seeking approval.

REASONED JUSTIFICATION: After the SBOE adopted new rules concerning graduation requirements, the experimental courses previously approved were phased out as of August 31, 1998. As a result of the adoption of the Texas Essential Knowledge and Skills (TEKS), school districts now submit requests for innovative course approval for courses that do not have TEKS. The process outlined in §74.27 provides authority for the commissioner of education to approve discipline-based courses but reserves for SBOE review and approval those courses that

do not fall within any of the subject areas of the foundation or enrichment curriculum.

Each year, the Texas Education Agency provides the opportunity for school districts and other entities to submit applications for proposed innovative courses. At the June 2022 SBOE meeting, the Committee on Instruction requested that an item be placed on the August-September 2022 agenda for the board to consider requiring that an applicant for an innovative course pilot the proposed course in a Texas school prior to seeking approval from the SBOE.

The adopted amendment specifies that innovative courses cannot be approved unless they have been piloted in their entirety in a Texas school prior to seeking approval and that data demonstrating successful piloting of the course in Texas be submitted with the application for an innovative course.

The SBOE approved the amendment for first reading and filing authorization at its September 2, 2022 meeting and for second reading and final adoption at its November 18, 2022 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2023-2024 school year. The earlier effective date will update the requirements for the submission of innovative course applications for the 2022-2023 application cycle. The effective date is 20 days after filing as adopted with the *Texas Register*.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 7, 2022, and ended at 5:00 p.m. on November 14, 2022. The SBOE also provided an opportunity for registered oral and written comments at its November 2022 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One administrator stated that the proposed requirement to pilot innovative courses would punish students because the courses would not count toward earning an endorsement.

Response. The SBOE disagrees and has determined that piloting innovative courses is an important part of the approval process and will benefit students by ensuring approved innovative courses have been successfully implemented and are of high quality.

Comment. One teacher stated that requiring a pilot of prospective innovative courses would delay esports curriculum from getting into Texas classrooms. The commenter explained that esports is a billion-dollar industry with continual growth and doesn't want Texas to fall behind in the esports movement.

Response. The SBOE disagrees and has determined that the benefits of piloting potential innovative courses outweigh potential harms. Piloting innovative courses is an important part of the approval process and will benefit students by ensuring approved innovative courses have been successfully implemented and are of high quality.

Comment. Three administrators and one teacher expressed concern that funding would not be available for a piloted course.

Response. The SBOE provides the following clarification. Texas public schools receive funding based on attendance, not on the approval status of a course. Additionally, the SBOE has determined that piloting innovative courses is an important part of the approval process and will benefit students by ensuring approved

innovative courses have been successfully implemented and are of high quality.

Comment. One administrator expressed concern that districts will not be able to afford to pilot innovative courses without the additional weighted funding they would receive for approved career and technical education (CTE) innovative courses.

Response. The SBOE disagrees that all districts would not be able to afford to pilot prospective CTE innovative courses without weighted funding and has determined that piloting prospective innovative courses before being approved is appropriate and will ensure that approved courses have been successfully implemented and are of high quality.

Comment. One administrator commented that the proposed requirement to pilot innovative courses would not give CTE programs the flexibility to meet the needs of industry within communities.

Response. The SBOE disagrees that the requirement to pilot innovative courses will limit district flexibility. The SBOE has determined that piloting innovative courses as part of the approval process is appropriate and will help ensure approved innovative courses have been successfully implemented and are of high quality.

Comment. One teacher expressed concern regarding the proposed amendment because it is at odds with the intent and purpose behind ensuring Texas students and communities are afforded access to education innovations. The commenter added that the proposed amendment would put up barriers in the way of progress, cause incalculably broad and significant costs and losses, and prevent any meaningful economic growth or national competitiveness.

Response. The SBOE disagrees that the proposed requirement is at odds with affording access to education innovations and has determined that piloting innovative courses before they are approved will help ensure approved innovative courses have been successfully implemented and are of high quality.

Comment. Three administrators commented that students will not want to take or enroll in a pilot innovative course that will not provide credit toward graduation.

Response. The SBOE disagrees and has determined that piloting innovative courses will help ensure approved innovative courses have been successfully implemented, are of interest to students, and are of high quality.

Comment. One administrator expressed concern regarding the requirement to pilot prospective innovative courses because most school districts only implement courses with a Public Education Information Management System (PEIMS) number.

Response. The SBOE disagrees and provides the following clarification. Local credit courses are assigned PEIMS numbers by the district.

Comment. One administrator stated the proposed rule must ensure that a pilot course counts toward a teacher's course load to prevent districts from adding the pilot course to a full course load of state-approved courses.

Response. This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §28.002(f), which authorizes local school districts to offer courses in addition to those in the required curriculum for local credit and requires the State Board of Education to be flexible in approving a course for credit for high school graduation.

riculum for local credit and requires the State Board of Education to be flexible in approving a course for credit for high school graduation.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.002(f).

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



CHAPTER 112. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR SCIENCE

SUBCHAPTER C. HIGH SCHOOL

19 TAC §112.41

The State Board of Education (SBOE) adopts an amendment to §112.41, concerning implementation of Texas Essential Knowledge and Skills (TEKS) for high school science courses adopted in 2020. The amendment is adopted without changes to the proposed text as published in the October 7, 2022 issue of the *Texas Register* (47 TexReg 6552) and will not be republished. The adopted amendment updates the rule to move the implementation year for the TEKS for Biology, Chemistry, Integrated Physics and Chemistry, and Physics to the beginning of the 2024-2025 school year to align with the instructional materials timeline. The adopted amendment also aligns with the implementation timeline for the Kindergarten-Grade 8 science TEKS and the TEKS for all other high school science courses.

REASONED JUSTIFICATION: In accordance with statutory requirements that the SBOE identify by rule the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject. In late 2019, the SBOE began the process to review and revise the TEKS for Kindergarten-Grade 12 science. At the recommendation of Work Group A, the SBOE directed the work groups to follow a backwards-by-design approach to the revisions to the Kindergarten-Grade 12 science TEKS. Consequently, work groups started first with recommendations for revisions to the high school science TEKS. In June and July 2020, Work Group B was convened virtually to develop recommendations for four high school science courses: Biology, Chemistry, Physics, and Integrated Physics and Chemistry. At the November 2020 SBOE meeting, the SBOE approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45. The proposed new sections revised standards for Biology, Chemistry, Physics, and Integrated Physics and Chemistry as well as related implementation language. The new rules included an implementation date of the 2023-2024 school year.

At the June 2021 SBOE meeting, the board approved for second reading and final adoption new TEKS for Specialized Topics in Science and revised standards for Aquatic Science, Astronomy, Earth Science Systems (formerly titled Earth and Space Science), and Environmental Systems. At that time, the SBOE discussed the timeline for future instructional materials adoptions and made the determination to move the implementation of the new Kindergarten-Grade 12 science TEKS to the 2024-2025 school year. The board indicated that it would change the implementation date for the high school science courses that were adopted in 2020 at a future meeting.

At the November 2021 SBOE meeting, the board approved for second reading and final adoption new science TEKS for Kindergarten-Grade 8 with an implementation date of the 2024-2025 school year.

The adopted amendment updates §112.41(a), (b), and (c) to reflect the revised implementation date of the 2024-2025 school year for the high school science courses.

The SBOE approved the amendment for first reading and filing authorization at its September 2, 2022 meeting and for second reading and final adoption at its November 18, 2022 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2023-2024 school year. The earlier effective date will clarify that the Kindergarten-Grade 12 science TEKS will be implemented at the same time and prevent confusion. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 7, 2022, and ended at 5:00 p.m. on November 14, 2022. The SBOE also provided an opportunity for registered oral and written comments at its November 2022 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comment received and the corresponding response.

Comment. One teacher stated that student expectations under the knowledge and skills statement in §112.42(c)(7), relating to Biology, should provide opportunities for open inquiry into the weaknesses of evolution theory, address that evolution theory began systemically racist as Darwin tried to prove white race superior, and ask students to analyze competing theories to evolution.

Response. This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

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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CHAPTER 113. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR SOCIAL STUDIES

The State Board of Education (SBOE) adopts the repeal of §113.10 and §113.17 and amendments to §§113.11-113.16, 113.18-113.20, 113.31, and 113.41-113.44, concerning Texas Essential Knowledge and Skills (TEKS) for social studies. The repeal of §113.10 and §113.17 is adopted without changes to the proposed text as published in the October 14, 2022 issue of the *Texas Register* (47 TexReg 6749) and will not be republished. The amendments to §§113.11-113.16, 113.18-113.20, 113.31, and 113.41-113.44 are adopted with changes to the proposed text as published in the October 14, 2022 issue of the *Texas Register* (47 TexReg 6749) and will be republished. The adopted revisions align with recent legislative requirements by updating the standards for Kindergarten-Grade 8 and five high school courses: Economics with Emphasis on the Free Enterprise System and its Benefits, United States History Studies Since 1877, World History Studies, World Geography Studies, and United States Government.

REASONED JUSTIFICATION: The TEKS for social studies and economics were originally adopted effective September 1, 1998. The Kindergarten-Grade 12 social studies TEKS and the TEKS for economics were revised effective August 23, 2010. In 2018, the SBOE approved streamlining revisions to the social studies TEKS for Kindergarten-Grade 8 and four high school social studies courses: U.S. History Studies, World History Studies, World Geography, and United States Government. The SBOE also streamlined the TEKS for Economics with Emphasis on the Free Enterprise System and its Benefits and consolidated the TEKS for economics into Chapter 113.

In 2015, the SBOE adopted revisions to the TEKS for certain Advanced Placement (AP) and International Baccalaureate (IB) social studies courses to require that students demonstrate proficiency in the TEKS for the corresponding AP and IB courses in addition to the AP or IB course requirements.

In 2021, the 87th Texas Legislature passed Senate Bill (SB) 1063, amending Texas Education Code, §28.025, to add a one-half credit course in personal financial literacy and economics as an option to meet the one-half credit graduation requirement for economics under the Foundation High School Program. SB

1063 requires that the SBOE adopt TEKS for the personal financial literacy and economics course and that the required curriculum for the course allocate two-thirds of the instructional time to personal financial literacy and one-third of instructional time to economics. At the June 2021 SBOE meeting, the SBOE adopted new §113.76 to be effective 20 days after filing with the Texas Register, and the rule became effective August 1, 2022.

Additionally, the 87th Texas Legislature passed House Bill 4509, Regular Session, 2021, and SB 3, Second Called Session, 2021, to require the teaching of informed patriotism and the founding documents of the United States and require the SBOE to adopt essential knowledge and skills for social studies that develop each student's civic knowledge, including an understanding of the fundamental moral, political, and intellectual foundations of the U.S. government.

At the June and November 2021 SBOE meetings, the board discussed the review of the social studies TEKS. Board members designated content advisors for the social studies TEKS review in August 2021. An application to serve on work groups was posted on the Texas Education Agency (TEA) website in September 2021. Additionally, in September 2021, a survey was posted on the TEA website to ask for feedback on the current TEKS for social studies. TEA staff provided SBOE members applications for approval to serve on the social studies work groups in September, October, and November 2021 and January and April 2022. The content advisors convened to discuss consensus recommendations in December 2021 and January 2022. In April 2022, the SBOE asked TEA to convene work groups to develop TEKS for two additional ethnic studies courses: Native American studies and Asian American studies. The SBOE directed future work groups to develop TEKS for Kindergarten-Grade 8 as follows: the TEKS for Kindergarten-Grade 2 would address topics in Texas, U.S., and world history thematically and work groups should look to see if there are other organizational options for organizing the Kindergarten-Grade 2 content; and the TEKS for Grades 3-8 would address history chronologically with Grades 3-5 focusing on world history and Grades 6-8 focusing on Texas and U.S. history. In May 2022, the SBOE convened a special meeting to hear public feedback on the proposed new framework for the Kindergarten-Grade 8 TEKS. Work groups were convened to develop recommendations for the social studies TEKS in January, February, March, April, May, June, and July 2022. At a special-called meeting held August 1, 2022, the SBOE discussed the proposed new social studies TEKS and held a public hearing regarding the new standards. Following the discussion, a final work group was convened in August to develop final recommendations.

At the August-September 2022 SBOE meeting, the board determined that it would not move forward with proposed new social studies standards. Instead, the board asked TEA staff to bring to the next SBOE meeting a draft of the current standards with proposed revisions only to address requirements of SB 3, 87th Texas Legislature, Second Called Session, 2021, that are not currently addressed in the TEKS.

At adoption, §§113.11-113.16, 113.18-113.20, 113.31, and 113.41-113.44 were modified to change the implementation date to the 2024-2025 school year and eliminate subsection (a)(1)-(3).

The SBOE approved the revisions for first reading and filing authorization at its September 26, 2022 meeting and for second reading and final adoption at its November 18, 2022 meeting.

The effective date of the revisions is August 1, 2024.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 14, 2022, and ended at 5:00 p.m. on November 14, 2022. The SBOE also provided an opportunity for registered oral and written comments at its November 2022 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One teacher, two parents, and two community members stated that an unbiased version of history should be taught in Texas schools.

Response. The SBOE agrees that social studies TEKS should be unbiased and has determined that the social studies TEKS as proposed are unbiased.

Comment. A representative from an institution of higher education, 11 parents, and 28 community members stated that Texas students need an updated social studies curriculum and that the board should act to make comprehensive changes before adopting new standards.

Response. The SBOE disagrees that comprehensive changes are necessary at this time and has determined that the social studies TEKS are appropriate as proposed.

Comment. A teacher, 13 parents, 32 community members, and a representative from an institution of higher education stated that students deserve a curriculum that introduces them at an early age to their rights as voters and supports students to learn and practice the skills they need to be involved in their communities.

Response. The SBOE agrees and has determined that the proposed TEKS sufficiently address voting and civic engagement.

Comment. One community member stated that students should identify issues that face their communities at the local level, in their state, and on a global level by discussing historical perspectives and how people can do better in the future.

Response. The SBOE agrees that discussions about community issues and historical perspectives are important and are adequately addressed in the social studies TEKS as proposed.

Comment. One representative from an institution of higher education stated that students should be exposed to current events because there is a direct link to voting as adults.

Response. The SBOE agrees that the study of social studies events is an important part of social studies education. The SBOE has determined that social studies events and voting are appropriately addressed in the Kindergarten-Grade 12 social studies TEKS as proposed.

Comment. One community member stated that every child should learn about the three branches of government.

Response. The SBOE agrees and has determined that the social studies TEKS adequately address the three branches of government as proposed.

Comment. One community member stated that students should understand how laws were created, how they evolved over time, and how they can impact future lives.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately address these topics.

Comment. One community member stated that content from the revisionist and Marxist 1619 Project or any similar program has no place in Texas schools.

Response. The SBOE agrees and has determined that the TEKS as proposed are not aligned with content from the 1619 Project.

Comment. One community member stated that civics education should honor differences and take initial steps to broach difficult chapters in our history.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately address multiple perspectives and a wide variety of historical content.

Comment. Four community members stated that students should be taught literacy and critical-thinking skills so they can evaluate candidates and policies effectively and engage in the democratic process.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed sufficiently address literacy and critical-thinking skills that prepare students for civic engagement.

Comment. One community member stated that education in Texas has failed to provide the opportunity to engage in a rigorous curriculum that promotes critical thinking about how past historical events continue to affect communities and how students can become agents of change within their communities.

Response. The SBOE disagrees that Texas does not provide a rigorous social studies curriculum that promotes critical thinking about the past and has determined that the social studies TEKS are appropriate as proposed.

Comment. One teacher expressed support for the thought given to addressing discourse in the classroom.

Response. The SBOE agrees that civic discourse is important and has determined that the social studies TEKS as proposed sufficiently provide opportunities for civic discourse.

Comment. One teacher stated that SBOE rules should protect all speech in the classroom to allow for true academic freedom.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. A representative from an institution of higher education, 11 parents, and 28 community members urged the board to support Kindergarten-Grade 12 students' social studies and civic development by fully educating students about the rich history, cultures, and civic contributions of all groups, particularly marginalized people who reflect our increasingly diverse student body.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately address civic development, multiple perspectives, and the contributions of all groups.

Comment. One community member expressed concern that instead of open conversation, there are laws that limit student exposure to diverse perspectives. The commenter stated that there is no mention in the social studies TEKS of German prisoners housed in Texas during World War II or of the contributions immigrants have made to our community and economy.

Response. The SBOE disagrees that the TEKS do not offer opportunities for civic discourse or content that addresses multiple

perspectives and has determined that the social studies TEKS are appropriate as proposed.

Comment. One teacher, six parents, and seven community members stated that the proposed amendments to the social studies TEKS present an opportunity to make sure all students receive a diverse and inclusive social studies education.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed provide students with a diverse and inclusive social studies education.

Comment. One community member stated that being exposed to diverse peers with different experiences from their own will lead to a more tolerant society.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One community member stated that complete accounts of history should be taught in a factual manner, leaving out nothing.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed accurately address historical content.

Comment. One parent stated that Texas children should be taught the truth because "when we know better, we do better."

Response. The SBOE agrees and has determined that the social studies TEKS as proposed accurately address historical content.

Comment. One community member stated that students need to have a basic understanding of the founding documents and how the U.S. government and civil rights have evolved since 1789, including the extension of civil rights to women and minorities.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately address the founding documents and expansion of civil rights.

Comment. One administrator expressed support for an earlier proposed framework for the social studies TEKS that is not reflected in the proposed amendments, starts world history in the elementary grades, and allocates three years of instruction in U.S. history in middle school.

Response. The SBOE disagrees that comprehensive changes are necessary at this time and has determined that the social studies TEKS are appropriate as proposed.

Comment. One community member stated that students should learn the full scope of historical events so that they are able to make informed decisions as community leaders, engage with their civic duties in a way that is beneficial to all, and operate as leaders in a way that is fair and equitable.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately address historical content and civic engagement.

Comment. One community member stated that the State of Texas has an obligation to teach the truth about American history using objective evaluation, critical thinking, and the scientific method backed by supporting evidence.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately address historical content and historical literacy.

Comment. One community member stated that partisan politics have to stop and that democratic principles and the Constitution should be taught without letting politics get in the way.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed appropriately emphasize democratic principles and the Constitution.

Comment. One community member stated that social studies textbooks do not provide enough information about the treatment of diverse racial and ethnic groups.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One community member expressed concern that education in Texas has not included LGBTQ+ history.

Response. The SBOE disagrees and provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One teacher expressed disagreement with TEA's determination that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher. The commenter stated that teachers will invest significant numbers of hours aligning new standards to examinations and inserting them into lesson or unit plans.

Response. The SBOE disagrees that the changes to the TEKS would require a written report or other paperwork to be completed by a principal or classroom teacher and has determined that the social studies TEKS are appropriate as proposed.

Comment. One community member stated that the State Bar of Texas's Law Related Education does wonderful, unbiased professional development for teachers. The commenter recommended that similar programming should be encouraged and supported both by nonprofits and by the State of Texas.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One parent stated that religion should not be introduced into social studies lessons.

Response. The SBOE disagrees and has determined that the social studies TEKS as proposed appropriately address religions from a historical perspective.

Comment. Two parents asked that the SBOE not allow any changes to what students are currently learning that are outside of what is required by the law.

Response. The SBOE agrees and took action to adopt the TEKS as proposed.

Comment. One administrator stated that the proposed amendments would add reasonable language to the social studies TEKS regarding slavery and its impact on the United States.

Response. The SBOE agrees and took action to adopt the TEKS as proposed.

Comment. One community member stated that important facts about slavery, the history of white supremacy (Jim Crow laws), the fight by women and black people to vote, and how the United States was not founded as a Christian nation (which history clearly demonstrates) should be included in the social studies TEKS.

Response. The SBOE agrees that slavery, white supremacy, and the expansion of voting rights should be included in the TEKS. The SBOE has determined that the social studies TEKS as proposed appropriately address these topics.

Comment. One community member stated that Christian and White Nationalism cannot be allowed to dictate curriculum.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One teacher stated that the social studies skills should include open inquiry along with critical thinking.

Response. The SBOE disagrees that the changes are necessary and provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One community member asked that the SBOE strictly adhere to the present wishes of the Texas Legislature regarding the content of the social studies TEKS and reject any last-minute amendments offered on November 18.

Response. The SBOE agrees and took action to adopt the TEKS as proposed.

Comment. One administrator expressed support for the proposed amendments and their focus on the importance of understanding and determining the legitimacy of primary and secondary sources.

Response. The SBOE agrees and took action to adopt the TEKS as proposed.

Comment. One teacher expressed support for the proposed amendments and equitable TEKS for social studies. The commenter stated that equitable TEKS will make for more meaningful discourse, more engaging lessons, higher levels of critical thinking and self-reflection, and broader viewpoints for the next generation of learners.

Response. The SBOE agrees and took action to adopt the TEKS as proposed.

Comment. Four teachers expressed support for the proposed amendments to the social studies TEKS.

Response. The SBOE agrees and took action to adopt the TEKS as proposed.

Comment. One counselor expressed concern regarding the indoctrination of students by coded messages in the phrases "informed patriotism," "free markets," and "understanding the fundamental moral, political, and intellectual foundations of the U.S. government."

Response. The SBOE disagrees and has determined that the TEKS do not include any attempt to indoctrinate students through coded messages in these terms.

Comment. One counselor stated that the standards should be focused on the truth in order to give children the opportunity to make their own choices.

Response. The SBOE agrees and has determined that the social studies TEKS as proposed accurately address historical content.

Comment. One counselor stated that the term "free markets" is code for capitalism, which is an economic system that drove slavery and the exploitation of First Nations, Black, Latinx, and Chinese peoples and requires hierarchy power control and

hoarding of resources and profits. The commenter stated that this rhetoric spins a fantasy of moral purity and denies the brutal truth of this country's founding and present-day racism.

Response. The SBOE disagrees and has determined that the social studies TEKS as proposed appropriately address historical content.

Comment. One community member stated that students are not learning in the new TEKS how Texas fits into the overall development of the United States in Texas history.

Response. The SBOE provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One parent stated that two years of Texas history is too much and that more emphasis should be made on U.S. history and how Texas ties into that history.

Response. The SBOE disagrees that the changes are necessary and provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One community member stated that it is important for students to understand that Jim Crow laws evolved from the law book of the Indian caste system, the Manu-smriti (The Laws of Manu).

Response. The SBOE disagrees that the change is necessary and provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One teacher expressed concern that the student expectation in §113.42(d)(4)(H), related to world history studies, is focused on white supremacy, the eugenics movement, and the Ku Klux Klan (KKK). The commenter stated that these topics are more appropriate for a U.S. history class and that the standards should not focus on a certain race or ethnicity of slavery but slavery throughout the world's history in the course.

Response. The SBOE provides the following clarification. Section 113.42(d)(4)(H) addresses the expansion of the slave trade, not the topics stated by the commenter. Those topics are addressed in specific student expectations in U.S. history studies.

Comment. One teacher recommended that §113.42(d)(17)(B) be amended to read, "identify the historical origins and characteristics of communism, including the influence of Karl Marx including his biography emphasizing his child neglect and poverty."

Response. The SBOE disagrees that the change is necessary and provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One community member stated that the understanding of monism should be added under the knowledge and skills statement in §113.42(d)(22) so that students will have an understanding of the major religions of today.

Response. The SBOE disagrees that the change is necessary and provides the following clarification. The TEKS as proposed are intended only to address changes to the standards to align with recent changes to what is required in state law.

Comment. One teacher expressed opposition to starting the time period covered in world history studies at 1200 AD. The

commenter recommended that the SBOE continue to allow high school teachers to teach ancient and medieval world history.

Response. The SBOE agrees and has determined that the TEKS for world history studies continue to require the teaching of ancient, medieval, and modern history.

SUBCHAPTER A. ELEMENTARY

19 TAC §113.10

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(h), which requires the SBOE and each school district to require the teaching of informed patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for Kindergarten-Grade 12, including the founding documents of the United States; TEC, §28.002(h-1), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic engagement in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; and TEC, §28.002(h-2), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic government in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; the ability to analyze and determine the reliability of information sources, formulate and articulate reasoned positions, understand the manner in which local, state, and federal governments work and operate through the use of simulations and models of governmental and democratic processes, actively listen and engage in civic discourse, and participate as a citizen in a constitutional democracy by voting; and an appreciation of the importance and responsibility of participating in civic life, a commitment to the United States and its form of government, and a commitment to free speech and civil discourse.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §7.102(c)(4) and §28.002(a), (c), (h), (h-1), and (h-2).

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300553



19 TAC §§113.11 - 113.16

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(h), which requires the SBOE and each school district to require the teaching of informed patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for Kindergarten-Grade 12, including the founding documents of the United States; TEC, §28.002(h-1), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic engagement in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; and TEC, §28.002(h-2), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic government in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; the ability to analyze and determine the reliability of information sources, formulate and articulate reasoned positions, understand the manner in which local, state, and federal governments work and operate through the use of simulations and models of governmental and democratic processes, actively listen and engage in civic discourse, and participate as a citizen in a constitutional democracy by voting; and an appreciation of the importance and responsibility of participating in civic life, a commitment to the United States and its form of government, and a commitment to free speech and civil discourse.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §7.102(c)(4) and §28.002(a), (c), (h), (h-1), and (h-2).

§113.11. *Social Studies, Kindergarten, Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Kindergarten, the study of the self, home, family, and classroom establishes the foundation for responsible citizenship in society. Students explore state and national heritage by examining the

celebration of patriotic holidays and the contributions of individuals. The concept of chronology is introduced. Students apply geographic concepts of location and physical and human characteristics of place. Students identify basic human needs and ways people meet these needs. Students learn the purpose of rules and the role of authority figures in the home and school. Students learn customs, symbols, and celebrations that represent American beliefs and principles and contribute to our national identity. Students compare family customs and traditions and describe examples of technology in the home and school. Students acquire information from a variety of oral and visual sources. Students practice problem-solving, decision-making, and independent-thinking skills.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) Students must demonstrate learning performance related to any federal and state mandates regarding classroom instruction. Although Kindergarten is not required to participate in Celebrate Freedom Week, according to the TEC, §29.907, primary grades lay the foundation for subsequent learning. As a result, Kindergarten Texas essential knowledge and skills include standards related to this patriotic observance.

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands that holidays are celebrations of special events. The student is expected to:

(A) identify national patriotic holidays such as Constitution Day, Presidents' Day, Veterans Day, and Independence Day; and

(B) identify customs associated with national patriotic holidays such as parades and fireworks on Independence Day.

(2) History. The student understands how historical figures helped shape the state and nation. The student is expected to identify contributions of historical figures, including Stephen F. Austin, George Washington, Christopher Columbus, and José Antonio Navarro, who helped to shape the state and nation.

(3) Geography. The student understands the concept of location. The student is expected to:

(A) use spatial terms, including over, under, near, far, left, and right, to describe relative location;

(B) locate places on the school campus and describe their relative locations; and

(C) identify and use geographic tools that aid in determining location, including maps and globes.

(4) Geography. The student understands physical and human characteristics of place to better understand self, home, family, classroom, and the world around them. The student is expected to:

(A) identify the physical characteristics of place such as landforms, bodies of water, Earth's resources, and weather; and

(B) identify how geographic location influences human characteristics of place such as shelter, clothing, food, and activities.

(5) Economics. The student understands the difference between human needs and wants and how they are met. The student is expected to:

(A) identify basic human needs of food, clothing, and shelter;

(B) explain the difference between needs and wants; and

(C) explain how basic human needs and wants can be met.

(6) Economics. The student understands the value of jobs. The student is expected to:

(A) identify jobs in the home, school, and community; and

(B) explain why people have jobs.

(7) Government. The student understands the purpose of rules. The student is expected to:

(A) identify purposes for having rules; and

(B) identify rules that provide order, security, and safety in the home and school.

(8) Government. The student understands the role of authority figures. The student is expected to:

(A) identify authority figures in the home, school, and community; and

(B) explain how authority figures enforce rules.

(9) Citizenship. The student understands important symbols, customs, and responsibilities that represent American beliefs and principles and contribute to our national identity. The student is expected to:

(A) identify the United States flag and the Texas state flag;

(B) recite the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag; and

(C) use voting as a method for group decision making.

(10) Culture. The student understands similarities and differences among individuals. The student is expected to identify similarities and differences among individuals such as kinship and religion.

(11) Culture. The student understands the importance of family traditions. The student is expected to:

(A) describe and explain the importance of family traditions; and

(B) compare traditions among families.

(12) Science, technology, and society. The student understands ways technology is used in the home and school and how technology affects people's lives. The student is expected to:

(A) identify examples of technology used in the home and school;

(B) describe how technology helps accomplish specific tasks and meet people's needs; and

(C) describe how his or her life might be different without modern technology.

(13) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) identify and state facts based on relevant evidence;

(B) identify different kinds of historical sources and artifacts and explain how they can be used to study the past;

(C) gather information about a topic using a variety of valid oral and visual sources such as interviews, music, pictures, symbols, and artifacts with adult assistance; and

(D) sequence and categorize information.

(14) Social studies skills. The student communicates in oral and visual forms. The student is expected to:

(A) place events in chronological order;

(B) use social studies terminology related to time and chronology correctly, including before, after, next, first, last, yesterday, today, and tomorrow;

(C) communicate information visually, orally, or in writing based on knowledge and experiences in social studies;

(D) create and interpret visuals, including pictures and maps; and

(E) apply and practice classroom rules and procedures for listening and responding respectfully.

(15) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) use democratic procedures to collaborate with others when making decisions on issues in the classroom, school, or community; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.12. *Social Studies, Grade 1, Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Grade 1, students study their relationship to the classroom, school, and community to establish the foundation for responsible citizenship in society. Students develop concepts of time and chronology by distinguishing among past, present, and future events. Students identify anthems and mottoes of the United States and Texas. Students create simple maps to identify the location of places in the classroom, school, and community. Students explore the concepts of goods and services and the value of work. Students identify individuals who exhibit good citizenship. Students describe the importance of family customs and traditions and identify how technology has changed family life. Students sequence and categorize information. Students practice problem-solving, decision-making, and independent-thinking skills.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) Students must demonstrate learning performance related to any federal and state mandates regarding classroom instruction. Although Grade 1 is not required to participate in Celebrate Freedom Week, according to the TEC, §29.907, primary grades lay the foundation for subsequent learning. As a result, Grade 1 Texas essential knowledge and skills include standards related to this patriotic observance.

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands the origins of customs, holidays, and celebrations. The student is expected to:

(A) describe the origins of customs, holidays, and celebrations of the community, state, and nation such as Constitution Day, Independence Day, and Veterans Day; and

(B) compare the observance of holidays and celebrations.

(2) History. The student understands how historical figures helped shape the state and nation. The student is expected to:

(A) identify contributions of historical figures, including Sam Houston, George Washington, Abraham Lincoln, and Martin Luther King Jr., who have influenced the state and nation; and

(B) compare the lives of historical figures who have influenced the state and nation.

(3) Geography. The student understands the relative location of places. The student is expected to:

(A) describe the location of self and objects relative to other locations in the classroom and school using spatial terms; and

(B) locate places using the four cardinal directions.

(4) Geography. The student understands the purpose of geographic tools, including maps and globes. The student is expected to:

(A) create and use simple maps such as maps of the home, classroom, school, and community; and

(B) locate and explore the community, Texas, and the United States on maps and globes.

(5) Geography. The student understands physical and human characteristics of place to better understand their community and the world around them. The student is expected to:

(A) identify and describe the physical characteristics of place such as landforms, bodies of water, Earth's resources, and weather; and

(B) identify and describe how geographic location influences the human characteristics of place such as shelter, clothing, food, and activities.

(6) Economics. The student understands how families meet basic human needs. The student is expected to:

(A) describe ways that families meet basic human needs; and

(B) describe similarities and differences in ways families meet basic human needs.

(7) Economics. The student understands the concepts of goods and services. The student is expected to:

(A) identify examples of goods and services in the home, school, and community;

(B) identify ways people exchange goods and services; and

(C) identify the role of markets in the exchange of goods and services.

(8) Economics. The student understands the condition of not being able to have all the goods and services one wants. The student is expected to:

(A) identify examples of people wanting more than they can have;

(B) explain why wanting more than they can have requires that people make choices; and

(C) identify examples of choices families make when buying goods and services.

(9) Economics. The student understands the value of work. The student is expected to:

(A) describe the tools of various jobs and the characteristics of a job well performed; and

(B) describe how various jobs contribute to the production of goods and services.

(10) Government. The student understands the purpose of rules and laws. The student is expected to:

(A) explain the purpose for rules and laws in the home, school, and community; and

(B) identify rules and laws that establish order, provide security, and manage conflict.

(11) Government. The student understands the role of authority figures and public officials. The student is expected to:

(A) identify the responsibilities of authority figures in the home, school, and community; and

(B) identify and describe the roles of public officials in the community, state, and nation.

(12) Citizenship. The student understands characteristics of good citizenship as exemplified by historical figures and other individuals. The student is expected to:

(A) identify characteristics of good citizenship, including truthfulness, justice, equality, respect for oneself and others, responsibility in daily life, and participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting; and

(B) identify historical figures and other individuals who have exemplified good citizenship such as Benjamin Franklin and Eleanor Roosevelt.

(13) Citizenship. The student understands important symbols, customs, and celebrations that represent American beliefs and principles that contribute to our national identity. The student is expected to:

(A) explain state and national patriotic symbols, including the United States and Texas flags, the Liberty Bell, the Statue of Liberty, and the Alamo;

(B) recite the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag;

(C) identify anthems and mottoes of Texas and the United States;

(D) explain and practice voting as a way of making choices and decisions; and

(E) explain how patriotic customs and celebrations reflect American individualism and freedom.

(14) Culture. The student understands the importance of family and community beliefs, language, and traditions. The student is expected to:

(A) describe and explain the importance of beliefs, language, and traditions of families and communities; and

(B) explain the way folktales and legends reflect beliefs, language, and traditions of communities.

(15) Science, technology, and society. The student identifies individuals who created or invented new technology and understands how technology affects daily life, past and present. The student is expected to:

(A) describe how technology has affected the ways families live;

(B) describe how technology has affected communication, transportation, and recreation; and

(C) identify the contributions of scientists and inventors such as Alexander Graham Bell, Thomas Edison, and Garrett Morgan.

(16) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) identify and state facts based on relevant evidence;

(B) identify different kinds of historical sources and artifacts and explain how they can be used to study the past;

(C) gather information about a topic using a variety of valid oral and visual sources such as interviews, music, pictures, symbols, and artifacts with adult assistance; and

(D) sequence and categorize information.

(17) Social studies skills. The student communicates in oral, visual, and written forms. The student is expected to:

(A) use a simple timeline to distinguish among past, present, and future;

(B) use a calendar to describe and measure time in days, weeks, months, and years;

(C) communicate information visually, orally, or in writing based on knowledge and experiences in social studies;

(D) create and interpret visual and written material;

(E) use social studies terminology correctly; and

(F) apply and practice classroom rules and procedures for listening and responding respectfully.

(18) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) use democratic procedures to collaborate with others when making decisions on issues in the classroom, school, or community; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.13. *Social Studies, Grade 2, Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Grade 2, students focus on a study of their local community by examining the impact of significant individuals and events on the history of the community as well as on the state and nation. Students begin to develop the concepts of time and chronology. The relationship between the physical environment and human activities is introduced as are the concepts of consumers and producers. Students

identify functions of government as well as services provided by the local government. Students continue to acquire knowledge of customs, symbols, and celebrations that represent American beliefs and principles. Students identify the significance of works of art in the local community and explain how technological innovations have changed transportation and communication. Students communicate what they have learned in written, oral, and visual forms.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material such as nonfiction texts, primary sources, biographies, folklore, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, online tours, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) Students must demonstrate learning performance related to any federal and state mandates regarding classroom instruction. Although Grade 2 is not required to participate in Celebrate Freedom Week, according to the TEC, §29.907, primary grades lay the foundation for subsequent learning. As a result, Grade 2 Texas essential knowledge and skills include standards related to this patriotic observance.

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands the historical significance of landmarks and celebrations in the community, state, and nation. The student is expected to:

(A) explain the significance of various community, state, and national celebrations such as Veterans Day, Memorial Day, Independence Day, and Thanksgiving; and

(B) identify and explain the significance of various community, state, and national landmarks such as monuments and government buildings.

(2) History. The student understands how historical figures helped shape the community, state, and nation. The student is expected to:

(A) identify contributions of historical figures, including Thurgood Marshall, Irma Rangel, and Theodore Roosevelt, who have influenced the state and nation; and

(B) describe how people and events have influenced local community history.

(3) Geography. The student uses simple geographic tools, including maps and globes. The student is expected to:

(A) identify and use information on maps and globes using basic map elements such as title, cardinal directions, and legend; and

(B) create maps to show places and routes within the home, school, and community.

(4) Geography. The student understands the location of places in their community, state, country, and the world. The student is expected to:

(A) identify major landforms and bodies of water, including each of the seven continents and each of the oceans, on maps and globes; and

(B) locate places, including the local community, Texas, the United States, the state capital, the U.S. capital, and the bordering countries of Canada and Mexico on maps and globes.

(5) Geography. The student understands how humans use and modify the physical environment. The student is expected to:

(A) identify ways in which people have modified the physical environment such as clearing land, building roads, using land for agriculture, and drilling for oil;

(B) identify consequences of human modification of the physical environment; and

(C) identify ways people can conserve and replenish Earth's resources.

(6) Economics. The student understands the value of work. The student is expected to:

(A) explain how work provides income to purchase goods and services; and

(B) explain the choices people can make about earning, spending, and saving money.

(7) Economics. The student understands the roles of producers and consumers in the production of goods and services. The student is expected to:

(A) distinguish between producing and consuming;

(B) identify ways in which people are both producers and consumers; and

(C) trace the development of a product from a natural resource to a finished product.

(8) Government. The student understands the purpose of governments. The student is expected to:

(A) identify functions of governments such as establishing order, providing security, and managing conflict; and

(B) identify governmental services in the community such as police and fire protection, libraries, schools, and parks and explain their value to the community.

(9) Government. The student understands the role of public officials. The student is expected to:

(A) name current public officials, including mayor, governor, and president;

(B) compare the roles of public officials, including mayor, governor, and president;

(C) identify ways that public officials are selected, including election and appointment to office; and

(D) identify how citizens participate in their own governance through staying informed of what public officials are doing, providing input to them, and volunteering to participate in government functions.

(10) Citizenship. The student understands characteristics of good citizenship as exemplified by historical figures and other individuals. The student is expected to:

(A) identify characteristics of good citizenship, including truthfulness, justice, equality, respect for oneself and others, responsibility in daily life, and participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting;

(B) identify historical figures and other individuals who have exemplified good citizenship such as Paul Revere, Abigail Adams, World War II Women Airforce Service Pilots (WASPs), Navajo Code Talkers, and Sojourner Truth; and

(C) identify ways to actively practice good citizenship, including involvement in community service.

(11) Citizenship. The student understands important symbols, customs, and celebrations that represent American beliefs and principles that contribute to our national identity. The student is expected to:

(A) recite the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag;

(B) sing, recite, or identify selected patriotic songs, including "The Star-Spangled Banner" and "America the Beautiful";

(C) use voting as a method for group decision making;

(D) identify symbols such as state and national birds and flowers and Uncle Sam; and

(E) identify how selected symbols, customs, and celebrations reflect an American love of individualism, inventiveness, and freedom.

(12) Culture. The student understands ethnic and/or cultural celebrations. The student is expected to:

(A) identify the significance of various ethnic and/or cultural celebrations; and

(B) compare ethnic and/or cultural celebrations.

(13) Science, technology, and society. The student understands how science and technology have affected life, past and present. The student is expected to:

(A) describe how science and technology have affected communication, transportation, and recreation; and

(B) explain how science and technology have affected the ways in which people meet basic needs.

(14) Science, technology, and society. The student identifies individuals who exhibited individualism and inventiveness. The student is expected to identify individuals who have exhibited individualism and inventiveness such as Amelia Earhart and George Washington Carver.

(15) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) identify and state facts based on relevant evidence;

(B) identify different kinds of historical sources and artifacts and explain how they can be used to study the past;

(C) gather information about a topic using a variety of valid oral and visual sources such as interviews, music, pictures, maps, and artifacts; and

(D) interpret oral, visual, and print material by sequencing, categorizing, identifying the main idea, predicting, comparing, and contrasting.

(16) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) describe the order of events by using designations of time periods such as historical and present times;

(B) apply vocabulary related to chronology, including past, present, and future;

(C) create and interpret timelines for events in the past and present;

(D) use social studies terminology correctly;

(E) communicate information visually, orally, or in writing based on knowledge and experiences in social studies;

(F) create written and visual material such as stories, maps, and graphic organizers to express ideas; and

(G) apply and practice classroom rules and procedures for listening and responding respectfully.

(17) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) use democratic procedures to collaborate with others when making decisions on issues in the classroom, school, or community; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.14. *Social Studies, Grade 3, Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Grade 3, students learn how diverse individuals have changed their communities and world. Students study the effects inspiring heroes have had on communities, past and present. Students learn about the lives of heroic men and women who made important

choices, overcame obstacles, sacrificed for the betterment of others, and embarked on journeys that resulted in new ideas, new inventions, new technologies, and new communities. Students expand their knowledge through the identification and study of people who made a difference, influenced public policy and decision making, and participated in resolving issues that are important to all people. Throughout Grade 3, students develop an understanding of the economic, cultural, and scientific contributions made by individuals.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material such as biographies, founding documents, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to

secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands how individuals, events, and ideas have influenced the history of various communities. The student is expected to:

(A) describe how individuals, events, and ideas have changed communities, past and present;

(B) identify individuals, including Pierre-Charles L'Enfant, Benjamin Banneker, and Benjamin Franklin, who have helped to shape communities; and

(C) describe how individuals, including Daniel Boone and the Founding Fathers have contributed to the expansion of existing communities or to the creation of new communities.

(2) History. The student understands common characteristics of communities, past and present. The student is expected to:

(A) identify reasons people have formed communities, including a need for security and laws, religious freedom, and material well-being; and

(B) compare ways in which people in the local community and other communities meet their needs for government, education, communication, transportation, and recreation.

(3) Geography. The student understands how humans adapt to and/or modify the physical environment. The student is expected to:

(A) describe similarities and differences in the physical environment, including climate, landforms, natural resources, and natural hazards;

(B) identify and compare how people in different communities adapt to or modify the physical environment in which they live such as deserts, mountains, wetlands, and plains; and

(C) describe the effects of human processes such as building new homes, conservation, and pollution in shaping the landscape.

(4) Geography. The student understands the concepts of location, distance, and direction on maps and globes. The student is expected to:

(A) use cardinal and intermediate directions to locate places on maps and globes in relation to the local community;

(B) use a scale to determine the distance between places on maps and globes; and

(C) identify, create, and interpret maps of places that contain map elements, including a title, compass rose, legend, scale, and grid system.

(5) Economics. The student understands the purposes of earning, spending, saving, and donating money. The student is expected to:

(A) identify ways of earning, spending, saving, and donating money; and

(B) create a simple budget that allocates money for spending and saving.

(6) Economics. The student understands the concept of the free enterprise system and how businesses operate in the U.S. free enterprise system. The student is expected to:

- (A) explain how supply and demand affect the price of a good or service;
- (B) define and identify examples of scarcity;
- (C) explain how the cost of production and selling price affect profits; and
- (D) identify individuals, past and present, such as Henry Ford and Sam Walton who have started new businesses.

(7) Government. The student understands the basic structure and functions of various levels of government. The student is expected to:

- (A) describe the basic structure of government in the local community, state, and nation;
- (B) identify local, state, and national government officials and explain how they are chosen; and
- (C) identify services commonly provided by local, state, and national governments.

(8) Government. The student understands important ideas in historical documents at various levels of government. The student is expected to:

- (A) identify the purposes of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights; and
- (B) describe the concept of "consent of the governed."

(9) Citizenship. The student understands characteristics of good citizenship as exemplified by historical and contemporary figures and organizations. The student is expected to:

- (A) identify characteristics of good citizenship, including truthfulness, justice, equality, respect for oneself and others, responsibility in daily life, and participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting;
- (B) identify figures such as Helen Keller, Clara Barton, and Ruby Bridges who exemplify good citizenship;
- (C) identify and describe individual acts of civic responsibility, including obeying laws, serving and improving the community, serving on a jury, and voting;
- (D) identify examples of nonprofit and/or civic organizations such as the Red Cross and explain how they serve the common good; and
- (E) use voting as a method for group decision making.

(10) Culture. The student understands ethnic and/or cultural celebrations of the local community and other communities. The student is expected to:

- (A) explain the significance of various ethnic and/or cultural celebrations in the local community and other communities; and
- (B) compare ethnic and/or cultural celebrations in the local community with other communities.

(11) Culture. The student understands the role of heroes in shaping the culture of communities, the state, and the nation. The student is expected to:

(A) identify and describe the heroic deeds of state and national heroes and military and first responders such as Hector P. Garcia, James A. Lovell, and the Four Chaplains; and

(B) identify and describe the heroic deeds of individuals such as Harriet Tubman, Todd Beamer, and other contemporary heroes.

(12) Culture. The student understands the importance of writers and artists to the cultural heritage of communities. The student is expected to identify how various writers and artists such as Kadir Nelson, Tomie dePaola, Carmen Lomas Garza, and Laura Ingalls Wilder and their stories, poems, statues, and paintings contribute to the cultural heritage of communities.

(13) Science, technology, and society. The student understands how individuals have created or invented new technology and affected life in various communities, past and present. The student is expected to:

(A) identify individuals who have discovered scientific breakthroughs or created or invented new technology such as Jonas Salk, Cyrus McCormick, Bill Gates, Louis Pasteur, and others; and

(B) describe the impact of scientific breakthroughs and new technology in computers, pasteurization, and medical vaccines on various communities.

(14) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) gather information, including historical and current events and geographic data, about the community using a variety of resources;

(B) differentiate and compare the information about a specific issue or event provided in primary and secondary sources;

(C) interpret oral, visual, and print material by sequencing, categorizing, identifying the main idea, distinguishing between fact and opinion, identifying cause and effect, comparing, and contrasting;

(D) interpret and create visuals, including graphs, charts, tables, timelines, illustrations, and maps;

(E) identify the central claim in a primary or secondary source; and

(F) develop and communicate a claim and supporting evidence visually, orally, or in writing related to a social studies topic.

(15) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) create and interpret timelines;

(C) apply the terms year, decade, and century to describe historical times;

(D) express ideas orally based on knowledge and experiences;

(E) create written and visual material such as stories, pictures, maps, and graphic organizers to express ideas; and

(F) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(16) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) use democratic procedures to simulate making decisions on school, local, or state issues; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.15. *Social Studies, Grade 4, Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Grade 4, students examine the history of Texas from the early beginnings to the present within the context of influences of North America. Historical content focuses on Texas history, including the Texas Revolution, establishment of the Republic of Texas, and subsequent annexation to the United States. Students discuss important issues, events, and individuals of the 19th, 20th, and 21st centuries. Students conduct a thorough study of regions in Texas and North America resulting from human activity and from physical features. The location, distribution, and patterns of economic activities and settlement in Texas further enhance the concept of regions. Students describe how early American Indians in Texas and North America met their basic economic needs. Students identify motivations for European exploration and colonization and reasons for the establishment of Spanish settlements and missions. Students explain how American Indians governed themselves and identify characteristics of Spanish colonial and Mexican governments in Texas. Students recite and explain the meaning of the Pledge to the Texas Flag. Students identify the contributions of people of various racial, ethnic, and religious groups to Texas and describe the impact of science and technology on life in the state. Students use critical-thinking skills to identify cause-and-effect relationships, compare and contrast, and make generalizations and predictions.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as documents, biographies, novels, speeches, letters, poetry, songs, and artworks is encouraged. Where appropriate, local topics should be included. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function

in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands the origins, similarities, and differences of American Indian groups in Texas before European exploration. The student is expected to:

(A) explain the possible origins of American Indian groups in Texas;

(B) identify and compare the ways of life of American Indian groups in Texas before European exploration such as the Lipan Apache, Karankawa, Caddo, and Jumano;

(C) describe the cultural regions in which American Indians lived such as Gulf, Plains, Puebloan, and Southeastern; and

(D) locate American Indian groups remaining in Texas such as the Ysleta Del Sur Pueblo, Alabama-Coushatta, and Kickapoo.

(2) History. The student understands the causes and effects of European exploration and colonization of Texas. The student is expected to:

(A) summarize motivations for European exploration and settlement of Texas, including economic opportunity, competition, and the desire for expansion;

(B) identify the accomplishments and explain the impact of significant explorers, including Cabeza de Vaca; Francisco Coronado; and René Robert Cavelier, Sieur de la Salle, on the settlement of Texas;

(C) explain when, where, and why the Spanish established settlements and Catholic missions in Texas as well as important individuals;

(D) identify Texas' role in the Mexican War of Independence and the war's impact on the development of Texas; and

(E) identify the accomplishments and explain the economic motivations and impact of significant empresarios, including Stephen F. Austin and Martín de León, on the settlement of Texas.

(3) History. The student understands the importance of the Texas Revolution, the Republic of Texas, and the annexation of Texas to the United States. The student is expected to:

(A) analyze the causes, major events, and effects of the Texas Revolution, including the Battle of the Alamo, the Texas Declaration of Independence, the Runaway Scrape, and the Battle of San Jacinto;

(B) summarize the significant contributions of individuals such as William B. Travis, James Bowie, David Crockett, Juan N. Seguín, Plácido Benavides, José Francisco Ruiz, Antonio López de Santa Anna, Susanna Dickinson, and Enrique Esparza;

(C) identify leaders important to the founding of Texas as a republic and state, including José Antonio Navarro, Sam Houston, Mirabeau Lamar, and Anson Jones;

(D) describe the successes, problems, and organizations of the Republic of Texas such as the establishment of a constitution, economic struggles, relations with American Indians, and the Texas Rangers; and

(E) explain the events that led to the annexation of Texas to the United States and the impact of the U.S.-Mexican War.

(4) History. The student understands the political, economic, and social changes in Texas during the last half of the 19th century. The student is expected to:

(A) describe the impact of the Civil War and Reconstruction on Texas;

(B) explain the growth, development, and impact of the cattle industry such as contributions made by Charles Goodnight, Richard King, and Lizzie Johnson;

(C) explain the effects of the railroad industry on life in Texas, including changes to cities and major industries; and

(D) explain the effects on American Indian life brought about by the Red River War, building of U.S. forts and railroads, and loss of buffalo.

(5) History. The student understands important issues, events, and individuals of the 20th century in Texas. The student is expected to:

(A) explain the impact of various events on life in Texas such as the Great Depression, the Dust Bowl, and World War II and notable individuals such as Audie Murphy, Cleto Rodríguez, and Bessie Coleman and other local individuals; and

(B) explain the development and impact of the oil and gas industry on industrialization and urbanization in Texas, including Spindletop and important people such as Pattillo Higgins.

(6) Geography. The student understands the concept of regions. The student is expected to:

(A) identify, locate, and describe the physical regions of Texas (Mountains and Basins, Great Plains, North Central Plains,

Coastal Plains), including their characteristics such as landforms, climate, vegetation, and economic activities; and

(B) compare the physical regions of Texas (Mountains and Basins, Great Plains, North Central Plains, Coastal Plains).

(7) Geography. The student understands the location and patterns of settlement and the geographic factors that influence where people live. The student is expected to:

(A) explain the geographic factors such as landforms and climate that influence patterns of settlement and the distribution of population in Texas, past and present; and

(B) identify and explain patterns of settlement such as the location of towns and cities in Texas at different time periods.

(8) Geography. The student understands how people adapt to and modify their environment. The student is expected to:

(A) describe ways people have adapted to and modified their environment in Texas, past and present, such as timber clearing, agricultural production, wetlands drainage, energy production, and construction of dams;

(B) explain reasons why people have adapted to and modified their environment in Texas, past and present, such as the use of natural resources to meet basic needs, facilitate transportation, and enhance recreational activities; and

(C) compare the positive and negative consequences of human modification of the environment in Texas, past and present.

(9) Economics. The student understands the basic economic activities of early societies in Texas. The student is expected to:

(A) explain the economic activities various early American Indian groups in Texas used to meet their needs and wants such as farming, trading, and hunting; and

(B) explain the economic activities early settlers to Texas used to meet their needs and wants.

(10) Economics. The student understands the characteristics and benefits of the free enterprise system in Texas. The student is expected to:

(A) describe how the free enterprise system works, including supply and demand;

(B) identify examples of the benefits of the free enterprise system such as choice and opportunity; and

(C) describe the development of the free enterprise system in Texas such as the growth of cash crops by early colonists and the railroad boom.

(11) Economics. The student understands patterns of work and economic activities in Texas. The student is expected to:

(A) identify how people in different regions of Texas earn their living, past and present;

(B) explain how physical geographic factors such as climate and natural resources have influenced the location of economic activities in Texas;

(C) identify the effects of exploration, immigration, migration, and limited resources on the economic development and growth of Texas; and

(D) explain how developments in transportation and communication have influenced economic activities in Texas.

(12) Government. The student understands how people organized governments in different ways during the early development of Texas. The student is expected to:

(A) compare how various American Indian groups such as the Caddo and the Comanche governed themselves; and

(B) compare characteristics of the Spanish colonial government and the early Mexican governments in Texas.

(13) Government. The student understands important ideas in historical documents of Texas and the United States. The student is expected to:

(A) identify the purposes and explain the importance of the Texas Declaration of Independence and the Texas Constitution;

(B) identify and explain the basic functions of the three branches of government according to the Texas Constitution; and

(C) identify the intent, meaning, and importance of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights (Celebrate Freedom Week).

(14) Citizenship. The student understands important customs, symbols, and celebrations of Texas. The student is expected to:

(A) explain the meaning of various patriotic symbols and landmarks of Texas, including the six flags that flew over Texas, the Alamo, and the San Jacinto Monument;

(B) sing or recite "Texas, Our Texas";

(C) recite and explain the meaning of the Pledge to the Texas Flag; and

(D) describe the origins and significance of state celebrations such as Texas Independence Day and Juneteenth.

(15) Citizenship. The student understands the importance of active individual participation in the democratic process. The student is expected to:

(A) identify important individuals who have participated voluntarily in civic affairs at state and local levels such as Adina de Zavala and Clara Driscoll;

(B) explain how individuals can participate voluntarily in civic affairs at state and local levels through activities such as respectfully holding public officials to their word, writing letters, and participating in historic preservation and service projects;

(C) explain the duty of the individual in state and local elections such as being informed and voting;

(D) identify the importance of historical figures and important individuals who modeled active participation in the democratic process such as Sam Houston, Barbara Jordan, Lorenzo de Zavala, Ann Richards, Henry B. González, Wallace Jefferson, and other local individuals;

(E) explain how to contact elected and appointed leaders in state and local governments; and

(F) use voting as a method for group decision making.

(16) Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:

(A) identify leaders in state, local, and national governments, including the governor, local members of the Texas Legislature, the local mayor, U.S. senators, local U.S. representatives, and Texans who have been president of the United States; and

(B) identify leadership qualities of state and local leaders, past and present.

(17) Culture. The student understands the contributions of people of various racial, ethnic, and religious groups to Texas culture. The student is expected to:

(A) identify customs, celebrations, and traditions of various cultural, regional, and local groups in Texas such as Cinco de Mayo, Oktoberfest, and Fiesta San Antonio; and

(B) summarize the contributions of artists of various racial, ethnic, and religious groups in the development of Texas culture such as Lydia Mendoza, Chelo Silva, and Julius Lorenzo Cobb Bledsoe.

(18) Science, technology, and society. The student understands the impact of science and technology on life in Texas. The student is expected to:

(A) identify famous inventors and scientists such as Gail Borden, Joseph Glidden, Michael DeBakey, and Millie Hughes-Fulford and their contributions; and

(B) describe how scientific discoveries and innovations such as in aerospace, agriculture, energy, and technology have benefited individuals, businesses, and society in Texas.

(19) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as technology; interviews; biographies; oral, print, and visual material; documents; and artifacts to acquire information about Texas;

(B) differentiate and compare the information about a specific issue or event provided in primary and secondary sources;

(C) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(D) organize and interpret information in outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(E) identify different points of view about an issue, topic, historical event, or current event;

(F) identify the central claim in a primary or secondary source; and

(G) develop and communicate a claim and supporting evidence visually, orally, or in writing related to a social studies topic.

(20) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) apply mapping elements, including grid systems, legends, symbols, scales, and compass roses, to create and interpret maps; and

(B) interpret geographic data, population distribution, and natural resources into a variety of formats such as graphs and maps.

(21) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) incorporate main and supporting ideas in verbal and written communication;

(C) express ideas orally based on research and experiences;

(D) create written and visual material such as journal entries, reports, graphic organizers, outlines, and bibliographies; and

(E) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(22) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) use democratic procedures to simulate making decisions on school, local, or state issues; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.16. Social Studies, Grade 5, Adopted 2022.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(1) No later than July 31, 2024, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills identified in this section.

(2) If the commissioner makes the determination that instructional materials funding has been made available, this section shall be implemented beginning with the 2025-2026 school year and apply to the 2025-2026 and subsequent school years.

(3) If the commissioner does not make the determination that instructional materials funding has been made available under this subsection, the commissioner shall determine no later than August 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that this section shall be implemented for the following school year.

(b) Introduction.

(1) In Grade 5, students survey the history of the United States from 1565 to the present. Historical content includes the colonial period, the American Revolution, the establishment of the U.S. Constitution and American identity, westward expansion, the Civil War and Reconstruction, immigration and industrialization, and the 20th and 21st centuries. Students study a variety of regions in the United States that result from physical features and human activity and identify how people adapt to and modify the environment. Students explain the characteristics and benefits of the free enterprise system and describe economic activities in the United States. Students identify the roots of representative government in this nation as well as the important ideas in the Declaration of Independence and the U.S. Constitution. Students study the fundamental rights guaranteed in the Bill of Rights. Students examine the importance of effective leadership in a constitutional republic and identify important leaders in the national government. Students recite and explain the meaning of the Pledge of Allegiance to the United States Flag. Students describe the cultural impact of various racial, ethnic, and religious groups in the nation and identify the accomplishments of notable individuals in the fields of science and

technology. Students explain symbols, traditions, and landmarks that represent American beliefs and principles. Students use critical-thinking skills to sequence, categorize, and summarize information and to draw inferences and conclusions.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as documents, biographies, novels, speeches, letters, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands the reasons for and the role of key people in the European colonization of North America beginning in 1565, the founding of St. Augustine. The student is expected to:

(A) explain when, where, and why groups of people explored, colonized, and settled in the United States, including the search for religious freedom and economic gain; and

(B) describe the accomplishments of significant individuals who settled for religious freedom and economic gain during the colonial period, including William Bradford, Anne Hutchinson, William Penn, John Smith, and Roger Williams.

(2) History. The student understands how conflict between the American colonies and Great Britain led to American independence and the formation of the United States. The student is expected to:

(A) analyze the causes and effects of events prior to and during the American Revolution, including the taxation resulting from the French and Indian War and the colonist response to taxation such as the Boston Tea Party;

(B) identify the Founding Fathers and Patriot heroes, including John Adams, Benjamin Franklin, Thomas Jefferson, the Sons of Liberty, and George Washington, and their motivations and contributions during the revolutionary period; and

(C) summarize the results of the American Revolution, including the establishment of the United States.

(3) History. The student understands the significant individuals who contributed to the creation of the U.S. Constitution and the government it established. The student is expected to identify the contributions of Founding Fathers James Madison and George Mason who helped create the U.S. Constitution.

(4) History. The student understands political, economic, and social changes that occurred in the United States during the 19th century. The student is expected to:

(A) describe the causes and effects of the War of 1812 such as impressment of sailors, territorial conflicts with Great Britain, and the increase in U.S. manufacturing;

(B) identify and explain how changes resulting from the Industrial Revolution led to conflict among sections of the United States;

(C) identify significant events and concepts associated with U.S. territorial expansion, including the Louisiana Purchase, the expedition of Lewis and Clark, and Manifest Destiny;

(D) explain the central role of the expansion of slavery in causing sectionalism, disagreement over states' rights, and the Civil War;

(E) explain the effects of the Civil War, including Reconstruction and the 13th, 14th, and 15th amendments to the U.S. Constitution; and

(F) identify the challenges, opportunities, and contributions of people from various American Indian and immigrant groups such as the settlement of the frontier and building of the Transcontinental Railroad.

(5) History. The student understands important issues, events, and individuals in the United States during the 20th and 21st centuries. The student is expected to:

(A) explain the significance of issues and events of the 20th century such as industrialization, urbanization, the Great Depression, the world wars, the civil rights movement, and military actions;

(B) analyze various issues and events of the 21st century such as the War on Terror and the 2008 presidential election; and

(C) identify the accomplishments and contributions of individuals and groups such as Susan B. Anthony, Martin Luther King Jr., Rosa Parks, Cesar Chavez, Franklin D. Roosevelt, Ronald Reagan, the Tuskegee Airmen, and the 442nd Regimental Combat Team in the areas of civil rights, women's rights, military actions, and politics.

(6) Geography. The student understands places and regions in the United States. The student is expected to:

(A) describe political and economic regions in the United States that result from patterns of human activity;

(B) describe regions in the United States based on physical characteristics such as landform, climate, and vegetation;

(C) locate on a map important political features such as the five largest cities by population in the United States and the 50 states; and

(D) create a map of important physical features such as the Appalachian Mountains, Great Lakes, Mississippi River, Great Plains, and Rocky Mountains.

(7) Geography. The student understands the location and patterns of settlement and the geographic factors that influence where people live. The student is expected to:

(A) identify and describe the patterns of settlement such as rural, urban, and suburban;

(B) explain the geographic factors that influence patterns of settlement and the distribution of population in the United States; and

(C) analyze the geographic factors that influence the location of the five largest urban areas in the United States and explain their distribution.

(8) Geography. The student understands how people adapt to and modify their environment. The student is expected to:

(A) describe how and why people have adapted to and modified their environment in the United States such as the use of human resources to meet basic needs; and

(B) analyze the positive and negative consequences of human modification of the environment in the United States.

(9) Economics. The student understands the basic economic patterns of early societies in the United States. The student is expected to:

(A) explain the economic patterns of early European colonies; and

(B) identify major industries of colonial America such as shipbuilding and growing of cash crops.

(10) Economics. The student understands the development, characteristics, and benefits of the free enterprise system in the United States. The student is expected to:

(A) identify the development of the free enterprise system in colonial America and the United States;

(B) describe how the free enterprise system works in the United States; and

(C) give examples of the benefits of the free enterprise system in the United States.

(11) Economics. The student understands the impact of supply and demand on consumers and producers in a free enterprise system. The student is expected to:

(A) explain how supply and demand affects consumers in the United States; and

(B) evaluate the effects of supply and demand on industry and agriculture, including the plantation system, in the United States.

(12) Economics. The student understands patterns of work and economic activities in the United States. The student is expected to:

(A) compare how people in different regions of the United States earn a living, past and present;

(B) identify and explain how geographic factors have influenced the location of economic activities in the United States;

(C) analyze the effects of immigration and migration on the economic development and growth of the United States; and

(D) describe the impact of mass production, specialization, and division of labor on the economic growth of the United States.

(13) Government. The student understands the organization of governments in colonial America. The student is expected to:

(A) compare the systems of government of early European colonists, including representative government and monarchy; and

(B) identify examples of representative government in the American colonies, including the Mayflower Compact and the Virginia House of Burgesses.

(14) Government. The student understands important ideas in the Declaration of Independence, the U.S. Constitution, and the Bill of Rights. The student is expected to:

(A) explain the purposes, key elements, and the importance of the Declaration of Independence;

(B) explain the purposes of the U.S. Constitution as identified in the Preamble; and

(C) explain the reasons for the creation of the Bill of Rights and its importance.

(15) Government. The student understands the framework of government created by the U.S. Constitution of 1787. The student is expected to:

(A) identify and explain the basic functions of the three branches of government;

(B) identify the reasons for and describe the system of checks and balances outlined in the U.S. Constitution; and

(C) distinguish between national and state governments and compare their responsibilities in the U.S. federal system.

(16) Citizenship. The student understands important symbols, customs, celebrations, and landmarks that represent American be-

liefs and principles that contribute to our national identity. The student is expected to:

(A) explain various patriotic symbols, including Uncle Sam; national celebrations such as Labor Day; and political symbols such as the donkey and elephant;

(B) sing or recite "The Star-Spangled Banner" and explain its history;

(C) recite and explain the meaning of the Pledge of Allegiance to the United States Flag; and

(D) explain the significance of important landmarks, including the White House, the Statue of Liberty, and Mount Rushmore.

(17) Citizenship. The student understands the importance of individual participation in the democratic process at the local, state, and national levels. The student is expected to:

(A) explain why individuals have a duty to participate in civic affairs at the local, state, and national levels;

(B) explain how to contact elected and appointed leaders in local, state, and national governments; and

(C) use voting as a method for group decision making.

(18) Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:

(A) identify past and present leaders in the national government, including the president and various members of Congress, and their political parties; and

(B) identify leadership qualities of national leaders, past and present.

(19) Citizenship. The student understands the fundamental rights of American citizens guaranteed in the Bill of Rights. The student is expected to describe the fundamental rights guaranteed in the Bill of Rights, including freedom of religion, speech, and press; the right to assemble and petition the government; the right to keep and bear arms; the right to trial by jury; and the right to an attorney.

(20) Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

(A) identify significant examples of art, music, and literature from various periods in U.S. history such as the painting American Progress, "Yankee Doodle," and "Paul Revere's Ride"; and

(B) explain how examples of art, music, and literature reflect the times during which they were created.

(21) Culture. The student understands the contributions of people of various racial, ethnic, and religious groups to the United States culture. The student is expected to:

(A) describe customs and traditions of various racial, ethnic, and religious groups in the United States; and

(B) summarize the contributions of people of various racial, ethnic, and religious groups to our national identity.

(22) Science, technology, and society. The student understands the impact of science and technology on society in the United States. The student is expected to:

(A) identify the accomplishments of notable individuals in the fields of science and technology such as Benjamin Franklin,

Eli Whitney, John Deere, Thomas Edison, Alexander Graham Bell, George Washington Carver, the Wright Brothers, and Neil Armstrong;

(B) identify how scientific discoveries, technological innovations, and the rapid growth of technology industries have advanced the economic development of the United States, including the transcontinental railroad and the space program; and

(C) explain how scientific discoveries and technological innovations in the fields of medicine, communication, and transportation have benefited individuals and society in the United States.

(23) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as technology; interviews; biographies; oral, print, and visual material; documents; and artifacts to acquire information about the United States;

(B) identify and ask questions about the credibility of different kinds of primary and secondary sources;

(C) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(D) organize and interpret information in outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(E) identify different points of view about an issue, topic, historical event, or current event;

(F) identify the historical context of an event;

(G) identify the central claim in a primary or secondary source; and

(H) develop and communicate a claim and supporting evidence visually, orally, or in writing related to a social studies topic.

(24) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) apply mapping elements, including grid systems, legends, symbols, scales, and compass roses, to create and interpret maps; and

(B) interpret geographic data, population distribution, and natural resources into a variety of formats such as graphs and maps.

(25) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) incorporate main and supporting ideas in verbal and written communication;

(C) express ideas orally based on research and experiences;

(D) create written and visual material such as journal entries, reports, graphic organizers, outlines, and bibliographies; and

(E) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(26) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) use democratic procedures to simulate making decisions on school, local, or state issues; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

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



SUBCHAPTER B. MIDDLE SCHOOL

19 TAC §113.17

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(h), which requires the SBOE and each school district to require the teaching of informed patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for Kindergarten-Grade 12, including the founding documents of the United States; TEC, §28.002(h-1), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic engagement in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; and TEC, §28.002(h-2), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic government in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; the ability to analyze and determine the reliability of information sources, formulate and articulate reasoned positions, understand the manner in which local, state, and federal governments work and operate through the use of simulations and models of governmental and demo-

cratic processes, actively listen and engage in civic discourse, and participate as a citizen in a constitutional democracy by voting; and an appreciation of the importance and responsibility of participating in civic life, a commitment to the United States and its form of government, and a commitment to free speech and civil discourse.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §7.102(c)(4) and §28.002(a), (c), (h), (h-1), and (h-2).

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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19 TAC §§113.18 - 113.20

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(h), which requires the SBOE and each school district to require the teaching of informed patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for Kindergarten-Grade 12, including the founding documents of the United States; TEC, §28.002(h-1), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic engagement in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; and TEC, §28.002(h-2), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic government in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; the ability to analyze and determine the reliability of information sources, formulate and articulate reasoned positions, understand the manner in which local, state, and federal governments work and operate through the use of simulations and models of governmental and democratic processes, actively listen and engage in civic discourse, and participate as a citizen in a con-

stitutional democracy by voting; and an appreciation of the importance and responsibility of participating in civic life, a commitment to the United States and its form of government, and a commitment to free speech and civil discourse.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §7.102(c)(4) and §28.002(a), (c), (h), (h-1), and (h-2).

§113.18. *Social Studies, Grade 6, Adopted 2022.*

(a) **Implementation.** The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) **Introduction.**

(1) In Grade 6, students study people, places, and societies of the contemporary world. Societies for study are from the following regions of the world: Europe, Russia and the Eurasian republics, North America, Central America and the Caribbean, South America, Southwest Asia-North Africa, Sub-Saharan Africa, South Asia, East Asia, Southeast Asia, Australia, and the Pacific realm. Students describe the influence of individuals and groups on historical and contemporary events in those societies and identify the locations and geographic characteristics of various societies. Students identify different ways of organizing economic and governmental systems. The concepts of limited and unlimited government are introduced, and students describe the nature of citizenship in various societies. Students compare institutions common to all societies such as government, education, and religious institutions. Students explain how the level of technology affects the development of the various societies and identify different points of view about events. The concept of frame of reference is introduced as an influence on an individual's point of view.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, novels, speeches, letters, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, art galleries, and historical sites.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands that historical events influence contemporary events. The student is expected to:

(A) trace characteristics of various contemporary societies in regions that resulted from historical events or factors such as colonization, immigration, and trade; and

(B) analyze the historical background of various contemporary societies to evaluate relationships between past conflicts and current conditions.

(2) History. The student understands the influences of individuals and groups from various cultures on various historical and contemporary societies. The student is expected to:

(A) identify and describe the historical influence of individuals or groups on various contemporary societies; and

(B) describe the social, political, economic, and cultural contributions of individuals and groups from various societies, past and present.

(3) Geography. The student understands the factors that influence the locations and characteristics of locations of various contemporary societies on maps and/or globes. The student is expected to:

(A) identify and explain the geographic factors responsible for patterns of population in places and regions;

(B) explain ways in which human migration influences the character of places and regions;

(C) identify and locate major physical and human geographic features such as landforms, water bodies, and urban centers of various places and regions; and

(D) identify the location of major world countries for each of the world regions.

(4) Geography. The student understands how geographic factors influence the economic development and political relationships of societies. The student is expected to:

(A) explain the geographic factors responsible for the location of economic activities in places and regions; and

(B) identify geographic factors such as location, physical features, transportation corridors and barriers, and distribution of natural resources that influence a society's political relationships.

(5) Geography. The student understands the impact of interactions between people and the physical environment on the development and conditions of places and regions. The student is expected to:

(A) describe ways people have been impacted by physical processes such as earthquakes and climate;

(B) identify and analyze ways people have adapted to the physical environment in various places and regions; and

(C) identify and analyze ways people have modified the physical environment such as mining, irrigation, and transportation infrastructure.

(6) Economics. The student understands the factors of production in a society's economy. The student is expected to:

(A) describe ways in which the factors of production (natural resources, labor, capital, and entrepreneurs) influence the economies of various contemporary societies;

(B) identify problems that may arise when one or more of the factors of production is in relatively short supply; and

(C) explain the impact of the distribution of resources on international trade and economic interdependence among and within societies.

(7) Economics. The student understands the various ways in which people organize economic systems. The student is expected to:

(A) compare ways in which various societies organize the production and distribution of goods and services;

(B) compare and contrast free enterprise, socialist, and communist economies in various contemporary societies, including the benefits of the U.S. free enterprise system; and

(C) understand the importance of ethics in maintaining a functional free enterprise system.

(8) Economics. The student understands categories of economic activities and the data used to measure a society's economic level. The student is expected to:

(A) define and give examples of agricultural, retail, manufacturing (goods), and service industries; and

(B) describe levels of economic development of various societies using indicators such as life expectancy, gross domestic product (GDP), GDP per capita, and literacy.

(9) Government. The student understands the concepts of limited and unlimited governments. The student is expected to:

(A) describe and compare examples of limited and unlimited governments such as constitutional (limited) and totalitarian (unlimited);

(B) identify reasons for limiting the power of government; and

(C) identify and describe examples of human rights abuses by limited or unlimited governments such as the oppression of religious, ethnic, and political groups.

(10) Government. The student understands various ways in which people organize governments. The student is expected to:

(A) identify and give examples of governments with rule by one, few, or many;

(B) compare ways in which various societies such as China, Germany, India, and Russia organize government and how they function; and

(C) identify historical origins of democratic forms of government such as Ancient Greece.

(11) Citizenship. The student understands that the nature of citizenship varies among societies. The student is expected to:

(A) describe and compare roles and responsibilities of citizens in various contemporary societies, including the United States; and

(B) explain how opportunities for citizens to participate in and influence the political process vary among various contemporary societies.

(12) Citizenship. The student understands the relationship among individual rights, responsibilities, duties, and freedoms in societies with representative governments. The student is expected to:

(A) identify and explain the duty of civic participation in societies with representative governments; and

(B) explain relationships among rights, responsibilities, and duties in societies with representative governments.

(13) Culture. The student understands the similarities and differences within and among cultures in various world societies. The student is expected to:

(A) identify and describe common traits that define cultures and culture regions;

(B) define a multicultural society;

(C) analyze the experiences and contributions of diverse groups to multicultural societies; and

(D) identify and explain examples of conflict and cooperation between and among cultures.

(14) Culture. The student understands that all societies have basic institutions in common even though the characteristics of these institutions may differ. The student is expected to:

(A) identify institutions basic to all societies, including government, economic, educational, and religious institutions;

(B) compare characteristics of institutions in various contemporary societies; and

(C) analyze the efforts and activities institutions use to sustain themselves over time.

(15) Culture. The student understands relationships that exist among world cultures. The student is expected to:

(A) identify and describe means of cultural diffusion such as trade, travel, and war;

(B) identify and describe factors that influence cultural change such as improvements in communication, transportation, and economic development;

(C) analyze the impact of improved communication technology among cultures; and

(D) identify the impact of cultural diffusion on individuals and world societies.

(16) Culture. The student understands the relationship that exists between the arts and the societies in which they are produced. The student is expected to:

(A) explain the relationships that exist between societies and their architecture, art, music, and literature;

(B) describe ways in which contemporary issues influence creative expressions; and

(C) identify examples of art, music, and literature that convey universal themes such as religion, justice, and the passage of time.

(17) Culture. The student understands the relationships among religion, philosophy, and culture. The student is expected to:

(A) explain the relationship among religious ideas, philosophical ideas, and cultures; and

(B) explain the significance of religious holidays and observances such as Christmas, Easter, Ramadan, the annual hajj, Yom Kippur, Rosh Hashanah, Diwali, and Vaisakhi in various contemporary societies.

(18) Science, technology, and society. The student understands the influences of science and technology on contemporary societies. The student is expected to:

(A) identify examples of scientific discoveries, technological innovations, and scientists and inventors that have shaped the world;

(B) explain how resources, economic factors, and political decisions affect the use of technology; and

(C) make predictions about future social, political, economic, cultural, and environmental impacts that may result from future scientific discoveries and technological innovations.

(19) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as oral, print, and visual material and artifacts to acquire information about various world cultures;

(B) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information from outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(D) identify different points of view about an issue or current topic;

(E) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning related to a social studies topic; and

(F) evaluate a variety of historical and contemporary sources for validity, credibility, bias, and accuracy.

(20) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) answer geographic questions, including: Where is it located? Why is it there? What is significant about its location? How is its location related to the location of other people, places, and environments? Using latitude and longitude, where is it located?;

(B) pose and answer questions about geographic distributions and patterns for various world regions and countries shown on maps, graphs, and charts;

(C) compare various world regions and countries using data from maps, graphs, and charts; and

(D) create and interpret regional sketch maps, thematic maps, graphs, and charts depicting aspects such as population, disease, and economic activities of various world regions and countries.

(21) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) incorporate main and supporting ideas in verbal and written communication based on research;

(C) express ideas orally based on research and experiences;

(D) create written and visual material such as journal entries, reports, graphic organizers, outlines, and bibliographies based on research;

(E) use effective written communication skills, including proper citations to avoid plagiarism; and

(F) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(22) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) describe governmental and democratic processes such as voting, due process, and caucuses using simulations and models; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.19. Social Studies, Grade 7, Adopted 2022.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Grade 7, students study the history of Texas from early times to the present. Content is presented with more depth and breadth than in Grade 4. Students examine the full scope of Texas history, including Natural Texas and its People; Age of Contact; Spanish Colonial; Mexican National; Revolution and Republic; Early Statehood; Texas in the Civil War and Reconstruction; Cotton, Cattle, and Railroads; Age of Oil; Texas in the Great Depression and World War II; Civil Rights and Conservatism; and Contemporary Texas eras. The focus in each era is on key individuals, events, and issues and their impact. Students identify regions of Texas and the distribution of population within and among the regions and explain the factors that caused Texas to change from an agrarian to an urban society. Students de-

scribe the structure and functions of municipal, county, and state governments, explain the influence of the U.S. Constitution on the Texas Constitution, and examine the rights and responsibilities of Texas citizens. Students use primary and secondary sources to examine the rich and diverse cultural background of Texas as they identify the different racial and ethnic groups that settled in Texas to build a republic and then a state. Students analyze the impact of scientific discoveries and technological innovations on the development of Texas in various industries such as agricultural, energy, medical, computer, and aerospace. Students use primary and secondary sources to acquire information about Texas.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, novels, speeches, letters, diaries, poetry, songs, and images is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and

recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands traditional historical points of reference in Texas history. The student is expected to:

(A) identify the major eras in Texas history, describe their defining characteristics, and explain the purpose of dividing the past into eras, including Natural Texas and its People; Age of Contact; Spanish Colonial; Mexican National; Revolution and Republic; Early Statehood; Texas in the Civil War and Reconstruction; Cotton, Cattle, and Railroads; Age of Oil; Texas in the Great Depression and World War II; Civil Rights; and Contemporary Texas; and

(B) explain the significance of the following dates: 1519, mapping of the Texas coast and first mainland Spanish settlement; 1718, founding of San Antonio; 1821, independence from Spain; 1836, Texas independence; 1845, annexation; 1861, Civil War begins; 1876, adoption of current state constitution; and 1901, discovery of oil at Spindletop.

(2) History. The student understands how individuals, events, and issues through the Mexican National Era shaped the history of Texas. The student is expected to:

(A) compare the cultures of American Indians in Texas prior to European colonization such as Gulf, Plains, Puebloan, and Southeastern;

(B) identify important individuals, events, and issues related to European exploration of Texas such as Alonso Álvarez de Pineda, Alvar Núñez Cabeza de Vaca, the search for gold, and the conflicting territorial claims between France and Spain;

(C) identify important individuals, events, and issues related to European colonization of Texas, including the establishment of Catholic missions, towns, and ranches, and the contributions of individuals such as Fray Damián Massanet, Antonio Margil de Jesús, and Francisco Hidalgo;

(D) identify the individuals, issues, and events related to Mexico becoming an independent nation and its impact on Texas, including Father Miguel Hidalgo, Texas involvement in the fight for independence, José Gutiérrez de Lara, the Battle of Medina, the Mexican federal Constitution of 1824, the merger of Texas and Coahuila as a state, the State Colonization Law of 1825, and slavery;

(E) identify the contributions of significant individuals, including Moses Austin, Stephen F. Austin, Erasmo Seguín, Martín De León, and Green DeWitt, during the Mexican settlement of Texas; and

(F) contrast Spanish, Mexican, and Anglo purposes for and methods of settlement in Texas.

(3) History. The student understands how individuals, events, and issues related to the Texas Revolution shaped the history of Texas. The student is expected to:

(A) describe the chain of events that led to the Texas Revolution, including the Fredonian Rebellion, the Mier y Terán Re-

port, the Law of April 6, 1830, the Turtle Bayou Resolutions, and the arrest of Stephen F. Austin;

(B) explain the roles played by significant individuals during the Texas Revolution, including George Childress, Lorenzo de Zavala, James Fannin, Sam Houston, Antonio López de Santa Anna, Juan N. Seguín, and William B. Travis; and

(C) explain the issues surrounding significant events of the Texas Revolution, including the Battle of Gonzales; the siege of the Alamo, William B. Travis's letter "To the People of Texas and All Americans in the World," and the heroism of the diverse defenders who gave their lives there; the Constitutional Convention of 1836; Fannin's surrender at Goliad; and the Battle of San Jacinto.

(4) History. The student understands how individuals, events, and issues shaped the history of the Republic of Texas and early Texas statehood. The student is expected to:

(A) identify individuals, events, and issues during the administrations of Republic of Texas Presidents Houston, Lamar, and Jones such as the Texas Navy, the Texas Rangers, Jack Coffee Hays, Chief Bowles, William Goyens, Mary Maverick, José Antonio Navarro, the Córdoba Rebellion, the Council House Fight, the Santa Fe Expedition, slavery, and the roles of racial and ethnic groups;

(B) analyze the causes of and events leading to Texas annexation such as security and public debt; and

(C) identify individuals, events, and issues during early Texas statehood, including the U.S.-Mexican War, the Treaty of Guadalupe-Hidalgo, slavery, and the Compromise of 1850.

(5) History. The student understands how events and issues shaped the history of Texas during the Civil War and Reconstruction. The student is expected to:

(A) explain the central role the expansion of slavery played in the involvement of Texas in the Civil War;

(B) identify significant events concerning Texas and the Civil War such as the Battle of Galveston, the Battle of Sabine Pass, and the Battle of Palmito Ranch; and

(C) explain the political, economic, and social effects of the Civil War and Reconstruction in Texas.

(6) History. The student understands how individuals, events, and issues shaped the history of Texas from Reconstruction through the beginning of the 20th century. The student is expected to:

(A) identify significant individuals, events, and issues, including the factors leading to the expansion of the Texas frontier, the effects of westward expansion on American Indians, the buffalo soldiers, and Quanah Parker;

(B) identify significant individuals, events, and issues, including the development of the cattle industry from its Spanish beginnings and the cowboy way of life;

(C) identify significant individuals, events, and issues, including the effects of the growth of railroads and the contributions of James Hogg; and

(D) explain the political, economic, and social impact of the agricultural industry and the development of West Texas resulting from the close of the frontier.

(7) History. The student understands how individuals, events, and issues shaped the history of Texas during the late 19th, 20th, and early 21st centuries. The student is expected to:

(A) explain how the oil industry led to the industrialization of Texas;

(B) define and trace the impact of "boom-and-bust" cycles of leading Texas industries throughout the 20th and early 21st centuries such as farming, oil and gas production, cotton, ranching, real estate, banking, and computer technology;

(C) describe and compare the impact of reform movements in Texas in the 19th and 20th centuries such as progressivism, populism, women's suffrage, agrarianism, labor reform, and the conservative movement of the late 20th century;

(D) describe and compare the civil rights and equal rights movements of various groups in Texas in the 20th century and identify key leaders in these movements such as James L. Farmer Jr., Hector P. Garcia, Oveta Culp Hobby, Lyndon B. Johnson, the League of United Latin American Citizens (LULAC), Jane McCallum, and Lulu Belle Madison White; and

(E) analyze the political, economic, and social impact of World War I, the Great Depression, World War II, and significant issues in the latter half of the 20th and early 21st centuries such as political and economic controversies, immigration, and migration on the history of Texas.

(8) Geography. The student understands the location and characteristics of places and regions of Texas. The student is expected to:

(A) locate and compare the Mountains and Basins, Great Plains, North Central Plains, and Coastal Plains regions;

(B) locate and compare places of importance in Texas in terms of physical and human characteristics such as major cities, waterways, natural and historic landmarks, political and cultural regions, and local points of interest; and

(C) analyze the effects of physical and human factors such as climate, weather, landforms, irrigation, transportation, and communication on major events in Texas.

(9) Geography. The student understands the effects of the interaction between humans and the environment in Texas. The student is expected to:

(A) identify ways in which Texans have adapted to and modified the environment and explain the positive and negative consequences of the modifications; and

(B) explain ways in which geographic factors such as the Galveston Hurricane of 1900, the Dust Bowl, limited water resources, and alternative energy sources have affected the political, economic, and social development of Texas.

(10) Geography. The student understands the characteristics, distribution, and migration of population in Texas in the 19th, 20th, and 21st centuries. The student is expected to:

(A) identify why immigrant groups came to Texas and where they settled;

(B) describe how immigration and migration to Texas have influenced Texas;

(C) describe the structure of the population of Texas using demographic concepts such as growth rate and age distribution; and

(D) analyze the effects of the changing population distribution and growth in Texas and the additional need for education, health care, and transportation.

(11) Economics. The student understands the factors that caused Texas to change from an agrarian to an urban society. The student is expected to:

(A) explain economic factors and the development of major industries that led to the urbanization of Texas such as transportation, oil and gas, and manufacturing; and

(B) explain the changes in the types of jobs and occupations that have resulted from the urbanization of Texas.

(12) Economics. The student understands the interdependence of the Texas economy with the United States and the world. The student is expected to:

(A) explain the impact of national and international markets on the production of goods and services in Texas, including agriculture and oil and gas;

(B) explain the impact of economic concepts within the free enterprise system such as supply and demand, profit, and world competition on the economy of Texas; and

(C) analyze the impact of significant industries in Texas such as aerospace, medical, and computer technologies on local, national, and international markets.

(13) Government. The student understands the basic principles reflected in the Texas Constitution. The student is expected to:

(A) identify how the Texas Constitution reflects the principles of limited government, republicanism, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights; and

(B) compare the principles and concepts of the Texas Constitution to the U.S. Constitution, including the Texas and U.S. Bill of Rights.

(14) Government. The student understands the structure and functions of government created by the Texas Constitution. The student is expected to:

(A) describe the structure and functions of government at municipal, county, and state levels; and

(B) identify major sources of revenue for state and local governments such as property taxes, sales taxes, bonds, and fees.

(15) Citizenship. The student understands the rights and responsibilities of Texas citizens in a democratic society. The student is expected to:

(A) explain rights of Texas citizens; and

(B) explain civic responsibilities of Texas citizens and the importance of civic participation.

(16) Citizenship. The student understands the importance of the expression of different points of view in a democratic society. The student is expected to:

(A) identify different points of view of political parties and interest groups on important Texas issues, past and present; and

(B) describe the importance of free speech and press in a democratic society.

(17) Citizenship. The student understands the importance of effective leadership in a democratic society. The student is expected to:

(A) identify the leadership qualities of elected and appointed leaders of Texas, past and present, including Texans who have been president of the United States; and

(B) identify the contributions of Texas leaders such as Lawrence Sullivan "Sul" Ross, John Nance Garner ("Cactus Jack"), James A. Baker III, Henry B. González, Kay Bailey Hutchison, Barbara Jordan, Raymond L. Telles, Sam Rayburn, and Raul A. Gonzalez Jr.

(18) Culture. The student understands the concept of diversity within unity in Texas. The student is expected to:

(A) explain how the diversity of Texas is reflected in a variety of cultural activities and celebrations;

(B) describe how people from various racial, ethnic, and religious groups attempt to maintain their cultural heritage while adapting to the larger Texas culture;

(C) identify examples of Spanish influence and the influence of other cultures on Texas such as place names, vocabulary, religion, architecture, food, and the arts; and

(D) identify contributions to the arts by Texans such as Roy Bedichek, Diane Gonzales Bertrand, J. Frank Dobie, Scott Joplin, Elisabet Ney, Amado Peña Jr., Walter Prescott Webb, and Horton Foote.

(19) Science, technology, and society. The student understands the impact of scientific discoveries and technological innovations on the political, economic, and social development of Texas. The student is expected to:

(A) compare types and uses of technology, past and present;

(B) identify Texas leaders in science and technology such as Walter Cunningham, Michael DeBakey, Denton Cooley, Benji Brooks, Michael Dell, and Howard Hughes Sr.;

(C) analyze the effects of various scientific discoveries and technological innovations on the development of Texas such as advancements in the agricultural, energy, medical, computer, and aerospace industries;

(D) evaluate the effects of scientific discoveries and technological innovations on the use of resources such as fossil fuels, water, and land; and

(E) analyze how scientific discoveries and technological innovations have resulted in an interdependence among Texas, the United States, and the world.

(20) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as media and news services, biographies, interviews, and artifacts to acquire information about Texas;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information from outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(D) identify bias and points of view from the historical context surrounding an event that influenced the participants;

(E) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning related to a social studies topic; and

(F) evaluate a variety of historical and contemporary sources for validity, credibility, bias, and accuracy.

(21) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) create and interpret thematic maps, graphs, and charts representing various aspects of Texas during the 19th, 20th, and 21st centuries; and

(B) analyze and interpret geographic distributions and patterns in Texas during the 19th, 20th, and 21st centuries.

(22) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) use effective written communication skills, including proper citations and avoiding plagiarism;

(C) create written, oral, and visual presentations of social studies information; and

(D) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(23) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) describe governmental and democratic processes such as voting, due process, and caucuses using simulations and models; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.20. *Social Studies, Grade 8, Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) Introduction.

(1) In Grade 8, students study the history of the United States from the early colonial period through Reconstruction. The knowledge and skills in subsection (c) of this section comprise the first part of a two-year study of U.S. history. The second part, comprising U.S. history from Reconstruction to the present, is provided in §113.41 of this title (relating to United States History Studies Since 1877 (One Credit), Beginning with School Year 2011-2012). The content in Grade 8 builds upon that from Grade 5 but provides more depth and breadth. Historical content focuses on the political, economic, religious, and social events and issues related to the colonial and revolutionary eras, the creation and ratification of the U.S. Constitution, challenges of the early republic, the Age of Jackson, westward expansion, sectionalism, Civil War, and Reconstruction. Students describe the physical characteristics of the United States and their impact on population distribution and settlement patterns in the past and present. Students analyze the various economic factors that influenced the development of colonial America and the early years of the republic and identify the origins of the free

enterprise system. Students examine the American beliefs and principles, including limited government, checks and balances, federalism, separation of powers, and individual rights, reflected in the U.S. Constitution and other historical documents. Students evaluate the impact of Supreme Court cases and major reform movements of the 19th century and examine the rights and responsibilities of citizens of the United States as well as the importance of effective leadership in a constitutional republic. Students evaluate the impact of scientific discoveries and technological innovations on the development of the United States. Students use critical-thinking skills, including the identification of bias in written, oral, and visual material.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as the complete text of the U.S. Constitution and the Declaration of Independence, landmark cases of the U.S. Supreme Court, biographies, autobiographies, novels, speeches, letters, diaries, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands traditional historical points of reference in U.S. history through 1877. The student is expected to:

(A) identify the major eras in U.S. history through 1877, including colonization, revolution, creation and ratification of the Constitution, early republic, the Age of Jackson, westward expansion, reform movements, sectionalism, Civil War, and Reconstruction, and describe their causes and effects; and

(B) explain the significance of the following dates: 1607, founding of Jamestown; 1620, arrival of the Pilgrims and signing of the Mayflower Compact; 1776, adoption of the Declaration of Independence; 1787, writing of the U.S. Constitution; 1803, Louisiana Purchase; and 1861-1865, Civil War.

(2) History. The student understands the causes of exploration and colonization eras. The student is expected to:

(A) identify reasons for English, Spanish, and French exploration and colonization of North America; and

(B) compare political, economic, religious, and social reasons for the establishment of the 13 English colonies.

(3) History. The student understands the foundations of representative government in the United States. The student is expected to:

(A) explain the reasons for the growth of representative government and institutions during the colonial period;

(B) analyze the importance of the Mayflower Compact, the Fundamental Orders of Connecticut, and the Virginia House of Burgesses to the growth of representative government; and

(C) describe how religion and virtue contributed to the growth of representative government in the American colonies.

(4) History. The student understands significant political and economic issues of the revolutionary and Constitutional eras. The student is expected to:

(A) analyze causes of the American Revolution, including the Proclamation of 1763, the Intolerable Acts, the Stamp Act, mercantilism, lack of representation in Parliament, and British economic policies following the French and Indian War;

(B) explain the roles played by significant individuals during the American Revolution, including Abigail Adams, John Adams, Wentworth Cheswell, Samuel Adams, Mercy Otis Warren, James Armistead, Benjamin Franklin, Crispus Attucks, King George III, Patrick Henry, Thomas Jefferson, the Marquis de Lafayette, Thomas Paine, and George Washington;

(C) explain the issues surrounding important events of the American Revolution, including declaring independence; fighting the battles of Lexington and Concord, Saratoga, and Yorktown; enduring the winter at Valley Forge; and signing the Treaty of Paris of 1783; and

(D) analyze the issues of the Constitutional Convention of 1787, including the Great Compromise and the Three-Fifths Compromise.

(5) History. The student understands the challenges confronted by the government and its leaders in the early years of the republic and the Age of Jackson. The student is expected to:

(A) describe major domestic problems faced by the leaders of the new republic, including maintaining national security, creating a stable economic system, and setting up the court system;

(B) explain the effects of the Fugitive Slave Act of 1793;

(C) summarize arguments regarding protective tariffs, taxation, and the banking system;

(D) explain the origin and development of American political parties;

(E) explain the causes, important events, and effects of the War of 1812;

(F) identify the foreign policies of presidents Washington through Monroe and explain the impact of Washington's Farewell Address and the Monroe Doctrine;

(G) explain the impact of the election of Andrew Jackson, including expanded suffrage; and

(H) analyze the reasons for the removal and resettlement of Cherokee Indians during the Jacksonian era, including the Indian Removal Act, Worcester v. Georgia, and the Trail of Tears.

(6) History. The student understands westward expansion and its effects on the political, economic, and social development of the nation. The student is expected to:

(A) explain how the Northwest Ordinance established principles and procedures for orderly expansion of the United States;

(B) analyze the westward growth of the nation, including the Louisiana Purchase and Manifest Destiny; and

(C) explain the causes and effects of the U.S.-Mexican War and their impact on the United States.

(7) History. The student understands how political, economic, and social factors led to the growth of sectionalism and the Civil War. The student is expected to:

(A) analyze the impact of tariff policies on sections of the United States before the Civil War;

(B) compare the effects of political, economic, and social factors on slaves and free Blacks;

(C) analyze the impact of the Fugitive Slave Act of 1850 on slavery, free Blacks, and abolitionists;

(D) analyze the impact of slavery on different sections of the United States; and

(E) identify the provisions and compare the effects of congressional conflicts and compromises prior to the Civil War, including the role of John Quincy Adams.

(8) History. The student understands individuals, issues, and events of the Civil War. The student is expected to:

(A) explain the roles played by significant individuals during the Civil War, including Jefferson Davis, Ulysses S. Grant, Robert E. Lee, and Abraham Lincoln, and heroes such as congressional Medal of Honor recipients William Carney and Philip Bazaar;

(B) explain the central role of the expansion of slavery in causing sectionalism, disagreement over states' rights, and the Civil War;

(C) explain significant events of the Civil War, including the firing on Fort Sumter; the battles of Antietam, Gettysburg, and Vicksburg; the Emancipation Proclamation; Lee's surrender at Appomattox Court House; and the assassination of Abraham Lincoln; and

(D) analyze Abraham Lincoln's ideas about liberty, equality, union, and government as contained in his first and second inaugural addresses and the Gettysburg Address and contrast them with the ideas contained in Jefferson Davis's inaugural address.

(9) History. The student understands the effects of Reconstruction on the political, economic, and social life of the nation. The student is expected to:

(A) evaluate legislative reform programs of the Radical Reconstruction Congress and reconstructed state governments;

(B) explain the impact of the election of African Americans from the South such as Hiram Rhodes Revels; and

(C) explain the economic, political, and social problems during Reconstruction and evaluate their impact on different groups.

(10) Geography. The student understands the location and characteristics of places and regions of the United States, past and present. The student is expected to:

(A) locate places and regions directly related to major eras and turning points in the United States during the 17th, 18th, and 19th centuries;

(B) compare places and regions of the United States in terms of physical and human characteristics; and

(C) analyze the effects of physical and human geographic factors such as weather, landforms, waterways, transportation, and communication on major historical events in the United States.

(11) Geography. The student understands the physical characteristics of North America and how humans adapted to and modified the environment through the mid-19th century. The student is expected to:

(A) analyze how physical characteristics of the environment influenced population distribution, settlement patterns, and economic activities in the United States; and

(B) describe the positive and negative consequences of human modification of the physical environment of the United States.

(12) Economics. The student understands why various sections of the United States developed different patterns of economic activity through 1877. The student is expected to:

(A) identify economic differences among different regions of the United States;

(B) explain reasons for the development of the plantation system, the transatlantic slave trade, and the spread of slavery; and

(C) analyze the causes and effects of economic differences among different regions of the United States at selected times.

(13) Economics. The student understands how various economic forces resulted in the Industrial Revolution in the 19th century. The student is expected to:

(A) analyze the economic effects of the War of 1812; and

(B) identify the economic factors that brought about rapid industrialization and urbanization.

(14) Economics. The student understands the origins and development of the free enterprise system in the United States. The student is expected to:

(A) explain why a free enterprise system of economics developed in the new nation, including minimal government regulation, taxation, and property rights; and

(B) describe the characteristics and the benefits of the U.S. free enterprise system through 1877.

(15) Government. The student understands the American beliefs and principles reflected in the Declaration of Independence, the U.S. Constitution, and other important historic documents. The student is expected to:

(A) identify the influence of ideas from historic documents, including the Magna Carta, the English Bill of Rights, the Mayflower Compact, and the Federalist Papers, on the U.S. system of government;

(B) summarize the strengths and weaknesses of the Articles of Confederation;

(C) identify colonial grievances listed in the Declaration of Independence and explain how those grievances were addressed in the U.S. Constitution and the Bill of Rights;

(D) analyze how the U.S. Constitution reflects the principles of limited government, republicanism, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights; and

(E) explain the role of significant individuals such as Thomas Hooker, Charles de Montesquieu, and John Locke in the development of self-government in colonial America.

(16) Government. The student understands the purpose of changing the U.S. Constitution and the impact of amendments on American society. The student is expected to:

(A) summarize the purposes for amending the U.S. Constitution; and

(B) describe the impact of the 13th, 14th, and 15th amendments.

(17) Government. The student understands the dynamic nature of the powers of the national government and state governments in a federal system. The student is expected to:

(A) analyze the arguments of the Federalists and Anti-Federalists, including those of Alexander Hamilton, Patrick Henry, James Madison, and George Mason, and explain how their debates exemplify civil discourse; and

(B) explain constitutional issues arising over the issue of states' rights, including the Nullification Crisis and the Civil War.

(18) Government. The student understands the impact of landmark Supreme Court cases. The student is expected to:

(A) identify the origin of judicial review;

(B) summarize the issues, decisions, and significance of landmark Supreme Court cases, including *Marbury v. Madison*, *McCulloch v. Maryland*, and *Gibbons v. Ogden*; and

(C) evaluate the impact of the landmark Supreme Court decision *Dred Scott v. Sandford* on life in the United States.

(19) Citizenship. The student understands the rights and responsibilities of citizens of the United States. The student is expected to:

(A) define and give examples of unalienable rights;

(B) summarize rights guaranteed in the Bill of Rights; and

(C) identify examples of responsible citizenship, including obeying rules and laws, staying informed on public issues, voting, and serving on juries.

(20) Citizenship. The student understands the importance of voluntary individual participation in the democratic process. The student is expected to:

(A) evaluate the contributions of the Founding Fathers as models of civic virtue; and

(B) analyze reasons for and the impact of selected examples of civil disobedience in U.S. history such as the Boston Tea Party and Henry David Thoreau's refusal to pay a tax.

(21) Citizenship. The student understands the importance of the expression of different points of view in a constitutional republic. The student is expected to:

(A) identify different points of view of political parties and interest groups on important historical issues;

(B) describe the importance of free speech and press in a constitutional republic; and

(C) summarize historical events in which compromise resulted in a resolution such as the Missouri Compromise, Compromise of 1850, and Kansas-Nebraska Act.

(22) Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:

(A) analyze the leadership qualities of elected and appointed leaders of the United States such as George Washington, John Marshall, and Abraham Lincoln; and

(B) describe the contributions of significant political, social, and military leaders of the United States such as Frederick Douglass, John Paul Jones, Susan B. Anthony, and Elizabeth Cady Stanton.

(23) Culture. The student understands the relationships between and among people from various groups, including racial, ethnic, and religious groups, during the 17th, 18th, and 19th centuries. The student is expected to:

(A) identify racial, ethnic, and religious groups that settled in the United States and explain their reasons for immigration;

(B) explain how urbanization contributed to conflicts resulting from differences in religion, social class, and political beliefs;

(C) identify ways conflicts between people from various racial, ethnic, and religious groups were addressed;

(D) analyze the contributions of people of various racial, ethnic, and religious groups to our national identity; and

(E) identify the political, social, and economic contributions of women to American society.

(24) Culture. The student understands the major reform movements of the 19th century. The student is expected to:

(A) describe and evaluate the historical development of the abolition movement, including activities that focused attention on the moral ills of slavery; and

(B) evaluate the impact of reform movements, including educational reform, temperance, the women's rights movement, prison reform, the labor reform movement, and care of the disabled.

(25) Culture. The student understands the impact of religion on the American way of life. The student is expected to:

(A) trace the development of religious freedom in the United States;

(B) describe religious influences on social movements, including the impact of the first and second Great Awakenings; and

(C) analyze the impact of the First Amendment guarantees of religious freedom on the American way of life.

(26) Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

(A) identify examples of American art, music, and literature that reflect society in different eras such as the Hudson River School artists, the "Battle Hymn of the Republic," and transcendental literature; and

(B) analyze the relationship between the arts and continuity and change in the American way of life.

(27) Science, technology, and society. The student understands the impact of science and technology on the economic development of the United States. The student is expected to:

(A) explain the effects of technological and scientific innovations such as the steamboat, the cotton gin, the telegraph, and interchangeable parts;

(B) analyze how technological innovations changed the way goods were manufactured and distributed, nationally and internationally; and

(C) analyze how technological innovations brought about economic growth such as the development of the factory system and the construction of the Transcontinental Railroad.

(28) Science, technology, and society. The student understands the impact of scientific discoveries and technological innovations on daily life in the United States. The student is expected to:

(A) compare the effects of scientific discoveries and technological innovations that have influenced daily life in different periods in U.S. history; and

(B) identify examples of how industrialization changed life in the United States.

(29) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as media and news services, biographies, interviews, and artifacts to acquire information about the United States;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information from outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(D) identify bias and points of view created by the historical context surrounding an event;

(E) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning related to a social studies topic;

(F) evaluate a variety of historical and contemporary sources for validity, credibility, bias, and accuracy;

(G) create a visual representation of historical information such as thematic maps, graphs, and charts representing various aspects of the United States; and

(H) pose and answer questions about geographic distributions and patterns shown on maps, graphs, and charts.

(30) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) use effective written communication skills, including proper citations and avoiding plagiarism;

(C) create written, oral, and visual presentations of social studies information; and

(D) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(31) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) describe governmental and democratic processes such as voting, due process, and caucuses using simulations and models; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

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

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Texas Education Agency

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SUBCHAPTER C. HIGH SCHOOL

19 TAC §§113.31, 113.41 - 113.44

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(h), which requires the SBOE and each school district to require the teaching of informed patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for Kindergarten-Grade 12, including the founding documents of the United States; TEC, §28.002(h-1), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic engagement in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; TEC, §28.002(h-2), which requires the SBOE to adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of the fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government; the history, qualities, traditions, and features of civic government in the United States; the structure, function, and processes of local, state, and federal, government institutions; and the founding documents of the United States; the ability to analyze and determine the reliability of information sources, formulate and articulate reasoned positions, understand the manner in which local, state, and federal governments work and operate through the use of simulations and models of governmental and democratic processes, actively listen and engage in civic discourse, and participate as a citizen in a constitutional democracy by voting; and an appreciation of the importance and responsibility of participating in civic life, a commitment to the United States and its form of government, and a commitment to free speech and civil discourse; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002; and TEC, §28.025(b-1)(4), which requires the SBOE to require by rule that students successfully complete three credits in social studies, including one credit in United States history, at least one-half credit in government and at least one-half credit in economics or personal financial literacy and economics, and one credit in world geography or world history.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§7.102(c)(4); 28.002(a), (c), (h), (h-1), and (h-2); and 28.025(a) and (b-1)(4).

§113.31. *Economics with Emphasis on the Free Enterprise System and Its Benefits, High School (One-Half Credit), Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) General requirements. This course will be taught in the social studies department and is recommended to be taught in Grade 12.

(c) Introduction.

(1) Economics with Emphasis on the Free Enterprise System and Its Benefits is the culmination of the economic content and concepts studied from Kindergarten through required secondary courses. The focus is on the basic principles concerning production, consumption, and distribution of goods and services (the problem of scarcity) in the United States and a comparison with those in other countries around the world. Students analyze the interaction of supply, demand, and price. Students will investigate the concepts of specialization and international trade, economic growth, key economic measurements, and monetary and fiscal policy. Students will study the roles of the Federal Reserve System and other financial institutions, government, and businesses in a free enterprise system. Types of business ownership and market structures are discussed. The course also incorporates instruction in personal financial literacy. Students apply critical-thinking skills using economic concepts to evaluate the costs and benefits of economic issues.

(2) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(3) Economics with Emphasis on the Free Enterprise System and Its Benefits builds upon the foundation in economics and social studies laid by the social studies essential knowledge and skills in Kindergarten-Grade 12. The course will apply these skills to current economic situations. The content enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(4) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(5) As referenced in House Bill 492, an act of the Texas Legislature signed into law in 2005, the concepts of personal financial literacy are to be mastered by students in order that they may become self-supporting adults who can make informed decisions relating to personal financial matters. These concepts are incorporated into the student expectations of Economics with Emphasis on the Free Enterprise System and Its Benefits: understanding interest, avoiding and eliminating credit card debt; understanding the rights and responsibilities of renting or buying a home; managing money to make the transition from renting a home to home ownership; starting a small business; being a prudent investor in the stock market and using other investment options; beginning a savings program and planning for retirement; bankruptcy; types of bank accounts available to consumers and benefits of maintaining a bank account; balancing a checkbook; types of loans available to consumers and becoming a low-risk borrower; understanding insurance; and charitable giving.

(6) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relation-

ship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(7) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(d) Knowledge and skills.

(1) Economics. The student understands the concepts of scarcity and opportunity costs. The student is expected to:

(A) explain why scarcity and choice are basic economic problems faced by every society;

(B) describe how societies answer the basic economic questions: what to produce, how to produce, and for whom to produce;

(C) describe the economic factors of production: land, labor, capital, and entrepreneurship; and

(D) interpret a production-possibilities curve and apply the concepts of opportunity costs and scarcity.

(2) Economics. The student understands the interaction of supply, demand, and price. The student is expected to:

(A) understand the effect of changes in price on the quantity demanded and quantity supplied;

(B) identify the non-price determinants that create changes in supply and demand, which result in a new equilibrium price; and

(C) interpret a supply-and-demand graph using supply-and-demand schedules.

(3) Economics. The student understands the reasons for international trade and its importance to the United States and the global economy. The student is expected to:

(A) apply the concepts of absolute and comparative advantages;

(B) compare the effects of free trade and trade barriers on economic activities, including the benefits and costs of participating in international trade; and

(C) analyze the effects of changes in exchange rates on imports and exports.

(4) Economics. The student understands free enterprise, socialist, and communist economic systems. The student is expected to:

(A) explain the basic characteristics of economic systems, including property rights, incentives, economic freedom, competition, and the role of government;

(B) contrast current and historic examples of the free enterprise system, socialism, and communism using the basic characteristics of economic systems; and

(C) analyze the contributions of various economic philosophers, including Friedrich Hayek, Milton Friedman, John Maynard Keynes, and Adam Smith, and their impact on the U.S. free enterprise system.

(5) Economics. The student understands the basic characteristics and benefits of the U.S. free enterprise system. The student is expected to:

(A) explain the benefits of the U.S. free enterprise system, including individual freedom of consumers and producers, variety of goods, responsive prices, investment opportunities, and the creation of wealth; and

(B) analyze recent changes in the basic characteristics, including private property, incentives, economic freedom, competition, and the limited role of government, of the U.S. economy.

(6) Economics. The student understands the right to own, use, and dispose of private property. The student is expected to:

(A) analyze the costs and benefits of the purchase, use, or disposal of personal and business property; and

(B) identify and evaluate examples of restrictions that the government places on the use of business and individual property.

(7) Economics. The student understands the circular-flow model of the economy. The student is expected to:

(A) interpret the roles of resource owners and firms in a circular-flow model of the economy and provide real-world examples to illustrate elements of the model; and

(B) explain how government actions affect the circular-flow model.

(8) Economics. The student understands types of market structures. The student is expected to:

(A) describe characteristics and give examples of pure competition, monopolistic competition, oligopoly, and monopoly; and

(B) identify regulations that apply to the establishment and operation of various types of market structures.

(9) Economics. The student understands key economic measurements. The student is expected to:

(A) interpret economic data, including unemployment rate, gross domestic product, gross domestic product per capita as a measure of national wealth, and rate of inflation; and

(B) analyze business cycles using key economic indicators.

(10) Economics. The student understands key components of economic growth. The student is expected to:

(A) analyze how productivity relates to growth;

(B) analyze how technology relates to growth; and

(C) analyze how trade relates to growth.

(11) Economics. The student understands the role of money in an economy. The student is expected to:

(A) describe the functions of money;

(B) describe the characteristics of money, including commodity money, fiat money, and representative money; and

(C) analyze the positive and negative aspects of barter, currency, and debit cards.

(12) Economics. The student understands the role of the Federal Reserve System in establishing monetary policy. The student is expected to:

(A) explain the structure of the Federal Reserve System;

(B) analyze the three basic tools used to implement U.S. monetary policy, including reserve requirements, the discount rate and the federal funds rate target, and open-market operations;

(C) explain how the actions of the Federal Reserve System affect the nation's money supply; and

(D) describe the current role of the U.S. dollar in trade in the world market and analyze how that has changed over time, in particular since departing from the gold standard in 1971.

(13) Economics. The student understands the role that the government plays in the U.S. free enterprise system. The student is expected to:

(A) describe the role of government in the U.S. free enterprise system and the changes in that role over time; and

(B) analyze the costs and benefits of U.S. economic policies, rules, and regulations related to the economic goals of economic growth, stability, full employment, freedom, security, equity (equal opportunity versus equal outcome), and efficiency.

(14) Economics. The student understands the economic impact of fiscal policy decisions at the local, state, and national levels. The student is expected to:

(A) identify types of taxes at the local, state, and national levels and the economic importance of each;

(B) explain the categories of revenues and expenditures in the U.S. federal budget; and

(C) analyze the impact of fiscal policy decisions on the economy.

(15) Personal financial literacy. The student understands types of business ownership. The student is expected to:

(A) explain the characteristics of sole proprietorships, partnerships, and corporations; and

(B) analyze the advantages and disadvantages of sole proprietorships, partnerships, and corporations.

(16) Personal financial literacy. The student understands the role of financial markets/institutions in saving, borrowing, and capital formation. The student is expected to:

(A) explain the functions of financial institutions and how they affect households and businesses;

(B) explain how the amount of savings in an economy is the basis of capital formation;

(C) analyze the role of interest and risk in allocating savings to its most productive use; and

(D) examine the types of accounts available to consumers from financial institutions and the risks, monetary costs, and benefits of maintaining these accounts.

(17) Personal financial literacy. The student understands the role of individuals in financial markets. The student is expected to:

(A) assess ways to be a wise investor in the stock market and in other personal investment options such as developing a personal retirement plan;

(B) explain how to begin a savings program;

(C) demonstrate how to maintain a checking account, including reconciling a bank statement;

(D) identify the types of loans available to consumers;

(E) explain the responsibilities and obligations of borrowing money; and

(F) develop strategies to become a low-risk borrower by improving and understanding one's personal credit score.

(18) Personal financial literacy. The student applies critical-thinking skills to analyze the costs and benefits of personal financial decisions. The student is expected to:

(A) examine ways to avoid and eliminate credit card debt;

(B) evaluate the costs and benefits of declaring personal bankruptcy;

(C) evaluate the costs and benefits of buying insurance; and

(D) evaluate the costs and benefits of charitable giving.

(19) Personal financial literacy. The student understands how to provide for basic needs while living within a budget. The student is expected to:

(A) evaluate the costs and benefits of renting a home versus buying a home; and

(B) assess the financial aspects of making the transition from renting to home ownership.

(20) Personal financial literacy. The student understands the various methods available to pay for college and other postsecondary education and training. The student is expected to:

(A) understand how to complete the Free Application for Federal Student Aid (FAFSA) provided by the United States Department of Education;

(B) research and evaluate various scholarship opportunities such as those from state governments, schools, employers, individuals, private companies, nonprofits, and professional organizations;

(C) analyze and compare student grant options;

(D) analyze and compare student loan options, including private and federal loans; and

(E) research and evaluate various work-study program opportunities.

(21) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) analyze economic information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(B) create economic models, including production-possibilities curves, circular-flow charts, and supply-and-demand graphs, to analyze economic concepts or issues;

(C) explain a point of view on an economic issue;

(D) analyze and evaluate a variety of economic information from primary and secondary sources for validity, credibility, accuracy, bias, propaganda, point of view, and frame of reference;

(E) evaluate economic data using charts, tables, graphs, and maps; and

(F) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning for an intended audience and purpose.

(22) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) create written, oral, and visual presentations of economic information using effective communication skills, including proper citations and avoiding plagiarism; and

(C) apply foundational language skills to engage in civil discourse about economics topics, including those with multiple perspectives.

(23) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.41. *United States History Studies Since 1877 (One Credit), Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) General requirements. Students shall be awarded one unit of credit for successful completion of this course.

(c) Introduction.

(1) In United States History Studies Since 1877, which is the second part of a two-year study that begins in Grade 8, students study the history of the United States from 1877 to the present. The course content is based on the founding documents of the U.S. government, which provide a framework for its heritage. Historical content focuses on the political, economic, and social events and issues related to industrialization and urbanization, major wars, domestic and foreign policies, and reform movements, including civil rights. Students examine the impact of geographic factors on major events and eras and analyze their causes and effects. Students examine the impact of constitutional issues on American society, evaluate the dynamic relationship of the three branches of the federal government, and analyze efforts to expand the democratic process. Students describe the relationship between the arts and popular culture and the times during which they were created. Students analyze the impact of technological innovations on American life. Students use critical-thinking skills and a variety of primary and secondary source material to explain and apply different methods that historians use to understand and interpret the past, including multiple points of view and historical context.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, landmark cases of the U.S. Supreme Court, novels, speeches, letters, diaries, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (d) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(d) Knowledge and skills.

(1) History. The student understands the principles included in the Celebrate Freedom Week program. The student is expected to:

(A) analyze and evaluate the text, intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights;

(B) analyze and evaluate the application of these founding principles to historical events in U.S. history; and

(C) explain the meaning and historical significance of the mottos "E Pluribus Unum" and "In God We Trust."

(2) History. The student understands traditional historical points of reference in U.S. history from 1877 to the present. The student is expected to:

(A) identify the major eras in U.S. history from 1877 to the present and describe their defining characteristics; and

(B) explain the significance of the following years as turning points: 1898 (Spanish-American War), 1914-1918 (World War I), 1929 (the Great Depression begins), 1939-1945 (World War II), 1957 (Sputnik launch ignites U.S.-Soviet space race), 1968 (Martin Luther King Jr. assassination), 1969 (U.S. lands on the moon), 1991 (Cold War ends), 2001 (terrorist attacks on World Trade Center and the Pentagon), and 2008 (election of first black president, Barack Obama).

(3) History. The student understands the political, economic, and social changes in the United States from 1877 to 1898. The student is expected to:

(A) analyze political issues such as Indian policies, the growth of political machines, and civil service reform;

(B) analyze economic issues such as industrialization, the growth of railroads, the growth of labor unions, farm issues, the cattle industry boom, the growth of entrepreneurship, and the pros and cons of big business; and

(C) analyze social issues affecting women, minorities, children, immigrants, and urbanization.

(4) History. The student understands the emergence of the United States as a world power between 1898 and 1920. The student is expected to:

(A) explain why significant events, policies, and individuals, including the Spanish-American War, U.S. expansionism, Alfred Thayer Mahan, Theodore Roosevelt, and Sanford B. Dole moved the United States into the position of a world power;

(B) evaluate American expansionism, including acquisitions such as Guam, Hawaii, the Philippines, and Puerto Rico;

(C) identify the causes of World War I and reasons for U.S. entry;

(D) understand the contributions of the American Expeditionary Forces (AEF) led by General John J. Pershing, including the Battle of Argonne Forest;

(E) analyze the impact of machine guns, airplanes, tanks, poison gas, and trench warfare as significant technological innovations in World War I on the Western Front; and

(F) analyze major issues raised by U.S. involvement in World War I, including isolationism, neutrality, Woodrow Wilson's Fourteen Points, and the Treaty of Versailles.

(5) History. The student understands the effects of reform and third-party movements in the early 20th century. The student is expected to:

(A) analyze the impact of Progressive Era reforms, including initiative, referendum, recall, and the passage of the 16th, 17th, 18th, and 19th amendments;

(B) evaluate the impact of muckrakers and reform leaders such as Upton Sinclair, Susan B. Anthony, Jane Addams, Ida B. Wells, and W. E. B. DuBois on American society; and

(C) analyze the impact of third parties, including the Populist and Progressive parties.

(6) History. The student understands significant events, social issues, and individuals of the 1920s. The student is expected to:

(A) analyze causes and effects of events and social issues such as immigration, Social Darwinism, the Scopes Trial, eugenics, race relations, nativism, the Red Scare, Prohibition, and the changing role of women; and

(B) analyze the impact of significant individuals such as Henry Ford, Marcus Garvey, and Charles A. Lindbergh.

(7) History. The student understands the domestic and international impact of U.S. participation in World War II. The student is expected to:

(A) identify reasons for U.S. involvement in World War II, including the aggression of Italian, German, and Japanese dictatorships, especially the attack on Pearl Harbor;

(B) evaluate the domestic and international leadership of Franklin D. Roosevelt and Harry Truman during World War II, including the U.S. relationship with its allies;

(C) analyze major issues of World War II, including the Holocaust, the internment of Japanese Americans as a result of Executive Order 9066, and the development of atomic weapons;

(D) analyze major military events of World War II, including fighting the war on multiple fronts, the Bataan Death March, the U.S. military advancement through the Pacific Islands, the Battle of Midway, the invasion of Normandy, and the liberation of concentration camps;

(E) describe the military contributions of leaders during World War II, including Dwight Eisenhower, Douglas MacArthur, and Chester W. Nimitz;

(F) explain issues affecting the home front, including volunteerism, the purchase of war bonds, and Victory Gardens and opportunities and obstacles for women and ethnic minorities; and

(G) explain how American patriotism inspired high levels of military enlistment and the bravery and contributions of the Tuskegee Airmen, the Flying Tigers, and the Navajo Code Talkers.

(8) History. The student understands the impact of significant national and international decisions and conflicts in the Cold War on the United States. The student is expected to:

(A) describe U.S. responses to Soviet aggression after World War II, including the Truman Doctrine, the Marshall Plan, the Berlin Airlift, the North Atlantic Treaty Organization, and John F. Kennedy's role in the Cuban Missile Crisis;

(B) describe how Cold War tensions were intensified by the House Un-American Activities Committee (HUAC), McCarthyism, the arms race, and the space race;

(C) explain reasons and outcomes for U.S. involvement in the Korean War and its relationship to the containment policy;

(D) explain reasons and outcomes for U.S. involvement in foreign countries and their relationship to the Domino Theory, including the Vietnam War;

(E) analyze the major events of the Vietnam War, including the escalation of forces, the Tet Offensive, Vietnamization, and the fall of Saigon; and

(F) describe the responses to the Vietnam War, including the draft, the 26th Amendment, the role of the media, the credibility gap, the silent majority, and the anti-war movement.

(9) History. The student understands the impact of the American civil rights movement. The student is expected to:

(A) trace the historical development of the civil rights movement from the late 1800s through the 21st century, including the 13th, 14th, 15th, and 19th amendments;

(B) explain how Jim Crow laws and the Ku Klux Klan created obstacles to civil rights for minorities such as the suppression of voting;

(C) describe the roles of political organizations that promoted African American, Chicano, American Indian, and women's civil rights;

(D) identify the roles of significant leaders who supported various rights movements, including Martin Luther King Jr., Cesar Chavez, Dolores Huerta, Rosa Parks, and Betty Friedan;

(E) compare and contrast the approach taken by the Black Panthers with the nonviolent approach of Martin Luther King Jr.;

(F) discuss the impact of the writings of Martin Luther King Jr., including his "I Have a Dream" speech and "Letter from Birmingham Jail" on the civil rights movement;

(G) describe presidential actions and congressional votes to address minority rights in the United States, including desegregation of the armed forces, the Civil Rights Act of 1964, and the Voting Rights Act of 1965;

(H) explain how George Wallace, Orval Faubus, and the Congressional bloc of southern Democrats sought to maintain the status quo;

(I) evaluate changes in the United States that have resulted from the civil rights movement, including increased participation of minorities in the political process; and

(J) describe how *Sweatt v. Painter* and *Brown v. Board of Education* played a role in protecting the rights of the minority during the civil rights movement.

(10) History. The student understands the impact of political, economic, and social factors in the U.S. from the 1970s through 1990. The student is expected to:

(A) describe Richard M. Nixon's leadership in the normalization of relations with China and the policy of détente;

(B) describe Ronald Reagan's leadership in domestic and international policies, including Reagan's economic policies and Peace Through Strength;

(C) describe U.S. involvement in the Middle East such as support for Israel, the Camp David Accords, the Iran Hostage Crisis, Marines in Lebanon, and the Iran-Contra Affair;

(D) describe the causes and key organizations of the conservative resurgence of the 1980s such as the Heritage Foundation and the Moral Majority; and

(E) describe significant societal issues of this time period such as the War on Drugs and the AIDS epidemic.

(11) History. The student understands the emerging political, economic, and social issues of the United States from the 1990s into the 21st century. The student is expected to:

(A) describe U.S. involvement in world affairs, including the end of the Cold War, the Persian Gulf War, the events surrounding September 11, 2001, and the global War on Terror;

(B) identify significant social and political issues such as health care, immigration, and education from different viewpoints across the political spectrum;

(C) analyze the impact of third parties on the 1992 and 2000 presidential elections; and

(D) identify the impact of international events, multinational corporations, government policies, and individuals on the 21st century economy.

(12) Geography. The student understands the impact of geographic factors on major events. The student is expected to analyze the impact of physical and human geographic factors on the Klondike Gold Rush, the Panama Canal, the Dust Bowl, and the levee failure in New Orleans after Hurricane Katrina.

(13) Geography. The student understands the causes and effects of migration and immigration on American society. The student is expected to:

(A) analyze the causes and effects of changing demographic patterns resulting from migration within the United States, including western expansion, rural to urban, the Great Migration, and the Rust Belt to the Sun Belt; and

(B) analyze the causes and effects of changing demographic patterns resulting from immigration to the United States.

(14) Geography. The student understands the relationship between population growth and the physical environment. The student is expected to:

(A) identify the effects of population growth and distribution on the physical environment; and

(B) identify the roles of governmental entities and private citizens in managing the environment such as the establishment of the National Park System, the Environmental Protection Agency (EPA), and the Endangered Species Act.

(15) Economics. The student understands domestic and foreign issues related to U.S. economic growth from the 1870s to 1920. The student is expected to:

(A) describe how the economic impact of the Transcontinental Railroad and the Homestead Act contributed to the close of the frontier in the late 19th century;

(B) describe the changing relationship between the federal government and private business, including the growth of free enterprise, costs and benefits of laissez-faire, Sherman Antitrust Act, Interstate Commerce Act, and Pure Food and Drug Act;

(C) explain how foreign policies affected economic issues such as the Chinese Exclusion Act of 1882, the Open Door Policy, Dollar Diplomacy, and immigration quotas; and

(D) describe the economic effects of international military conflicts, including the Spanish-American War and World War I, on the United States.

(16) Economics. The student understands significant economic developments between World War I and World War II. The student is expected to:

(A) analyze causes of economic growth and prosperity in the 1920s, including Warren Harding's Return to Normalcy, reduced taxes, and increased production efficiencies;

(B) identify the causes of the Great Depression, including the impact of tariffs on world trade, stock market speculation, bank failures, and the monetary policy of the Federal Reserve System;

(C) analyze the effects of the Great Depression on the U.S. economy and society such as widespread unemployment and deportation and repatriation of people of Mexican heritage;

(D) compare the New Deal policies and its opponents' approaches to resolving the economic effects of the Great Depression; and

(E) describe how various New Deal agencies and programs, including the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Social Security Administration, continue to affect the lives of U.S. citizens.

(17) Economics. The student understands the economic effects of government policies from World War II through the present. The student is expected to:

(A) describe the economic effects of World War II on the home front such as mobilization, the end of the Great Depression, rationing, and increased opportunity for women and minority employment;

(B) identify the causes of prosperity in the 1950s, including the Baby Boom and the impact of the GI Bill (Servicemen's Readjustment Act of 1944), and the effects of prosperity in the 1950s such as increased consumption and the growth of agriculture and business;

(C) describe the economic impact of defense spending on the business cycle and education priorities from 1945 to the 1990s;

(D) identify the actions and outcomes of government policies intended to create economic opportunities for citizens such as the Great Society, affirmative action, and Title IX; and

(E) describe the dynamic relationship between U.S. international trade policies and the U.S. free enterprise system such as the Organization of Petroleum Exporting Countries (OPEC) oil embargo, the General Agreement on Tariffs and Trade (GATT), and the North American Free Trade Agreement (NAFTA).

(18) Government. The student understands changes over time in the role of government. The student is expected to:

(A) evaluate the impact of New Deal legislation on the historical roles of state and federal government;

(B) explain constitutional issues raised by federal government policy changes during times of significant events, including World War I, the Great Depression, World War II, the 1960s, and September 11, 2001;

(C) describe the effects of political scandals, including Teapot Dome, Watergate, and Bill Clinton's impeachment, on the views of U.S. citizens concerning trust in the federal government and its leaders; and

(D) describe the role of contemporary government legislation in the private and public sectors such as the Community Reinvestment Act of 1977, USA PATRIOT Act of 2001, and the American Recovery and Reinvestment Act of 2009.

(19) Government. The student understands the changing relationships among the three branches of the federal government. The student is expected to:

(A) describe the impact of events such as the Gulf of Tonkin Resolution and the War Powers Act on the relationship between the legislative and executive branches of government; and

(B) evaluate the impact of relationships among the legislative, executive, and judicial branches of government, including Franklin D. Roosevelt's attempt to increase the number of U.S. Supreme Court justices and the presidential election of 2000.

(20) Government. The student understands the impact of constitutional issues on American society. The student is expected to:

(A) analyze the effects of landmark U.S. Supreme Court decisions, including *Plessy v. Ferguson*, *Brown v. Board of Education*, *Hernandez v. Texas*, *Tinker v. Des Moines*, and *Wisconsin v. Yoder*; and

(B) explain why landmark constitutional amendments have been proposed and ratified from 1877 to the present.

(21) Citizenship. The student understands the concept of American exceptionalism as identified by Alexis de Tocqueville. The student is expected to:

(A) discuss values crucial to America's success as a constitutional republic, including liberty, egalitarianism, individualism, populism, and laissez-faire; and

(B) describe how American values are different and unique from those of other nations.

(22) Citizenship. The student understands the promises of the Declaration of Independence and the protections of the U.S. Constitution and the Bill of Rights. The student is expected to:

(A) identify and analyze methods of expanding the right to participate in the democratic process, including lobbying, non-violent protesting, litigation, and amendments to the U.S. Constitution;

(B) evaluate various means of achieving equality of political rights, including the 19th, 24th, and 26th amendments and congressional acts such as the American Indian Citizenship Act of 1924;

(C) explain how participation in the democratic process reflects our national identity, patriotism, and civic responsibility; and

(D) summarize the criteria and explain the process for becoming a naturalized citizen of the United States.

(23) Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:

(A) evaluate the contributions of significant political and social leaders in the United States such as Andrew Carnegie, Thurgood Marshall, Billy Graham, Sandra Day O'Connor, and Hillary Clinton; and

(B) explain the importance of Congressional Medal of Honor recipients such as Army First Lieutenant Vernon J. Baker, Army Corporal Alvin York, and Army Master Sergeant Raul "Roy" Perez Benavidez.

(24) Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

(A) describe how the characteristics of and issues in U.S. history have been reflected in various genres of art, music, film, and literature;

(B) describe the impacts of cultural movements in art, music, and literature such as Tin Pan Alley, the Harlem Renaissance, the Beat Generation, rock and roll, the Chicano Mural Movement, and country and western music on American society; and

(C) identify and analyze the global diffusion of American culture through various media.

(25) Culture. The student understands how people from various groups contribute to our national identity. The student is expected to:

(A) explain actions taken by people to expand economic opportunities and political rights for racial, ethnic, gender, and religious groups in American society;

(B) describe the Americanization movement to assimilate immigrants and American Indians into American culture;

(C) explain how the contributions of people of various racial, ethnic, gender, and religious groups shape American culture; and

(D) identify the contributions of women such as Rosa Parks, Eleanor Roosevelt, and Sonia Sotomayor to American society.

(26) Science, technology, and society. The student understands the impact of science, technology, and the free enterprise system on the economic development of the United States. The student is expected to:

(A) explain the effects of scientific discoveries and technological innovations such as electric power, telephone and satellite communications, petroleum-based products, steel production, and computers on the economic development of the United States;

(B) explain how specific needs result in scientific discoveries and technological innovations in agriculture, the military, and medicine; and

(C) describe the effect of technological innovations in the workplace such as assembly line manufacturing and robotics.

(27) Science, technology, and society. The student understands the influence of scientific discoveries, technological innovations, and the free enterprise system on the standard of living in the United States. The student is expected to:

(A) analyze how scientific discoveries, technological innovations, space exploration, and the application of these by the free enterprise system improve the standard of living in the United States, including changes in transportation and communication; and

(B) describe how the free enterprise system drives technological innovation and its application in the marketplace such as cell phones, inexpensive personal computers, and global positioning products.

(28) Social studies skills. The student understands how historians use historiography to interpret the past and applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) analyze primary and secondary sources such as maps, graphs, speeches, political cartoons, and artifacts to acquire information to answer historical questions;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing and contrasting, finding the main idea, summarizing, making generalizations, making predictions, drawing inferences, and drawing conclusions;

(C) apply the process of historical inquiry to research, interpret, and use multiple types of sources of evidence;

(D) evaluate a variety of historical and contemporary sources for validity, credibility, bias, and accuracy;

(E) identify bias and support with historical evidence a point of view on a social studies issue or event; and

(F) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning for an intended audience and purpose.

(29) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) create written, oral, and visual presentations of social studies information using effective communication skills, including proper citations and avoiding plagiarism;

(B) use social studies terminology correctly; and

(C) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(30) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) create a visual representation of historical information such as thematic maps, graphs, and charts; and

(B) pose and answer questions about geographic distributions and patterns shown on maps, graphs, charts, and available databases.

(31) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) explain governmental and democratic processes such as voting, due process, and caucuses using simulations and models; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.42. *World History Studies (One Credit), Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) General requirements. Students shall be awarded one unit of credit for successful completion of this course.

(c) Introduction.

(1) World History Studies is a survey of the history of humankind. Due to the expanse of world history and the time limitations of the school year, the scope of this course should focus on "essential" concepts and skills that can be applied to various eras, events, and people within the standards in subsection (d) of this section. The major emphasis is on the study of significant people, events, and issues from the earliest times to the present. Traditional historical points of reference in world history are identified as students analyze important events and

issues in western civilization as well as in civilizations in other parts of the world. Students evaluate the causes and effects of political and economic imperialism and of major political revolutions since the 17th century. Students examine the impact of geographic factors on major historic events and identify the historic origins of contemporary economic systems. Students analyze the process by which constitutional governments evolved as well as the ideas from historic documents that influenced that process. Students trace the historical development of important legal and political concepts. Students examine the history and impact of major religious and philosophical traditions. Students analyze the connections between major developments in science and technology and the growth of industrial economies, and they use the process of historical inquiry to research, interpret, and use multiple sources of evidence.

(2) The following periodization should serve as the framework for the organization of this course: 8000 BC-500 BC (Development of River Valley Civilizations); 500 BC-AD 600 (Classical Era); 600-1450 (Post-classical Era); 1450-1750 (Connecting Hemispheres); 1750-1914 (Age of Revolutions); and 1914-present (20th Century to the Present). Specific events and processes may transcend these chronological boundaries.

(3) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as state papers, legal documents, charters, constitutions, biographies, autobiographies, speeches, letters, literature, music, art, and architecture is encouraged. Motivating resources are available from museums, art galleries, and historical sites.

(4) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (d) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies.

(5) A greater depth of understanding of complex content material can be attained by integrating social studies content and skills and by analyzing connections between and among historical periods and events. The list of events and people in this course curriculum should not be considered exhaustive. Additional examples can and should be incorporated. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(6) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(7) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation, as referenced in the Texas Education Code (TEC), §28.002(h).

(8) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(9) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school

district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(10) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(d) Knowledge and skills.

(1) History. The student understands traditional historical points of reference in world history. The student is expected to:

(A) identify major causes and describe the major effects of the following events from 8000 BC to 500 BC: the development of agriculture and the development of the river valley civilizations;

(B) identify major causes and describe the major effects of the following events from 500 BC to AD 600: the development of the classical civilizations of Greece, Rome, Persia, India (Maurya and Gupta), China (Zhou, Qin, and Han), and the development of major world religions;

(C) identify major causes and describe the major effects of the following important turning points in world history from 600 to 1450: the spread of major world religions and their impact on Asia, Africa, and Europe and the Mongol invasions and their impact on Europe, China, India, and Southwest Asia;

(D) identify major causes and describe the major effects of the following important turning points in world history from 1450 to 1750: the rise of the Ottoman Empire, the influence of the Ming dynasty on world trade, European exploration and the Columbian Exchange, European expansion, and the Renaissance and the Reformation;

(E) identify major causes and describe the major effects of the following important turning points in world history from 1750 to 1914: the Scientific Revolution, the Industrial Revolution and its impact on the development of modern economic systems, European imperialism, and the Enlightenment's impact on political revolutions; and

(F) identify major causes and describe the major effects of the following important turning points in world history from 1914 to the present: the world wars and their impact on political, economic, and social systems; communist revolutions and their impact on the Cold War; independence movements; and globalization.

(2) History. The student understands how early civilizations developed from 8000 BC to 500 BC. The student is expected to:

(A) summarize the impact of the development of farming (Neolithic Revolution) on the creation of river valley civilizations;

(B) identify the characteristics of civilization; and

(C) explain how major river valley civilizations influenced the development of the classical civilizations.

(3) History. The student understands the contributions and influence of classical civilizations from 500 BC to AD 600 on subsequent civilizations. The student is expected to:

(A) describe the major political, religious/philosophical, and cultural influences of Persia, India, China, Israel, Greece, and Rome;

(B) explain the impact of the fall of Rome on Western Europe; and

(C) compare the factors that led to the collapse of Rome and Han China.

(4) History. The student understands how, after the collapse of classical empires, new political, economic, and social systems evolved and expanded from 600 to 1450. The student is expected to:

(A) explain the development of Roman Catholicism and Eastern Orthodoxy as social and political factors in medieval Europe and the Byzantine Empire;

(B) describe the major characteristics of and the factors contributing to the development of the political/social system of feudalism and the economic system of manorialism;

(C) explain the political, economic, and social impact of Islam on Europe, Asia, and Africa;

(D) describe the interactions among Muslim, Christian, and Jewish societies in Europe, Asia, and North Africa;

(E) describe the interactions between Muslim and Hindu societies in South Asia;

(F) explain how the Crusades, the Black Death, and the Hundred Years' War contributed to the end of medieval Europe;

(G) summarize the major political, economic, and cultural developments in Tang and Song China and their impact on Eastern Asia;

(H) explain the evolution and expansion of the slave trade;

(I) analyze how the Silk Road and the African gold-salt trade facilitated the spread of ideas and trade; and

(J) summarize the changes resulting from the Mongol invasions of Russia, China, and the Islamic world.

(5) History. The student understands the causes, characteristics, and impact of the European Renaissance and the Reformation from 1450 to 1750. The student is expected to:

(A) explain the political, intellectual, artistic, economic, and religious impact of the Renaissance; and

(B) explain the political, intellectual, artistic, economic, and religious impact of the Reformation.

(6) History. The student understands the characteristics and impact of the Maya, Inca, and Aztec civilizations. The student is expected to:

(A) compare the major political, economic, social, and cultural developments of the Maya, Inca, and Aztec civilizations and explain how prior civilizations influenced their development; and

(B) explain how the Inca and Aztec empires were impacted by European exploration/colonization.

(7) History. The student understands the causes and impact of increased global interaction from 1450 to 1750. The student is expected to:

(A) analyze the causes of European expansion from 1450 to 1750;

(B) explain the impact of the Columbian Exchange;

(C) explain the impact of the Atlantic slave trade on West Africa and the Americas;

(D) explain the impact of the Ottoman Empire on Eastern Europe and global trade;

(E) explain Ming China's impact on global trade; and

(F) explain new economic factors and principles of Europe's Commercial Revolution.

(8) History. The student understands the causes and the global impact of the Industrial Revolution and European imperialism from 1750 to 1914. The student is expected to:

(A) explain how the Industrial Revolution led to political, economic, and social changes;

(B) identify the major political, economic, and social motivations that influenced European imperialism;

(C) explain the major characteristics and impact of European imperialism; and

(D) explain the effects of free enterprise in the Industrial Revolution.

(9) History. The student understands the causes and effects of major political revolutions between 1750 and 1914. The student is expected to:

(A) compare the causes, characteristics, and consequences of the American and French revolutions, emphasizing the role of the Enlightenment;

(B) explain the impact of Napoleon Bonaparte and the Napoleonic Wars on Europe and Latin America;

(C) trace the influence of the American and French revolutions on Latin America, including the role of Simón Bolívar; and

(D) identify the influence of ideas such as separation of powers, checks and balances, liberty, equality, democracy, popular sovereignty, human rights, constitutionalism, and nationalism on political revolutions.

(10) History. The student understands the causes and impact of World War I. The student is expected to:

(A) identify the importance of imperialism, nationalism, militarism, and the alliance system in causing World War I;

(B) identify major characteristics of World War I, including total war, trench warfare, modern military technology, and high casualty rates;

(C) explain the political and economic impact of the Treaty of Versailles, including changes in boundaries and the mandate system; and

(D) identify the causes of the February (March) and October (November) revolutions of 1917 in Russia, their effects on the outcome of World War I, and the Bolshevik establishment of the Union of Soviet Socialist Republics.

(11) History. The student understands the causes and impact of the global economic depression immediately following World War I. The student is expected to:

(A) summarize the international, political, and economic causes of the global depression; and

(B) explain the responses of governments to the global depression such as in the United States, Germany, Great Britain, and France.

(12) History. The student understands the causes and impact of World War II. The student is expected to:

(A) describe the emergence and characteristics of totalitarianism;

(B) explain the roles of various world leaders, including Benito Mussolini, Adolf Hitler, Hideki Tojo, Joseph Stalin, Franklin D. Roosevelt, and Winston Churchill, prior to and during World War II; and

(C) explain the major causes and events of World War II, including the German invasions of Poland and the Soviet Union, the Holocaust, the attack on Pearl Harbor, the Normandy landings, and the dropping of the atomic bombs.

(13) History. The student understands the impact of major events associated with the Cold War and independence movements. The student is expected to:

(A) summarize how the outcome of World War II contributed to the development of the Cold War;

(B) summarize the factors that contributed to communism in China, including Mao Zedong's role in its rise;

(C) identify major events of the Cold War, including the Korean War, the Vietnam War, and the arms race;

(D) explain the roles of modern world leaders, including Ronald Reagan, Mikhail Gorbachev, Lech Walesa, and Pope John Paul II, in the collapse of communism in Eastern Europe and the Soviet Union;

(E) summarize the rise of independence movements in Africa, the Middle East, and South Asia and reasons for ongoing conflicts; and

(F) discuss factors contributing to the Arab-Israeli conflict, including the rejection of the existence of the state of Israel by the Arab League and a majority of Arab nations.

(14) History. The student understands the development and use of radical Islamic terrorism in the second half of the 20th century and the early 21st century. The student is expected to:

(A) explain the impact of geopolitical influences on the development of radical Islamic terrorism;

(B) explain the impact of radical Islamic terrorism on global events; and

(C) explain the U.S. response to the events surrounding September 11, 2001, and other acts of radical Islamic terrorism.

(15) Geography. The student understands the impact of geographic factors on major historic events and processes. The student is expected to:

(A) locate places and regions of historical significance directly related to major eras and turning points in world history;

(B) analyze the influence of human and physical geographic factors on major events in world history such as the development of river valley civilizations, trade in the Indian Ocean, and the opening of the Panama and Suez canals; and

(C) interpret maps, charts, and graphs to explain how geography has influenced people and events in the past.

(16) Economics. The student understands the impact of the Neolithic and Industrial revolutions and globalization on humanity. The student is expected to:

(A) identify important changes in human life caused by the Neolithic Revolution;

(B) summarize the role of economics in driving political changes as related to the Industrial Revolution; and

(C) describe the economic impact of globalization.

(17) Economics. The student understands the historical origins of contemporary economic systems and the benefits of free enterprise in world history. The student is expected to:

(A) identify the historical origins and characteristics of the free enterprise system, including the influence of Adam Smith;

(B) identify the historical origins and characteristics of communism, including the influence of Karl Marx;

(C) identify the historical origins and characteristics of socialism;

(D) identify the historical origins and characteristics of fascism; and

(E) explain why communist command economies collapsed in competition with free market economies at the end of the 20th century.

(18) Government. The student understands the characteristics of major political systems throughout history. The student is expected to:

(A) identify the characteristics of monarchies and theocracies as forms of government in early civilizations; and

(B) identify the characteristics of the following political systems: theocracy, absolute monarchy, democracy, republic, oligarchy, limited monarchy, and totalitarianism.

(19) Government. The student understands how contemporary political systems have developed from earlier systems of government. The student is expected to:

(A) explain the development of democratic-republican government from its beginnings in Judeo-Christian legal tradition and classical Greece and Rome through the French Revolution;

(B) identify the impact of political and legal ideas contained in the following documents: Hammurabi's Code, the Jewish Ten Commandments, Justinian's Code of Laws, Magna Carta, the English Bill of Rights, the Declaration of Independence, the U.S. Constitution, and the Declaration of the Rights of Man and of the Citizen;

(C) explain the political philosophies of individuals such as John Locke, Thomas Hobbes, Voltaire, Charles de Montesquieu, Jean Jacques Rousseau, Thomas Aquinas, John Calvin, and William Blackstone; and

(D) explain the significance of the League of Nations and the United Nations.

(20) Citizenship. The student understands the significance of political choices and decisions made by individuals, groups, and nations throughout history. The student is expected to:

(A) describe how people have participated in supporting or changing their governments;

(B) describe the rights and responsibilities of citizens and noncitizens in civic participation throughout history; and

(C) identify examples of key persons who were successful in shifting political thought, including William Wilberforce.

(21) Citizenship. The student understands the historical development of significant legal and political concepts related to the rights and responsibilities of citizenship. The student is expected to:

(A) summarize the development of the rule of law from ancient to modern times;

(B) identify the origins of ideas regarding the right to a "trial by a jury of your peers" and the concepts of "innocent until proven guilty" and "equality before the law" from sources including the Judeo-Christian legal tradition and in Greece and Rome;

(C) identify examples of politically motivated mass murders such as in Cambodia, China, Latin America, and the Soviet Union;

(D) identify examples of genocide, including the Holocaust and genocide in Armenia, the Balkans, Rwanda, and Darfur;

(E) identify examples of individuals who led resistance to political oppression such as Nelson Mandela, Mohandas Gandhi, Las Madres de la Plaza de Mayo, and Chinese student protestors in Tiananmen Square; and

(F) identify examples of American ideals that have advanced human rights and democratic ideas throughout the world.

(22) Culture. The student understands the history and relevance of major religious and philosophical traditions. The student is expected to:

(A) describe the historical origins and central ideas in the development of monotheism;

(B) describe the historical origins, central ideas, and spread of major religious and philosophical traditions, including Buddhism, Christianity, Confucianism, Hinduism, Islam, Judaism, and Sikhism; and

(C) identify examples of religious influence on various events referenced in the major eras of world history.

(23) Culture. The student understands the roles of women, children, and families in different historical cultures. The student is expected to:

(A) describe the changing roles of women, children, and families during major eras of world history; and

(B) describe the major influences of women during major eras of world history such as Elizabeth I, Queen Victoria, Mother Teresa, Indira Gandhi, Margaret Thatcher, and Golda Meir.

(24) Culture. The student understands how the development of ideas has influenced institutions and societies. The student is expected to:

(A) summarize the fundamental ideas and institutions of Eastern civilizations that originated in China and India;

(B) summarize the fundamental ideas and institutions of Western civilizations that originated in Greece and Rome;

(C) explain how the relationship between Christianity and Humanism that began with the Renaissance influenced subsequent political developments; and

(D) explain how geopolitical and religious influences have impacted law and government in the Muslim world.

(25) Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

(A) analyze examples of how art, architecture, literature, music, and drama reflect the history of the cultures in which they are produced; and

(B) describe examples of art, music, and literature that transcend the cultures in which they were created and convey universal themes.

(26) Science, technology, and society. The student understands how major scientific and mathematical discoveries and technological innovations affected societies prior to 1750. The student is expected to:

(A) identify the origin and diffusion of major ideas in mathematics, science, and technology that occurred in river valley civilizations, classical Greece and Rome, classical India, the Islamic caliphates between 700 and 1200, and China from the Tang to Ming dynasties;

(B) summarize the major ideas in astronomy, mathematics, and architectural engineering that developed in the Maya, Inca, and Aztec civilizations;

(C) explain the impact of the printing press on the Renaissance and the Reformation in Europe;

(D) describe the origins of the Scientific Revolution in 16th century Europe and explain its impact on scientific thinking worldwide; and

(E) identify the contributions of significant scientists such as Archimedes, Copernicus, Eratosthenes, Galileo, Pythagoras, Isaac Newton, and Robert Boyle.

(27) Science, technology, and society. The student understands how major scientific and mathematical discoveries and technological innovations have affected societies from 1750 to the present. The student is expected to:

(A) explain the role of textile manufacturing, steam technology, development of the factory system, and transportation technology in the Industrial Revolution;

(B) explain the roles of military technology, transportation technology, communication technology, and medical advancements in initiating and advancing 19th century imperialism;

(C) explain the effects of major new military technologies on World War I, World War II, and the Cold War;

(D) explain the role of telecommunication technology, computer technology, transportation technology, and medical advancements in developing the modern global economy and society; and

(E) identify the contributions of significant scientists and inventors such as Marie Curie, Thomas Edison, Albert Einstein, Louis Pasteur, and James Watt.

(28) Social studies skills. The student understands how historians use historiography to interpret the past and applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) identify methods used by archaeologists, anthropologists, historians, and geographers to analyze evidence;

(B) explain how historians analyze sources for frame of reference, historical context, and point of view to interpret historical events;

(C) analyze primary and secondary sources to determine frame of reference, historical context, and point of view;

(D) evaluate a variety of historical and contemporary sources for validity, credibility, bias, and accuracy;

(E) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, drawing inferences and conclusions, and developing connections between historical events over time; and

(F) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning for an intended audience and purpose.

(29) Social studies skills. The student uses geographic skills and tools to collect, analyze, and interpret data. The student is expected to:

(A) create and interpret thematic maps, graphs, and charts to demonstrate the relationship between geography and the historical development of a region or nation; and

(B) analyze and compare geographic distributions and patterns in world history shown on maps, graphs, charts, and models.

(30) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) use effective written communication skills, including proper citations and avoiding plagiarism;

(C) interpret and create written, oral, and visual presentations of social studies information; and

(D) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(31) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) explain governmental and democratic processes such as voting, due process, and caucuses using simulations and models; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.43. *World Geography Studies (One Credit), Adopted 2022.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) General requirements. Students shall be awarded one unit of credit for successful completion of this course.

(c) Introduction.

(1) In World Geography Studies, students examine people, places, and environments at local, regional, national, and international scales from the spatial and ecological perspectives of geography. Students describe the influence of geography on events of the past and present with emphasis on contemporary issues. A significant portion of the course centers around the physical processes that shape patterns in the physical environment; the characteristics of major landforms, climates, and ecosystems and their interrelationships; the political, economic, and social processes that shape cultural patterns of regions; types and patterns of settlement; the distribution and movement of the world population; relationships among people, places, and environments; and the concept of region. Students analyze how location affects economic activities in different economic systems. Students identify the processes that influence political divisions of the planet and analyze how different points of view affect the development of public policies. Students compare how components of culture shape the characteristics of regions and analyze the impact of technology and human modifications on the physical environment. Students use problem-solving and decision-making skills to ask and answer geographic questions.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as contemporary and historic maps of various types, satellite-produced images, photographs, graphs, map sketches, and diagrams is encouraged.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (d) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(d) Knowledge and skills.

(1) History. The student understands how geography and processes of spatial exchange (diffusion) influenced events in the past and helped to shape the present. The student is expected to:

(A) analyze significant physical features and environmental conditions that have influenced the past and migration patterns and have shaped the distribution of culture groups today; and

(B) trace the spatial diffusion of phenomena such as the Columbian Exchange or the diffusion of American popular culture and describe the effects on regions of contact.

(2) History. The student understands how people, places, and environments have changed over time and the effects of these changes. The student is expected to:

(A) describe the human and physical characteristics of the same regions at different periods of time to analyze relationships between past events and current conditions; and

(B) explain how changes in societies such as population shifts, technological advancements, and environmental policies have led to diverse uses of physical features over time such as terrace farming, dams, and polders.

(3) Geography. The student understands how physical processes shape patterns in the physical environment. The student is expected to:

(A) explain weather conditions and climate in relation to annual changes in Earth-Sun relationships;

(B) describe the physical processes that affect the environments of regions, including weather, tectonic forces, erosion, and soil-building processes; and

(C) describe how physical processes such as hurricanes, El Niño, earthquakes, and volcanoes affect the lithosphere, atmosphere, hydrosphere, and biosphere.

(4) Geography. The student understands the patterns and characteristics of major landforms, climates, and ecosystems of Earth and the interrelated processes that produce them. The student is expected to:

(A) explain how elevation, latitude, wind systems, ocean currents, position on a continent, and mountain barriers influence temperature, precipitation, and distribution of climate regions;

(B) describe different landforms such as plains, mountains, and islands and the physical processes that cause their development; and

(C) explain the influence of climate on the distribution of biomes in different regions.

(5) Geography. The student understands how political, economic, and social processes shape cultural patterns and characteristics in various places and regions. The student is expected to:

(A) analyze how the character of a place is related to its political, economic, social, and cultural elements; and

(B) interpret political, economic, social, and demographic indicators (gross domestic product per capita, life expectancy, literacy, and infant mortality) to determine the level of development and standard of living in nations using the levels as defined by the Human Development Index.

(6) Geography. The student understands the types, patterns, and processes of settlement. The student is expected to:

(A) locate and describe human and physical features that influence the size and distribution of settlements; and

(B) explain the processes that have caused changes in settlement patterns, including urbanization, transportation, access to and availability of resources, and economic activities.

(7) Geography. The student understands the growth, distribution, movement, and characteristics of world population. The student is expected to:

(A) analyze population pyramids and use other data, graphics, and maps to describe the population characteristics of different societies and to predict future population trends;

(B) explain how physical geography and push and pull forces, including political, economic, social, and environmental conditions, affect the routes and flows of human migration;

(C) describe trends in world population growth and distribution; and

(D) analyze how globalization affects connectivity, standard of living, pandemics, and loss of local culture.

(8) Geography. The student understands how people, places, and environments are connected and interdependent. The student is expected to:

(A) compare ways that humans depend on, adapt to, and modify the physical environment, including the influences of culture and technology;

(B) analyze the consequences of extreme weather and other natural disasters such as El Niño, floods, tsunamis, and volcanoes on people and their environment; and

(C) evaluate the economic and political relationships between settlements and the environment, including sustainable development and renewable/non-renewable resources.

(9) Geography. The student understands the concept of region as an area of Earth's surface with related geographic characteristics. The student is expected to:

(A) identify physical and/or human factors such as climate, vegetation, language, trade networks, political units, river systems, and religion that constitute a region; and

(B) describe different types of regions, including formal, functional, and perceptual regions.

(10) Economics. The student understands the distribution, characteristics, and interactions of the economic systems in the world. The student is expected to:

(A) describe the forces that determine the distribution of goods and services in traditional, free enterprise, socialist, and communist economic systems;

(B) classify countries along the economic spectrum between free enterprise and communism;

(C) compare the ways people satisfy their basic needs through the production of goods and services such as subsistence agriculture versus commercial agriculture or cottage industries versus commercial industries; and

(D) compare global trade patterns over time and analyze the implications of globalization, including outsourcing and free trade zones.

(11) Economics. The student understands how geography influences economic activities. The student is expected to:

(A) understand the connections between levels of development and economic activities (primary, secondary, tertiary, and quaternary);

(B) identify the factors affecting the location of different types of economic activities, including subsistence and commercial agriculture, manufacturing, and service industries; and

(C) assess how changes in climate, resources, and infrastructure (technology, transportation, and communication) affect the location and patterns of economic activities.

(12) Economics. The student understands the economic importance of, and issues related to, the location and management of resources. The student is expected to:

(A) analyze how the creation, distribution, and management of key natural resources affects the location and patterns of movement of products, money, and people; and

(B) evaluate the geographic and economic impact of policies related to the development, use, and scarcity of natural resources such as regulations of water.

(13) Government. The student understands the spatial characteristics of a variety of global political units. The student is expected to:

(A) interpret maps to explain the division of land, including man-made and natural borders, into separate political units such as cities, states, or countries; and

(B) compare maps of voting patterns and political boundaries to make inferences about the distribution of political power.

(14) Government. The student understands the processes that influence political divisions, relationships, and policies. The student is expected to:

(A) analyze current events to infer the physical and human processes that lead to the formation of boundaries and other political divisions;

(B) compare how democracy, dictatorship, monarchy, republic, theocracy, and totalitarian systems operate in specific countries; and

(C) analyze the human and physical factors that influence control of territories and resources, conflict/war, and international relations of sovereign nations such as China, the United States, Japan, and Russia and international organizations such as the United Nations (UN) and the European Union (EU).

(15) Citizenship. The student understands how different points of view influence the development of public policies and decision-making processes at national and international levels. The student is expected to:

(A) identify and give examples of different points of view that influence the development of public policies and decision-making processes at national and international levels; and

(B) explain how citizenship practices, public policies, and decision making may be influenced by cultural beliefs, including nationalism and patriotism.

(16) Culture. The student understands how the components of culture affect the way people live and shape the characteristics of regions. The student is expected to:

(A) describe distinctive cultural patterns and landscapes associated with different places in Texas, the United States, and other regions of the world and how these patterns influenced the processes of innovation and diffusion;

(B) describe elements of culture, including language, religion, beliefs, institutions, and technologies; and

(C) describe life in a variety of urban and rural areas in the world to compare political, economic, social, and environmental changes.

(17) Culture. The student understands the distribution, patterns, and characteristics of different cultures. The student is expected to:

(A) describe and compare patterns of culture such as language, religion, land use, education, and customs that make specific regions of the world distinctive;

(B) describe central ideas and spatial distribution of major religious traditions, including Buddhism, Christianity, Hinduism, Islam, Judaism, and Sikhism;

(C) compare economic, political, or social opportunities in different cultures for underrepresented populations such as women and ethnic and religious minorities; and

(D) evaluate the experiences and contributions of diverse groups to multicultural societies.

(18) Culture. The student understands the ways in which cultures change and maintain continuity. The student is expected to:

(A) analyze cultural changes in specific regions caused by migration, war, trade, innovations, and diffusion;

(B) assess causes and effects of conflicts between groups of people, including modern genocides and terrorism;

(C) identify examples of cultures that maintain traditional ways, including traditional economies; and

(D) evaluate the spread of cultural traits to find examples of cultural convergence and divergence such as the spread of democratic ideas, language, foods, technology, or global sports.

(19) Science, technology, and society. The student understands the impact of technology and human modifications on the physical environment. The student is expected to:

(A) evaluate the significance of major technological innovations in the areas of transportation and energy that have been used to modify the physical environment;

(B) analyze ways technological innovations such as air conditioning and desalinization have allowed humans to adapt to places; and

(C) analyze the environmental, economic, and social impacts of advances in technology on agriculture and natural resources.

(20) Science, technology, and society. The student understands how current technology affects human interaction. The student is expected to:

(A) describe the impact of new information technologies such as the Internet, Global Positioning System (GPS), or Geographic Information Systems (GIS); and

(B) examine the economic, environmental, and social effects of technology such as medical advancements or changing trade patterns on societies at different levels of development.

(21) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) analyze and evaluate a variety of sources of geographic information such as primary and secondary sources, aerial photographs, and maps for validity, utility, credibility, bias, and accuracy;

(B) identify places of contemporary geopolitical significance on a map;

(C) create and interpret different types of maps to answer geographic questions, infer relationships, and analyze change;

(D) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, drawing inferences and conclusions, and developing connections over time;

(E) identify different points of view about an issue or current topic; and

(F) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning for an intended audience and purpose.

(22) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) create appropriate graphics such as maps, diagrams, tables, and graphs to communicate geographic features, distributions, and relationships;

(B) generate summaries, generalizations, and thesis statements supported by evidence;

(C) use social studies terminology correctly;

(D) create original work using effective written communication skills, including proper citations and understanding and avoiding plagiarism; and

(E) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(23) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) explain governmental and democratic processes such as voting, due process, and caucuses using simulations and models;

(B) plan, organize, and complete a research project that involves asking geographic questions; acquiring, organizing, and analyzing information; answering questions; and communicating results;

(C) use case studies and GIS to identify contemporary challenges and to answer real-world questions; and

(D) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.44. *United States Government (One-Half Credit)*, Adopted 2022.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2024-2025 school year.

(b) General requirements. Students shall be awarded one-half unit of credit for successful completion of this course.

(c) Introduction.

(1) In *United States Government*, the focus is on the principles and beliefs upon which the United States was founded and on the structure, functions, and powers of government at the national, state, and local levels. This course is the culmination of the civic and governmental content and concepts studied from Kindergarten through required secondary courses. Students learn major political ideas and forms of government in history. A significant focus of the course is on the U.S. Constitution, its underlying principles and ideas, and the form of government it created. Students analyze major concepts of republicanism, federalism, checks and balances, separation of powers, popular sovereignty, and individual rights and compare the U.S. system of government with other political systems. Students identify the role of government in the U.S. free enterprise system and examine the strategic importance of places to the United States. Students analyze the impact of individuals, political parties, interest groups, and the media on the American political system, evaluate the importance of voluntary individual participation in a constitutional republic, and analyze the rights guaranteed by the U.S. Constitution. Students examine the relationship between governmental policies and the culture of the United States. Students identify examples of government policies that encourage scientific research and use critical-thinking skills to create a product on a contemporary government issue.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as the complete text of the U.S. Constitution, selected Federalist Papers, landmark cases of the U.S. Supreme Court (such as those studied in Grade 8 and U.S. History Since 1877), biographies, autobiographies, memoirs, speeches, letters, and periodicals that feature analyses of political issues and events is encouraged.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (d) of this section should be incorporated into the teaching of all essential

knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students discuss how and whether the actions of U.S. citizens and the local, state, and federal governments have achieved the ideals espoused in the founding documents.

(d) Knowledge and skills.

(1) History. The student understands how constitutional government, as developed in America and expressed in the Declaration of Independence, the Articles of Confederation, and the U.S. Constitution, has been influenced by ideas, people, and historical documents. The student is expected to:

(A) explain major political ideas in history, including the laws of nature and nature's God, unalienable rights, divine right of kings, social contract theory, and the rights of resistance to illegitimate government;

(B) identify major intellectual, philosophical, political, and religious traditions that informed the American founding, including Judeo-Christian (especially biblical law), English common law and constitutionalism, Enlightenment, and republicanism, as they address issues of liberty, rights, and responsibilities of individuals;

(C) identify the individuals whose principles of laws and government institutions informed the American founding documents, including those of Moses, William Blackstone, John Locke, and Charles de Montesquieu;

(D) identify the contributions of the political philosophies of the Founding Fathers, including John Adams, Alexander Hamilton, Thomas Jefferson, James Madison, John Jay, George Mason, Roger Sherman, and James Wilson, on the development of the U.S. government;

(E) analyze debates and compromises that impacted the creation of the founding documents; and

(F) identify significant individuals in the field of government and politics, including George Washington, Thomas Jefferson, John Marshall, Andrew Jackson, Abraham Lincoln, Theodore Roosevelt, Franklin D. Roosevelt, and Ronald Reagan.

(2) History. The student understands the roles played by individuals, political parties, interest groups, and the media in the U.S. political system, past and present. The student is expected to:

(A) describe the processes used by individuals, political parties, interest groups, or the media to affect public policy; and

(B) analyze the impact of political changes brought about by individuals, political parties, interest groups, or the media, past and present.

(3) Geography. The student understands how geography can influence U.S. political districts and policies. The student is expected to:

(A) explain how population shifts affect voting patterns;

(B) examine political boundaries to make inferences regarding the distribution of political power; and

(C) explain how political districts are crafted and how they are affected by Supreme Court decisions such as *Baker v. Carr*.

(4) Economics. The student understands the roles played by local, state, and national governments in both the public and private sectors of the U.S. free enterprise system. The student is expected to:

(A) explain how government fiscal, and regulatory policies influence the economy at the local, state, and national levels;

(B) compare the role of government in the U.S. free enterprise system and other economic systems; and

(C) explain how government taxation, expenditures, and regulation can influence the U.S. economy and impact private enterprise.

(5) Economics. The student understands the relationship between U.S. government policies and the economy. The student is expected to:

(A) analyze how economic and natural resources influence U.S. foreign policy; and

(B) describe the roles of the executive and legislative branches in setting international trade and fiscal policies.

(6) Government. The student understands the American beliefs and principles reflected in the U.S. Constitution and why these are significant. The student is expected to:

(A) explain the importance of a written constitution;

(B) explain how the federal government serves the purposes set forth in the Preamble to the U.S. Constitution;

(C) analyze how the Federalist Papers such as Number 10 and Number 51 explain the principles of the American constitutional system of government;

(D) evaluate constitutional provisions for limiting the role of government, including republicanism, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights;

(E) describe the constitutionally prescribed procedures by which the U.S. Constitution can be changed and analyze the role of the amendment process in a constitutional government; and

(F) identify how the Declaration of Independence and the U.S. Constitution continue to shape American beliefs and principles in the United States today.

(7) Government. The student understands the structure and functions of the government created by the U.S. Constitution. The student is expected to:

(A) analyze the structure and functions of the legislative branch of government, including the bicameral structure of Congress, the role of committees, and the procedure for enacting laws;

(B) analyze the structure and functions of the executive branch of government, including the constitutional powers of the president, the growth of presidential power, and the role of the Cabinet and executive departments;

(C) analyze the structure and functions of the judicial branch of government, including the federal court system, types of jurisdiction, and judicial review;

(D) identify the purpose of selected independent executive agencies, including the National Aeronautics and Space Administration (NASA), and regulatory commissions, including the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), Food and Drug Administration (FDA), and Federal Communications Commission (FCC);

(E) explain how provisions of the U.S. Constitution provide for checks and balances among the three branches of government;

(F) analyze selected issues raised by judicial activism and judicial restraint;

(G) explain the major responsibilities of the federal government for domestic and foreign policy such as national defense; and

(H) compare the structures, functions, and processes of national, state, and local governments in the U.S. federal system.

(8) Government. The student understands the concept of federalism. The student is expected to:

(A) explain why the Founding Fathers created a distinctly new form of federalism and adopted a federal system of government instead of a unitary system;

(B) categorize government powers as national, state, or shared;

(C) analyze historical and contemporary conflicts over the respective roles of national and state governments; and

(D) explain how the U.S. Constitution limits the power of national and state governments.

(9) Government. The student understands the processes for filling public offices in the U.S. system of government. The student is expected to:

(A) identify different methods of filling public offices, including elected and appointed offices at the local, state, and national levels;

(B) explain the process of electing the president of the United States and analyze the Electoral College; and

(C) analyze the impact of the passage of the 17th Amendment.

(10) Government. The student understands the role of political parties in the U.S. system of government. The student is expected to:

(A) analyze the functions of political parties and their role in the electoral process at local, state, and national levels; and

(B) explain the two-party system and evaluate the role of third parties in the United States.

(11) Government. The student understands the similarities and differences that exist among the U.S. system of government and other political systems. The student is expected to:

(A) compare the U.S. constitutional republic to historical and contemporary forms of government such as monarchy, a classical republic, authoritarian, socialist, direct democracy, theocracy, tribal, and other republics; and

(B) analyze advantages and disadvantages of presidential and parliamentary systems of government.

(12) Citizenship. The student understands the rights that are protected and secured by the U.S. Constitution and Bill of Rights. The student is expected to:

(A) explain the roles of limited government and the rule of law in the protection of individual rights;

(B) identify and define the unalienable rights;

(C) identify the freedoms and rights protected and secured by each amendment in the Bill of Rights;

(D) analyze the reasons the Founding Fathers protected religious freedom in America and guaranteed its free exercise by saying that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," and compare this to the concept of separation of church and state;

(E) analyze U.S. Supreme Court interpretations of rights guaranteed by the U.S. Constitution in selected cases, including *Engel v. Vitale*, *Schenck v. United States*, *Texas v. Johnson*, *Miranda v. Arizona*, *Gideon v. Wainwright*, *Mapp v. Ohio*, and *Roe v. Wade*;

(F) explain the importance of due process rights to the protection of individual rights and in limiting the powers of government; and

(G) recall the conditions that produced the 14th Amendment and describe subsequent efforts to selectively extend some of the Bill of Rights to the states through U.S. Supreme Court rulings and analyze the impact on the scope of fundamental rights and federalism.

(13) Citizenship. The student understands the difference between personal and civic responsibilities. The student is expected to:

(A) describe scenarios where good citizenship may require the subordination of personal desire for the sake of the public good;

(B) explain the responsibilities, duties, and obligations of citizenship such as being well informed about civic affairs, serving in the military, voting, serving on a jury, observing the laws, paying taxes, and serving the public good; and

(C) describe the voter registration process and the criteria for voting in elections.

(14) Citizenship. The student understands the importance of voluntary individual participation in the U.S. constitutional republic. The student is expected to:

(A) analyze the effectiveness of various methods of participation in the political process at local, state, and national levels;

(B) analyze historical and contemporary examples of citizen movements to bring about political change or to maintain continuity; and

(C) describe the factors that influence an individual's political attitudes and actions.

(15) Citizenship. The student understands the importance of the expression of different points of view in a constitutional republic. The student is expected to:

(A) analyze different points of view of political parties and interest groups such as the League of United Latin American Citizens (LULAC), the National Rifle Association (NRA), and the National Association for the Advancement of Colored People (NAACP) on important contemporary issues; and

(B) analyze the importance of the First Amendment rights of petition, assembly, speech, and press and the Second Amendment right to keep and bear arms.

(16) Culture. The student understands the relationship between government policies and the culture of the United States. The student is expected to:

(A) evaluate a U.S. government policy or court decision that has affected a particular racial, ethnic, or religious group, including the Civil Rights Act of 1964 and the U.S. Supreme Court cases of *Hernandez v. Texas* and *Grutter v. Bollinger*; and

(B) explain changes in American culture brought about by government policies such as voting rights, the Servicemen's Readjustment Act of 1944 (GI Bill of Rights), the Immigration and Nationality Act of 1965, the Immigration Reform and Control Act of 1986, affirmative action, and racial integration.

(17) Science, technology, and society. The student understands the role the government plays in developing policies and establishing conditions that influence scientific discoveries and technological innovations. The student is expected to:

(A) explain how U.S. constitutional protections such as patents have fostered competition and entrepreneurship; and

(B) identify examples of government-assisted research that, when shared with the private sector, have resulted in improved consumer products such as computer and communication technologies.

(18) Science, technology, and society. The student understands the impact of advances in science and technology on government. The student is expected to:

(A) describe the potential impact of recent scientific discoveries and technological innovations on government policy; and

(B) evaluate the impact of the Internet and other electronic information on the political process.

(19) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(B) create a product on a contemporary government issue or topic using critical methods of inquiry;

(C) analyze and defend a point of view on a current political issue;

(D) analyze and evaluate a variety of historical and contemporary sources for validity of information, arguments, counterarguments, credibility, accuracy, bias, propaganda, point of view, and frame of reference;

(E) evaluate government data using charts, tables, graphs, and maps; and

(F) formulate and communicate visually, orally, or in writing a claim supported by evidence and reasoning for an intended audience and purpose.

(20) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) create written, oral, and visual presentations of social studies information using effective communication skills, including proper citations and avoiding plagiarism; and

(C) apply foundational language skills to engage in civil discourse about social studies topics, including those with multiple perspectives.

(21) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to:

(A) explain governmental and democratic processes such as voting, due process, and caucuses using simulations and models; and

(B) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

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

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

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TITLE 22. EXAMINING BOARDS

**PART 8. TEXAS APPRAISER
LICENSING AND CERTIFICATION
BOARD**

**CHAPTER 153. RULES RELATING TO
PROVISIONS OF THE TEXAS APPRAISER
LICENSING AND CERTIFICATION ACT**

22 TAC §153.24

The Texas Appraiser Licensing and Certification Board (TALCB) adopts repeal 22 TAC §153.24, Complaint Processing. The repeal is adopted without changes to the proposed text as published in the December 16, 2022, issue of the *Texas Register* (47 TexReg 8207). The repeal will not be republished.

The repeal of §153.24, Complaint Processing is the subdivision of the rule into two separate rules. New rule §153.241, Sanctions Guidelines was formerly subsection (o) of §153.24, Complaint Processing that outlined the Boards sanctions guidelines and factors taken into consideration for case disposition. Both rules are amended for renumbering and to reflect corresponding references to sections within the rule. However, the creation of the two rules amount to no substantive changes from the former §153.24.

No comments were received on the repeal as published.

The repeal is adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300550
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: February 26, 2023
Proposal publication date: December 16, 2022
For further information, please call: (512) 936-3652

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22 TAC §153.24, §153.241

The Texas Appraiser Licensing and Certification Board (TALCB) adopts new rules 22 TAC §153.24, Complaint Processing and §153.241, Sanctions Guidelines.

The new rules are adopted without changes to the proposed text as published in the December 16, 2022 issue of the *Texas Register* (47 TexReg 8207). These rules will not be republished.

The two new rules consist of the subdivision of the former §153.24 Complaint Processing into two separate rules. Section 153.241 Sanctions Guidelines was formerly subsection (o) of §153.24 Complaint Processing that outlined the Boards sanctions guidelines and factors taken into consideration for case disposition. Both rules are amended for renumbering and to reflect corresponding references to sections within the rule. However, the creation of the two rules amount to no substantive changes from the former §153.24.

The Board received one comment, but it did not address the proposed rules.

The new rules are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct.

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

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TRD-202300549
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
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Proposal publication date: December 16, 2022
For further information, please call: (512) 936-3652

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**PART 16. TEXAS BOARD OF
PHYSICAL THERAPY EXAMINERS**

CHAPTER 322. PRACTICE

22 TAC §322.4

The Texas Board of Physical Therapy Examiners adopts an amendment to 22 Texas Administrative Code (TAC) §322.4, Practicing in a Manner Detrimental to the Public Health and Welfare relating to detrimental practice actions.

The amendment is adopted in order to add failing to respond to agency correspondence and failing to complete the requirements of an agreed order to the list of actions considered detrimental practice.

The amendment is adopted without changes to the proposed text as published in the December 9, 2022, issue of the *Texas Register* (47 TexReg 8085). The rule will not be republished.

No public comment was received.

Statutory Authority: the amendment is adopted under Texas Occupation Code §453.102, which authorizes the board to adopt rules necessary to implement chapter 453.

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

Filed with the Office of the Secretary of State on January 30, 2023.

TRD-202300382

Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: March 1, 2023

Proposal publication date: December 9, 2022

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



CHAPTER 337. DISPLAY OF LICENSE

22 TAC §337.2

The Texas Board of Physical Therapy Examiners adopts an amendment to 22 Texas Administrative Code (TAC) §337.2, Consumer Information Sign relating to the board's contact information and the availability of a consumer information sign on the board's website.

The amendment is adopted as the board's change of address necessitates amending the current language.

The amendment is adopted without changes to the proposed text as published in the September 9, 2022, issue of the *Texas Register* (47 TexReg 5422). The rule will not be republished.

No public comment was received.

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

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

Filed with the Office of the Secretary of State on January 30, 2023.

TRD-202300381

Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: March 1, 2023

Proposal publication date: September 9, 2022

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 117. END STAGE RENAL DISEASE FACILITIES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §117.41, concerning Governing Body, §117.45, concerning Provision and Coordination of Treatment and Services, and §117.91, concerning Fire Prevention, Protection, and Emergency Contingency Plan.

The amendments to §§117.41, 117.45, and 117.91 are adopted without changes to the proposed text as published in the October 14, 2022, issue of the *Texas Register* (47 TexReg 6798). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to implement Senate Bill (S.B.) 1876, 87th Legislature, Regular Session, 2021, which, in part, added Texas Health and Safety Code (HSC) §251.016 and §251.017. S.B. 1876 requires an end stage renal disease (ESRD) facility to adopt a written emergency preparedness and contingency operations plan to address the provision of care during an emergency and an emergency contingency plan for the continuity of essential building systems during an emergency.

The amendments are also necessary to correct outdated information, improve readability, and update language to reflect the transition of regulatory authority from the Texas Department of State Health Services to HHSC.

COMMENTS

The 31-day comment period ended November 14, 2022. During this period, HHSC received comments regarding the proposed rules from eight commenters: DaVita, Fresenius Medical Care, Teaching Hospitals of Texas, Texas Hospital Association, Texas Kidney Foundation, U.S. Renal Care, and two individuals. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Texas Hospital Association, Texas Kidney Foundation, and Teaching Hospitals of Texas expressed support for the proposed rule amendments.

Response: HHSC appreciates support of the rules.

Comment: An individual commenter stated they support making telemedicine opportunities permanently available for patients with kidney disease and recommended insurance and reimbursement support telemedicine.

Response: HHSC declines to revise the rule draft in response to this comment because the revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: Fresenius Medical Care stated they have no concerns with the proposed rules but noted Sections 3 and 4 of S.B. 1876 are not reflected in the Texas Administrative Code.

Response: HHSC declines to revise the rules in response to this comment because Sections 3 and 4 of S.B. 1876 pertain to the Utilities Code and Water Code respectively and are not within HHSC's statutory authority.

Comment: U.S. Renal Care asked whether Section 2 of S.B. 1876 is addressed in the proposed rule or in another set of rules.

Response: HHSC notes Section 2 of S.B. 1876 is reflected in rules adopted for the Texas Department of State Health

Services, found in the Texas Administrative Code, Title 25 §157.11(c)(7)(N), effective September 13, 2022, as indicated in the *Texas Register* at volume 47, page 5484, to comply with HSC §773.112(d).

Comment: Texas Kidney Foundation recommended HHSC institute in-person inspections to verify an ESRD facility's compliance with required emergency contingency measures every 18 months, as well as penalties and fees, as part of the compliance and enforcement process for ESRD emergency planning regulations due to patient safety concerns.

Response: HHSC declines to revise the rules in response to this comment because the suggested revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: Texas Kidney Foundation recommended adding regional and state plans to address water supply shortages within 72 hours by utilizing governmental resources such as the National Guard.

Response: HHSC declines to revise the rules in response to this comment because §117.45 aligns with HSC §251.017, and the recommended revisions are outside the scope of the statute.

Comment: Texas Kidney Foundation recommended HHSC amend §117.41 to require an ESRD facility's governing body provide written documentation and be interviewed to ensure the facility's compliance with the requirements in Subchapter D of this chapter. Texas Kidney Foundation also suggested establishing a fiduciary responsibility for all members of an ESRD governing body.

Response: HHSC declines to revise §117.41 in response to this comment because the revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: Texas Kidney Foundation recommended the State of Texas proactively set up a system to direct electricity to the exact addresses of dialysis facilities and home dialyzers in case of an emergency.

Response: HHSC declines to revise the rules in response to this comment because HHSC does not have the statutory authority to consider this suggestion.

Comment: An individual commenter suggested revising the in-person physician appointment requirement at §117.45(i)(2)(C) and §117.45(j)(9)(B) to allow a provider to conduct additional appointments by telehealth for a patient who is compliant and stable. The commenter noted technology should be used to a patient's advantage and the Centers for Medicare and Medicaid Services supports use of telemedicine for these appointments.

Response: HHSC declines to revise §117.45(i)(2)(C) and §117.45(j)(9)(B) in response to this comment because the suggested revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule. HHSC notes §117.45(i)(2)(C) and §117.45(j)(9)(B) do not prohibit a provider from conducting telehealth visits in addition to the minimum required in-person visits, at the discretion of the physician.

Comment: DaVita recommended revising §117.45(j)(3), which requires a facility to assign each home dialysis patient one machine for the patient's exclusive use in the home, to allow one machine to be used to treat more than one patient when a patient's home is in a skilled nursing facility.

Response: HHSC declines to revise §117.45(j)(3) in response to this comment as the suggested revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: An individual commenter, citing staffing shortage concerns and patients on wait lists for home modalities, suggested revising the nurse clinical and specific modality experience requirements at §117.45(j)(5)(A) to allow nurses to train for both in-facility and home dialysis modalities concurrently, when the nurse has one to two years' nursing experience.

Response: HHSC declines to revise §117.45(j)(5)(A) in response to this comment because the suggested revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: DaVita stated the Association for the Advancement of Medical Instrumentation (AAMI) reference in §117.45(j)(10)(C) does not reflect the current AAMI standard and recommended revising the subparagraph to require water and dialysate system testing in accordance with the manufacturer's recommendations and the FDA approved labeling for an integrated dialysis system.

Response: HHSC declines to revise §117.45(j)(10)(C) in response to this comment because the suggested revision is beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: DaVita stated the standards listed in §117.45(j)(10)(D) do not reflect current AAMI guidance and recommended HHSC update the maximum results for bacteriological and endotoxin water testing from 200 CFU/ml to 100 CFU/ml and the maximum endotoxin concentration from 2 EU/ml to 1 EU/ml in accordance with current AAMI guidance.

Response: HHSC declines to revise §117.45(j)(10)(D) in response to this comment as the suggested revisions are beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: DaVita stated the standards listed in §117.45(j)(18)(B)(ii) do not reflect the current AAMI standard and recommended HHSC update these provisions in accordance with the most recent AAMI 23500 standards.

Response: HHSC declines to revise §117.45(j)(18)(B)(ii) in response to this comment as the suggested revisions are beyond the scope of this project but will consider the recommendations during future revisions to this rule.

Comment: DaVita expressed concern with requiring a Type 2 essential electric distribution system under §117.91(h)(2) and stated the Type 2 requirements makes it impractical to retrofit a facility with a generator, there is no need to separate power between emergency and non-emergency, and if HHSC retains this requirement, portable generators will be the only option for existing facilities.

Response: HHSC declines to revise §117.91(h)(2) in response to this comment because the rule aligns with HSC §251.017(b)(1)(A).

Comment: DaVita expressed concerns with requiring a facility to maintain enough water on-site to operate the water treatment system for at least 24 hours under §117.91(h)(2)(D) and stated doing so is impractical because the storage capacity needed for the required quantity of water would occupy too much space. DaVita recommended revising the subparagraph to require a facility to contract with a vendor to provide the necessary quantity

of potable source water for continuous operations and stated a vendor will bring enough water multiple times a day to operate the facility without interruption.

Response: HHSC declines to revise §117.91(h)(2)(D) in response to this comment because §117.91(h)(2)(D) aligns with HSC §251.017(b)(3).

SUBCHAPTER D. MINIMUM STANDARDS FOR PATIENT CARE AND TREATMENT

25 TAC §117.41, §117.45

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, HSC §251.003, which authorizes the Executive Commissioner of HHSC to adopt rules governing ESRD facilities, and HSC §251.014, which requires these rules to include minimum standards to protect the health and safety of a patient of an ESRD facility.

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

Filed with the Office of the Secretary of State on February 1, 2023.

TRD-202300479

Karen Ray

Chief Counsel

Department of State Health Services

Effective date: February 21, 2023

Proposal publication date: October 14, 2022

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



SUBCHAPTER G. FIRE PREVENTION AND SAFETY REQUIREMENTS

25 TAC §117.91

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, HSC §251.003, which authorizes the Executive Commissioner of HHSC to adopt rules governing ESRD facilities, and HSC §251.014, which requires these rules to include minimum standards to protect the health and safety of a patient of an ESRD facility.

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

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TRD-202300480

Karen Ray

Chief Counsel

Department of State Health Services

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Proposal publication date: October 14, 2022

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CHAPTER 133. HOSPITAL LICENSING

SUBCHAPTER C. OPERATIONAL REQUIREMENTS

25 TAC §133.53

The Texas Health and Human Services Commission (HHSC) adopts new §133.53, concerning Hospital Price Transparency Reporting and Enforcement.

New §133.53 is adopted without changes to the proposed text as published in the December 2, 2022, issue of the *Texas Register* (47 TexReg 8026). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The new section is necessary to implement Senate Bill (S.B.) 1137, 87th Legislature, Regular Session, 2021, which added Health and Safety Code (HSC) Chapter 327, requiring hospitals licensed under HSC Chapter 241 to disclose price information and maintain and make publicly available a list of standard charges for certain hospital items and services, including by publishing the list, or a link to the list, in a prominent location on the home page of the hospital's website. The new rule also implements HHSC's authority under S.B. 1137 to impose an administrative penalty on a hospital that violates HSC Chapter 327.

COMMENTS

The 31-day comment period ended January 2, 2023. During this period, HHSC received comments regarding the proposed rule from 534 commenters: Texas Hospital Association (THA), Hospital Corporation of America (HCA) Healthcare, and 532 individuals. A summary of comments relating to the rule and HHSC's responses follows.

Comment: All 532 individual commenters expressed support for the proposed rule.

Response: HHSC acknowledges these comments.

Comment: THA stated they appreciated HHSC's clear and concise rulemaking but noted they have concerns about the proposed rule at §133.53. THA stated hospitals have made efforts to comply with the price transparency requirements under HSC Chapter 327 and noted HHSC has a difficult task enforcing these requirements. THA requested additional guidance, such as a model or template showing clear methods of compliance and a static tool for hospitals to assess their own compliance with price transparency requirements.

Response: HHSC acknowledges this comment and notes that HHSC provides guidance regarding S.B. 1137 compliance on the HHSC website.

Comment: HCA Healthcare stated it appreciated HHSC's work on the proposed rule but has concerns regarding the penalty structure, specifically regarding the cumulative administrative penalties and potential for license revocation.

Response: HHSC acknowledges this comment. Responses to HCA Healthcare's specific concerns regarding the administrative penalty structure are addressed below.

Comment: THA and HCA Healthcare expressed concern with locating the new §133.53 under Texas Administrative Code Title 25 (25 TAC) Chapter 133, which implies HHSC may revoke a hospital's license in accordance with §133.121(1)(B) if the hospital fails to comply with §133.53 and stated this is not S.B. 1137's intent. THA and HCA Healthcare recommended HHSC revise the rule to clarify that the administrative monetary penalty is the sole administrative penalty for violating HSC Chapter 327 and §133.53. As an alternate option, THA suggested HHSC relocate the proposed rule to a general Texas Administrative Code chapter not related to hospital licensing and adjust the language to align with S.B. 1137.

Response: HHSC declines to revise the rule in response to these comments because Chapter 133, as described by §133.1(a) - (b), regulates general and special hospitals. HHSC may take enforcement actions in accordance with §133.121 against any hospital that fails to comply with any provision of the chapter.

Comment: THA expressed a preference for allowing hospitals to submit changes to their list of standard charges or shoppable services, under §133.53(d), to HHSC once per year instead of requiring a hospital to submit an updated list to HHSC each time a hospital edits their lists. THA noted requiring hospitals to submit their updated lists to HHSC annually should not overwhelm HHSC or Texas hospitals.

Response: HHSC declines to revise the rule in response to this comment because §133.53(d) aligns with HSC §327.005, which requires a hospital to submit an updated list to HHSC each time a hospital updates one of the lists required under HSC §327.003(h) and §327.004(e).

Comment: THA urged HHSC to revise §133.53 to include the corrective action plan process, to provide a common understanding of the process and ensure the process appropriately addresses stakeholder feedback. THA noted a hospital may have difficulty responding meaningfully and thoroughly to a request to modify a corrective action plan within 30 days due to the complexity of some of the requirements and issues raised.

Response: HHSC declines to revise the rule in response to this comment because the rule aligns with HSC §327.007, and the corrective action plan timeline and process is part of the standard due process all hospitals receive during any enforcement proceeding.

Comment: THA and HCA Healthcare expressed concern with the cumulative administrative penalties in §133.53 and stated the rule does not align with the penalty structure set forth by HSC §327.008. THA and HCA Healthcare stated the cumulative penalties outlined in §133.53 exceed the per-day maximum penalty listed in HSC §327.008, and §133.53(h) exceeds HHSC's statutory authority. THA further stated the penalty structure in §133.53 conflicts with past interpretations of statutory administrative penalties and recommended HHSC revise §133.53 to align with HSC §327.008. HCA Healthcare further stated they oppose §133.53(h)(2), and THA recommended HHSC remove §133.53(h)(2) and Figure: 25 TAC §133.53(h)(2) from the proposed rule.

Response: HHSC declines to revise the rule in response to these comments because the rule is in alignment with statute and the

suggested revisions do not align with the legislative intent of the statute as added by S.B. 1137.

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, HSC §241.026, which requires HHSC to develop, establish, and enforce standards for the construction, maintenance, and operation of licensed hospitals; and HSC Chapter 327, which requires HHSC to monitor and enforce compliance with the hospital price disclosure requirements of that chapter.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300548

Cynthia Hernandez

General Counsel

Department of State Health Services

Effective date: February 26, 2023

Proposal publication date: December 2, 2022

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

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 260. DEAF BLIND WITH MULTIPLE DISABILITIES (DBMD) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) SERVICES

The Texas Health and Human Services Commission (HHSC) adopts in the Texas Administrative Code (TAC), Title 26, Part 1, new Chapter 260, Deaf Blind with Multiple Disabilities, Subchapters A - H, composed of §§260.5, 260.7, 260.9, 260.51, 260.53, 260.55, 260.57, 260.59, 260.61, 260.63, 260.65, 260.67, 260.69, 260.71, 260.73, 260.75, 260.77, 260.79, 260.81, 260.83, 260.85, 260.87, 260.89, 260.101, 260.103, 260.105, 260.107, 260.109, 260.111, 260.113, 260.151, 260.201, 260.203, 260.205, 260.207, 260.209, 260.211, 260.213, 260.215, 260.217, 260.219, 260.221, 260.223, 260.251, 260.253, 260.255, 260.257, 260.259, 260.261, 260.263, 260.265, 260.267, 260.269, 260.271, 260.301, 260.303, 260.305, 260.307, 260.309, 260.311, 260.313, 260.315, 260.317, 260.319, 260.321, 260.323, 260.325, 260.327, 260.329, 260.331, 260.333, 260.335, 260.337, 260.339, 260.341, 260.343, 260.345, 260.347, 260.349, 260.351, 260.353, 260.355, 260.357, 260.359, 260.401, 260.403, and 260.451.

Sections 260.5, 260.59, 260.61, 260.67, 260.207, 260.351, 260.401, and 260.403 are adopted with changes to the proposed text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5567). These rules will be republished.

Sections 260.7, 260.9, 260.51, 260.53, 260.55, 260.57, 260.63, 260.65, 260.69, 260.71, 260.73, 260.75, 260.77, 260.79, 260.81, 260.83, 260.85, 260.87, 260.89, 260.101, 260.103, 260.105, 260.107, 260.109, 260.111, 260.113, 260.151, 260.201, 260.203, 260.205, 260.209, 260.211, 260.213, 260.215, 260.217, 260.219, 260.221, 260.223, 260.251, 260.253, 260.255, 260.257, 260.259, 260.261, 260.263, 260.265, 260.267, 260.269, 260.271, 260.301, 260.303, 260.305, 260.307, 260.309, 260.311, 260.313, 260.315, 260.317, 260.319, 260.321, 260.323, 260.325, 260.327, 260.329, 260.331, 260.333, 260.335, 260.337, 260.339, 260.341, 260.343, 260.345, 260.347, 260.349, 260.353, 260.355, 260.357, 260.359, and 260.451 are adopted without changes to the proposed text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5567). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The Deaf Blind with Multiple Disabilities (DBMD) Program is a Medicaid waiver program approved by the Centers for Medicare & Medicaid Services (CMS) under §1915(c) of the Social Security Act. This waiver program provides community-based services and supports to eligible individuals as an alternative to services provided in an institutional setting. In the DBMD Program, an individual chooses a program provider who delivers both case management and direct services.

The adopted rules move the DBMD Program rules from Texas Administrative Code (TAC), Title 40 (40 TAC), Chapter 42, to TAC, Title 26 (26 TAC), Chapter 260. The repeal of 40 TAC, Chapter 42, is adopted elsewhere in this issue of the *Texas Register*.

The adopted rules are necessary to comply with Title 42, Code of Federal Regulations (CFR), Chapter IV, Subchapter C, Part 441, Subpart G, §441.301(c)(1) - (5). In 2014, CMS amended this regulation to establish new requirements for Home and Community-based Services (HCBS) Medicaid programs, including requirements for HCBS program settings and person-centered planning. CMS has given states until March 2023 to fully comply with the requirements in § 441.301(c)(1) - (5). The adopted rules ensure compliance with the requirements in 42 CFR, Part 441, Chapter IV, Subchapter C, Subpart K, §441.530, regarding Home and Community-Based Setting, and §441.540 regarding Person-centered service plan for Community First Choice (CFC) services because CFC services are available to clients enrolled in the DBMD Program.

The adopted rules require program providers to submit a translation of non-English documentation submitted to HHSC to ensure that HHSC's reviews of documentation are efficient.

The adopted rules provide that HHSC may allow program providers to use one or more of the exceptions specified in the rule while an executive order or proclamation declaring a state of disaster under Texas Government Code §418.014 is in effect. This provision helps to ensure that providers operate and provide services effectively during a disaster.

COMMENTS

The 31-day comment period ended October 17, 2022.

During this period, HHSC received comments regarding the proposed rules from 29 commenters, including LTO Ventures, Deaf-Blind Multihandicapped Association of Texas (DBMAT), Texas Association for Home Care and Hospice, Texas Parent to Parent, and three individuals.

A summary of comments relating to the proposed rules and HHSC's responses follow.

Comment: One commenter requested that proposed §260.57(b) be revised to further define the qualifications of the individual assigned to lead the person-centered planning process, such as including whether the individual is an employee of the agency.

Response: Proposed §260.57(b) requires a program provider to ensure the person-centered planning process is led by an individual. An "individual," as defined in proposed §260.5, is a person seeking to enroll or who is enrolled in the DBMD Program and is not a person employed by the agency. HHSC revised §260.57(b) and (d)(1) to use "the individual" instead of "an individual" for clarity.

Comment: A commenter requested that proposed §260.57(d)(3) regarding "time and location convenient to the individual and the LAR" be revised to protect all parties should the individual choose a time and location that is not appropriate.

Response: HHSC is unclear what the commenter means by "not appropriate." Proposed §260.57(d)(3) is based on 42 CFR §441.301(c)(1)(iii). HHSC declines to make the changes in response to the comment because revising §260.57(d)(3) would require additional information and analysis to ensure continued compliance with 42 CFR §441.301(c)(1)(iii).

Comment: Several commenters requested that proposed §260.59(a)(2)(D) be revised to require that a home and community-based setting allow individuals to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS, that a setting be selected by the individual among setting options as defined and documented in the person-centered service plan, and that a setting facilitate individual choice regarding services and supports and service providers.

Response: HHSC agrees with the requested changes and revised proposed §260.59(a) to comply with 42 CFR §441.301(c)(4)(i) - (v). The revisions include specifying that subsection (a) describes the qualities of a "home and community-based setting." HHSC also revised §260.59(a) to use the term "home and community-based setting." HHSC changed the title of §260.59 from "Requirements for Service Settings" to "Requirements for Home and Community-Based Settings" so that the section title more accurately reflects the contents of the section. Because of the change made in the title of §260.59, HHSC changed the title of Division 2, in Subchapter B, from "ENROLLMENT PROCESS, PERSON-CENTERED PLANNING, AND REQUIREMENTS FOR SERVICE SETTINGS" to "ENROLLMENT PROCESS, PERSON-CENTERED PLANNING, AND REQUIREMENTS FOR HOME AND COMMUNITY-BASED SETTINGS."

Comment: A commenter asked how providers will be required to show proof of the oral explanation required in proposed §260.61.

Response: Currently, a program provider may demonstrate the provision of the required oral explanation by documenting that the oral explanation was provided. HHSC did not make changes in response to this comment. HHSC will update the DBMD Program Manual to clarify that the case manager must document in the service plan that an oral explanation was provided.

Comment: Multiple commenters requested that HHSC reconsider the requirement in proposed §260.61(l)(1)(P) to submit a letter of denial from private insurance as proof of private insur-

ance being exhausted to receive behavioral support services through the DBMD Waiver.

Response: HHSC agrees with the commenters and revised proposed §260.61(l)(1)(P) to require a case manager to submit to HHSC, "if a non-waiver resource is identified on the HHSC Non-Waiver Services form, documentation to demonstrate that a service comparable to a DBMD Program service available from the non-waiver resource has been exhausted; or documentation to explain why a service comparable to a DBMD Program service offered by the non-waiver resource is not provided to the individual by the non-waiver resource."

Comment: One commenter requested that HHSC revise proposed §260.77(b) to allow the annual review by the service planning team to begin 135 days instead of 90 days before the end of the individual's individual plan of care (IPC) period to help ensure that HHSC Utilization Review completes its review of renewal IPCs thereby preventing individuals from losing attendants or supported employment workers.

Response: HHSC declines to make changes in response to this comment. Allowing a service planning team to begin annual review activities 135 days before the end of the individual's IPC may result in the renewal IPC being based on outdated information. In addition, proposed §260.77(g) requires that, if an individual's IPC period expires before HHSC approves a renewal IPC, a program provider must continue to provide services to the individual until HHSC approves the renewal IPC to ensure continuity of care and prevent the individual's health and welfare from being jeopardized.

Comment: Several commenters requested that HHSC revise some of the requirements related to electronic visit verification.

Response: HHSC declines to make changes in response to this comment. Proposed §260.151 requires program providers to comply with 1 TAC Chapter 354, Subchapter O, Electronic Visit Verification. However, the specific electronic visit verification requirements are not included in the proposed rules and, therefore, the requested changes are outside the scope of this project.

Comment: Two commenters asked when the person-centered planning training, as required by proposed §260.205(i), will be made available by HHSC and if it will be available online with no associated cost to the provider.

Response: An online comprehensive non-introductory person-centered service planning training, as described in §260.205(i), is currently available at <https://www.hhs.texas.gov/services/disability/person-centered-planning/person-centered-planning-waiver-program-providers/person-centered-practices-training-providers>. HHSC did not make changes in response to this comment.

Comment: One commenter requested that HHSC revise proposed §260.207 to allow a case manager, for a month in which they don't meet with an individual or legally authorized representative (LAR) as required by proposed §260.77(a), to have in person or telephone "or videoconferencing contact with the individual, LAR, primary caregiver, or actively involved person to provide case management."

Response: HHSC agrees with the commenter and revised proposed §260.207(a)(3) to allow a case manager, for a month in which they don't meet with an individual or LAR as required by proposed §260.77(a), to have contact with the individual, LAR, primary caregiver, or actively involved person in person,

"by videoconferencing," or by telephone to provide case management.

Comment: One commenter expressed concerns that proposed §260.211, Quality Assurance, is new and is requiring DBMD program providers to audit their own charts to ensure they are meeting timelines. The commenter asked about the expectations for documentation and how often HHSC expects audits to be conducted.

Response: The requirements in proposed §260.211 are not new and are currently in 40 TAC §42.406. HHSC is unclear about the commenter's reference to audits because proposed §260.211 is about annual satisfaction surveys and the review of all final investigative reports and critical incident data. HHSC did not make changes in response to this comment.

Comment: One commenter requested that HHSC revise proposed §260.221, Requirements Related to the Reporting of Abuse Neglect, and Exploitation of an Individual to provide more details on how a program provider could ensure the safety of an individual during an investigation of abuse, neglect, or exploitation, including how a program provider could ensure the alleged perpetrator does not have contact with the individual, especially if the alleged perpetrator is the LAR.

Response: HHSC declines to make changes in response to the comment because the actions a program provider may need to take to ensure the safety of an individual during an investigation could vary depending on the situation.

Comment: A commenter suggested that the requirement for a program provider to translate non-English documentation to English in proposed §260.223 is not feasible. The commenter stated that many providers do not have extra funds for non-essential processes due to the staffing shortages. The commenter requested that alternative methods be discussed with stakeholders prior to implementation and a workgroup be created to create a method for implementation.

Response: Proposed §260.223 requires a program provider to provide HHSC a translation of information in English to help ensure that HHSC staff can perform utilization review functions timely and efficiently. HHSC believes that it is the program provider's responsibility to provide documentation to HHSC that does not require translation by HHSC. HHSC did not make changes in response to this comment.

Comment: One commenter requested that HHSC revise proposed §260.333(a) to require that the licensed professionals in paragraphs (1)-(6) who qualify as service providers of behavioral support have experience providing direct services to individuals who have deafblindness.

Response: HHSC determined that the professionals listed in proposed §260.333(a)(1) - (6) are qualified to provide behavioral support because they are licensed and, therefore, this additional requirement is not needed. Further, §260.203(e) requires a program provider to ensure that a service provider who interacts directly with an individual can communicate with the individual. HHSC declines to make the requested changes in response to this comment.

Comment: One commenter suggested that HHSC revise proposed §260.339 to allow individuals and LARs to receive an emergency dental service before the program provider requests reimbursement for the service to ensure an individual's health and welfare.

Response: HHSC declines to make changes in response to this comment. Currently, proposed §260.339(e) and §260.77(c) allow a program provider to provide an emergency dental service to an individual before the service is included on the IPC and IPP or if the service exceeds the amount for dental services on the IPP. After the program provider adds the service to the IPC and IPP in accordance with proposed §260.77(c), the program provider may submit a service claim for reimbursement.

Comment: One commenter requested that HHSC revise proposed §260.343 to allow an individual's intervener to count as a service provider in the required staffing ratio for day habilitation.

Response: In accordance with the DBMD Program Manual, a person cannot act as the intervener and provide another DBMD Program service at the same time. Therefore, an intervener cannot be counted as a day habilitation service provider in the staffing ratios in proposed §260.343. HHSC declines to make changes in response to this comment.

Comment: Several commenters requested that the rules be revised to allow DBMD program providers to have contracts with HHSC in multiple regions with less rigid requirements so that individuals have a greater choice of providers.

Response: HHSC declines to make changes in response to this comment. The DBMD Program contracting process is not covered in the proposed rules and, therefore, the requested changes are outside the scope of this project.

Comment: Several commenters requested that HHSC increase the cost cap for an individual plan of care in the DBMD Program.

Response: HHSC did not make changes to the proposed rules in response to this comment because this revision would require a change to the DBMD waiver application and is outside the scope of this rule project.

Comment: Several commenters requested that HHSC release more slots for the DBMD Program.

Response: The DBMD Program rules do not address the number of slots released for the DBMD Program. Releasing DBMD slots is based on legislative funding per biennium. HHSC did not make changes in response to this comment because it is outside the scope of this rule project.

Comment: One commenter requested that HHSC clarify proposed §260.451(a) to state how providers will know the date an exception is no longer allowed to be used.

Response: HHSC currently uses GovDelivery, information letters, and provider alerts to communicate with program providers. However, because methods of communication may change over time, HHSC declines to make changes in response to this comment.

Comment: Several commenters expressed concerns that the rates adopted for the DBMD Program are not adequate.

Response: HHSC declines to make changes in response to the comments. The comments are outside the scope of this project because the rate methodologies for DBMD Program services are not addressed in this rule project.

In addition to the changes made to the rules in response to comments, HHSC made changes to the rules that are not in response to comments.

HHSC revised the definition of "LAR-Legally authorized representative" in proposed §260.5 to add "a representative payee

appointed by the Social Security Administration" and "an agent appointed under a power of attorney" as examples of an LAR. The revisions are made to be consistent with the definition of "LAR--Legally authorized representative" being adopted in 26 TAC §263.3(55) in the proposed Home and Community-based Services (HCS) Program rules and because "representative payee" is used in proposed §260.401(h)(2).

Based on direction from CMS regarding the heightened scrutiny process, HHSC revised proposed §260.59(b) to include descriptions of additional settings that are presumed to have the qualities of an institution, including a setting located in a building in which a certified ICF/IID operated by a local intellectual and developmental disabilities authority (LIDDA) or state supported living center is located but is distinct from the ICF/IID and a setting located in a building in which a licensed private ICF/IID, a hospital, a nursing facility, or other institution is located but is distinct from the ICF/IID, hospital, nursing facility, or other institution. HHSC revised the definition of "ICF/IID" in proposed §260.5(59) to make it consistent with its definition in the proposed HCS Program rules. Because the term "LIDDA" is used in §260.59(b), HHSC added a definition for this term in §260.5(78). HHSC also renumbered the definitions in proposed §260.5.

HHSC added a new paragraph (9) in proposed §260.351(c) to require that a program provider ensure that an individual living in a residence where the individual receives licensed home health assisted living has a written "lease," as defined in Texas Property Code Chapter 92, with the owner of the residence or with an individual who leases from the owner of the residence. This revision was made to comply with 42 CFR §441.301(c)(4)(vi) based on direction from CMS that a setting in which licensed home health assisted living is provided is a provider-controlled residential setting.

HHSC removed proposed §260.401(c)(6) because it duplicates the provision in proposed §260.401(c)(15), renumbered as (c)(6)(G). HHSC also revised proposed §260.401(c) to consolidate the provisions in subsection (c)(8) and (12) - (21) by reformatting as (c)(6)(C) - (M) for clarity.

HHSC revised proposed §260.401(c)(7)(A), renumbered as (c)(6)(A) to replace "under" with "as defined in" in the reference to Texas Property Code Chapter 92 for clarity.

HHSC revised proposed §260.401(c)(8), renumbered as subsection (c)(6)(B) to reference the Texas Fair Housing Act in Texas Property Code Chapter 301 as an example of state law related to any right or remedy provided to tenants under state law.

HHSC revised §260.401(c)(11), renumbered as subsection (c)(9) to add "if any" after "the amount of a late fee" to clarify that assessing a late fee as part of the residential agreement is optional and to allow a late fee to be charged only if room and board is not paid by the third day after it is due, instead of by the day room and board is due to be consistent with §92.019(a)(3) of the Texas Property Code.

HHSC revised proposed §260.401(c)(16), renumbered as subsection (c)(6)(H) to clarify that the program provider agrees to be responsible for all repairs to the residence "of the program provider, including the program provider's real property or personal property," resulting from normal wear and tear, as defined in Texas Property Code §92.001.

HHSC revised proposed §260.401(c)(18)(B), renumbered as (c)(6)(J)(ii), to remove "and CFC services" to clarify that the rule does not apply to CFC services.

HHSC revised proposed §260.401(c)(21), renumbered as subsection (c)(6)(M), to clarify the provision prohibiting the program provider from demanding the entire balance of the unpaid room and board owed under the remainder of the term of the residential agreement for violation of the agreement.

HHSC removed the residential agreement provision in proposed §260.401(c)(22) because Texas Property Code §92.005 allows a party to a lease to recover attorney's fees in certain circumstances.

HHSC revised §260.401(d)(2) and (3) to correct the name of a service and (d)(4) to change "calendar" to "business" days to give a program provider three business days to provide a copy of the residential agreement to the individual or LAR.

HHSC revised §260.401(e) to replace the reference to proposed §260.401(c)(15) with "the provision in the residential agreement that the individual may furnish and decorate the individual's bedroom" for clarity.

HHSC revised §260.401(h)(2) to clarify that the options to prevent an eviction should be discussed during the meeting convened by the program provider with the individual or LAR and the case manager to discuss the alleged non-payment of room and board.

HHSC revised §260.401(j)(1)(C) to add "or neglect" because the LAR's failure to pay delinquent room and board could be considered neglect.

HHSC revised proposed §260.403(a) to add a new paragraph (2) requiring a program provider to ensure that an individual has the option not to share a bedroom with a roommate to comply with 42 CFR §441.301(c)(4)(ii). This federal regulation requires that an individual have the option for a private unit in a residential setting. HHSC renumbered the remaining paragraphs in subsection (a).

HHSC revised proposed §260.403(a)(7), renumbered as subsection (a)(8), by adding "and free of hazards" to provide that a residence in which licensed assisted living is provided is free of hazards in addition to being physically accessible to help ensure an individual's health and safety in the residence.

SUBCHAPTER A. DEFINITIONS, DESCRIPTION OF SERVICES, AND EXCLUDED SERVICES

26 TAC §§260.5, 260.7, 260.9

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

§260.5. Definitions.

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

(1) Abuse--

- (A) physical abuse;

- (B) sexual abuse; or

- (C) verbal or emotional abuse.

(2) Actively involved--Significant, ongoing, and supportive involvement with an individual by a person, as determined by the individual, based on the person's:

- (A) interactions with the individual;

(B) availability to the individual for assistance or support when needed; and

(C) knowledge of, sensitivity to, and advocacy for the individual's needs, preferences, values, and beliefs.

(3) Adaptive aid--A service in the Deaf Blind with Multiple Disabilities (DBMD) Program that:

(A) enables an individual to retain or increase the ability to perform ADLs or perceive, control, or communicate with the environment in which the individual lives; and

- (B) meets one of the following criteria:

(i) is an item included in the list of adaptive aids in the *Deaf Blind with Multiple Disabilities Program Manual*; or

(ii) is the repair or maintenance of an item on the list of adaptive aids in the *Deaf Blind with Multiple Disabilities Program Manual* that is not covered by a warranty.

(4) Adaptive behavior--The effectiveness with or degree to which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group as assessed by an adaptive behavior screening assessment.

(5) Adaptive behavior level--The categorization of an individual's functioning level based on a standardized measure of adaptive behavior. There are four adaptive behavior levels ranging from mild limitations in adaptive skills (I) through profound limitations in adaptive skills (IV).

(6) Adaptive behavior screening assessment--A standardized assessment used to determine an individual's adaptive behavior level, and conducted using the current version of one of the following assessment instruments:

(A) American Association of Intellectual and Developmental Disabilities (AAIDD) Adaptive Behavior Scales (ABS);

- (B) Inventory for Client and Agency Planning (ICAP);

- (C) Scales of Independent Behavior; or

- (D) Vineland Adaptive Behavior Scales.

(7) ADLs--Activities of daily living. Basic personal everyday activities, including tasks such as eating, toileting, grooming, dressing, bathing, and transferring.

(8) Agency foster home--This term has the meaning set forth in Texas Human Resources Code §42.002.

(9) Alarm call--A signal transmitted from an individual's Community First Choice (CFC) Emergency Response Services (ERS) equipment to the CFC ERS response center indicating that the individual needs immediate assistance.

(10) ALF--Assisted living facility. A facility licensed in accordance with Texas Health and Safety Code Chapter 247.

(11) Alleged perpetrator--A person alleged to have committed an act of abuse, neglect, or exploitation of an individual.

(12) **Audiology**--A DBMD Program service that provides assessment and treatment by a licensed audiologist and includes training and consultation with an individual's family members or other support providers.

(13) **Auxiliary aid**--A service or device that enables an individual with impaired sensory, manual, or speaking skills to participate in the person-centered planning process. An auxiliary aid includes interpreter services, transcription services, and a text telephone.

(14) **Behavior support plan**--A comprehensive, individualized written plan based on a current functional behavior assessment that includes specific outcomes and behavioral techniques designed to teach or increase adaptive skills and decrease or eliminate target behaviors.

(15) **Behavioral emergency**--A situation in which an individual is acting in an aggressive, destructive, violent, or self-injurious manner that poses a risk of death or serious bodily harm to the individual or others.

(16) **Behavioral support**--A DBMD Program service that provides specialized interventions to assist an individual in increasing adaptive behaviors and replacing or modifying behaviors that prevent or interfere with the individual's inclusion in the community and consists of the following activities:

- (A) conducting a functional behavior assessment;
- (B) developing an individualized behavior support plan;
- (C) training and consulting with an individual, family member, or other persons involved in the individual's care regarding the implementation of the behavior support plan;
- (D) monitoring and evaluating the effectiveness of the behavior support plan;
- (E) modifying, as necessary, the behavior support plan based on monitoring and evaluating the plan's effectiveness; and
- (F) counseling and educating an individual, family members, or other persons involved in the individual's care about the techniques to use in assisting the individual to control challenging or socially unacceptable behaviors.

(17) **Business day**--Any day except a Saturday, a Sunday, or a national or state holiday listed in Texas Government Code §662.003(a) or (b).

(18) **Calendar day**--Any day, including weekends and holidays.

(19) **Case management**--The DBMD Program service described in §260.337 of this chapter (relating to Case Management).

(20) **Case manager**--A service provider of case management.

(21) **CDS option**--Consumer directed services option. A service delivery option defined in 40 TAC §41.103 (relating to Definitions).

(22) **CFC**--Community First Choice.

(23) **CFC ERS**--CFC emergency response services. A CFC service that provides backup systems and supports used to ensure continuity of services and supports. CFC ERS includes electronic devices and an array of available technology, personal emergency response systems, and other mobile communication devices.

(24) **CFC ERS provider**--The entity directly providing CFC ERS to an individual, which may be the program provider or a contractor of the program provider.

(25) **CFC FMS**--CFC financial management services. A CFC service provided to an individual who receives only CFC PAS/HAB through the CDS option.

(26) **CFC PAS/HAB**--CFC personal assistance services/habilitation. A CFC service:

(A) that consists of:

(i) personal assistance services, which provide assistance to an individual in performing ADLs and IADLs based on the individual's person-centered service plan, including:

(I) non-skilled assistance with the performance of the ADLs and IADLs;

(II) household chores necessary to maintain the home in a clean, sanitary, and safe environment;

(III) escort services, which consist of accompanying and assisting an individual to access services or activities in the community, but do not include transporting an individual; and

(IV) assistance with health-related tasks; and

(ii) habilitation, which provides assistance to an individual in acquiring, retaining, and improving self-help, socialization, and daily living skills and training the individual on ADLs, IADLs, and health-related tasks, including:

(I) self-care;

(II) personal hygiene;

(III) household tasks;

(IV) mobility;

(V) money management;

(VI) community integration, including how to get around in the community;

(VII) use of adaptive equipment;

(VIII) personal decision making;

(IX) reduction of challenging behaviors to allow individuals to accomplish ADLs, IADLs, and health-related tasks; and

(X) self-administration of medication; and

(B) does not include transporting the individual, which means driving the individual from one location to another.

(27) **CFC support consultation**--A CFC service that provides support consultation to an individual who receives only CFC PAS/HAB through the CDS option.

(28) **CFC support management**--A CFC service that provides training on how to select, manage, and dismiss an unlicensed service provider of CFC PAS/HAB.

(29) **CFR**--Code of Federal Regulations.

(30) **Chemical restraint**--A medication used to control an individual's behavior or to restrict the individual's freedom of movement that is not a standard treatment for the individual's medical or psychological condition.

(31) **Chore services**--A DBMD Program service, other than CFC PAS/HAB household chores, needed to maintain a clean, sanitary, and safe environment in an individual's home and consists of

heavy household chores, such as washing floors, windows, and walls, securing loose rugs and tiles, and moving heavy items or furniture.

(32) CMS--The Centers for Medicare & Medicaid Services. CMS is the agency within the United States Department of Health and Human Services that administers the Medicare and Medicaid programs.

(33) Competitive employment--Employment that pays an individual at least minimum wage if the individual is not self-employed.

(34) Contract--A provisional contract that the Texas Health and Human Services Commission enters into in accordance with 40 TAC §49.208 (relating to Provisional Contract Application Approval) that has a term of no more than three years, not including any extension agreed to in accordance with 40 TAC §49.208(e) or a standard contract that HHSC enters into in accordance with 40 TAC §49.209 (relating to Standard Contract) that has a term of no more than five years, not including any extension agreed to in accordance with 40 TAC §49.209(d).

(35) Controlling person--A person who:

(A) has an ownership interest in a program provider;

(B) is an officer or director of a corporation that is a program provider;

(C) is a partner in a partnership that is a program provider;

(D) is a member or manager in a limited liability company that is a program provider;

(E) is a trustee or trust manager of a trust that is a program provider; or

(F) because of a personal, familial, or other relationship with a program provider, is in a position of actual control or authority with respect to the program provider, regardless of the person's title.

(36) Day Activity and Health Services Program--This term has the meaning set forth in Texas Human Resource Code §103.003.

(37) DBMD Program--The Deaf Blind with Multiple Disabilities Program.

(38) Deafblindness--A chronic condition in which a person:

(A) has deafness, which is a hearing impairment severe enough that most speech cannot be understood with amplification; and

(B) has legal blindness, which results from a central visual acuity of 20/200 or less in the person's better eye, with correction, or a visual field of 20 degrees or less.

(39) Denial--An action taken by HHSC that:

(A) rejects an individual's request for enrollment into the DBMD Program;

(B) disallows a DBMD Program service or a CFC service requested on an individual plan of care (IPC) that was authorized on the prior IPC; or

(C) disallows a portion of the amount or level of a DBMD Program service or a CFC service requested on an IPC that was not authorized on the prior IPC.

(40) Dental treatment--A DBMD Program service that:

(A) consists of the following:

(i) emergency dental treatments, which are procedures necessary to control bleeding, relieve pain, and eliminate acute infection; operative procedures that are required to prevent the imminent loss of teeth; and treatment of injuries to the teeth or supporting structures;

(ii) routine preventative dental treatments, which are examinations, x-rays, cleanings, sealants, oral prophylaxes, and topical fluoride applications;

(iii) therapeutic dental treatments, which include fillings, scaling, extractions, crowns, and pulp therapy for permanent and primary teeth; restoration of carious permanent and primary teeth; maintenance of space; and limited provision of removable prostheses when masticatory function is impaired, when an existing prosthesis is unserviceable, or when aesthetic considerations interfere with employment or social development;

(iv) orthodontic dental treatments, which are procedures that include treatment of retained deciduous teeth; cross-bite therapy; facial accidents involving severe traumatic deviations; cleft palates with gross malocclusion that will benefit from early treatment; and severe, handicapping malocclusions affecting permanent dentition with a minimum score of 26 as measured on the Handicapping Labiolingual Deviation Index; and

(v) dental sedation, which is sedation necessary to perform dental treatment including non-routine anesthesia, (for example, intravenous sedation, general anesthesia, or sedative therapy prior to routine procedures) but not including administration of routine local anesthesia only; and

(B) does not include cosmetic orthodontia.

(41) Developmental disability--As defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Section 102(8), a severe, chronic disability of an individual five years of age or older that:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the individual attains 22 years of age;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitations in three or more of the following areas of major life activity:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency.

(42) DFPS--Department of Family and Protective Services.

(43) Dietary services--A DBMD Program service that provides nutrition services, as defined in Texas Occupations Code §701.002.

(44) Employment assistance--A DBMD Program service that provides assistance to an individual to help the individual locate

competitive employment in the community to the same degree of access as individuals not receiving DBMD Program services.

(45) Enrollment Individual Plan of Care (IPC)--The first IPC for an individual developed before the individual's enrollment into the DBMD Program.

(46) Enrollment Individual Program Plan (IPP)--The first IPP for an individual developed before the individual's enrollment into the DBMD Program in accordance with §260.65 of this chapter (relating to Development of an Enrollment IPP).

(47) Exploitation--The illegal or improper act or process of using, or attempting to use, an individual or the resources of an individual for monetary or personal benefit, profit, or gain.

(48) FMS--Financial management services. A DBMD Program service that is defined in 40 TAC §41.103 and provided to an individual participating in the CDS option.

(49) FMSA--Financial management services agency. An entity, as defined in 40 TAC §41.103, that provides FMS.

(50) Former military member--A person who served in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force:

(A) who declared and maintained Texas as the person's state of legal residence in the manner provided by the applicable military branch while on active duty; and

(B) who was killed in action or died while in service, or whose active duty otherwise ended.

(51) Functional behavior assessment--An evaluation that is used to determine the underlying function or purpose of an individual's behavior, so an effective behavior support plan can be developed.

(52) Functions as a person with deafblindness--Situation in which a person is determined:

(A) to have a progressive medical condition, manifested before 22 years of age, that will result in the person having deafblindness; or

(B) before attaining 22 years of age, to have limited hearing or vision due to protracted inadequate use of either or both of these senses.

(53) Good cause--As determined by HHSC, A reason outside the control of a CFC ERS provider that is an acceptable reason for the CFC ERS provider's failure to comply.

(54) HCSSA--Home and community support services agency. An entity required to be licensed under Texas Health and Safety Code (THSC) Chapter 142.

(55) Health-related tasks--Specific tasks related to the needs of an individual that can be delegated or assigned by a licensed healthcare professional under state law to be performed by a service provider of CFC PAS/HAB. These include:

(A) tasks delegated by a registered nurse (RN);

(B) health maintenance activities, as defined in 22 TAC §225.4 (relating to Definitions), that may not require delegation; and

(C) activities assigned to a service provider of CFC PAS/HAB by a licensed physical therapist, occupational therapist, or speech-language pathologist.

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

(57) Hospital--A public or private institution that is licensed or is exempt from licensure in accordance with THSC Chapters 13, 241, 261, or 552.

(58) IADLs--Instrumental activities of daily living. Activities related to living independently in the community, including meal planning and preparation; managing finances; shopping for food, clothing, and other essential items; performing essential household chores; communicating by phone or other media; and traveling around and participating in the community.

(59) ICF/IID--Intermediate care facility for individuals with an intellectual disability or related conditions. An ICF/IID is a facility in which ICF/IID Program services are provided and that is:

(A) licensed in accordance with THSC Chapter 252; or

(B) certified by HHSC, including a state supported living center.

(60) ICF/IID Program--The Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions Program, which provides Medicaid-funded residential services to individuals with an intellectual disability or related conditions.

(61) ID/RC Assessment--Intellectual Disability/Related Conditions Assessment. An HHSC form used to determine the LOC for an individual.

(62) Impairment to independent functioning--An adaptive behavior level of II, III, or IV.

(63) Individual--A person seeking to enroll or who is enrolled in the DBMD Program.

(64) Individual transportation plan--A written plan developed by an individual's service planning team and documented on the HHSC Individual Transportation Plan form. The form is used to document how transportation as a residential habilitation activity will be delivered to support an individual's desired goals and outcomes for transportation as identified in the IPP.

(65) Inpatient chemical dependency treatment facility--A facility licensed in accordance with THSC Chapter 464.

(66) In person or in-person--Within the physical presence of another person. In person or in-person does not include using videoconferencing or a telephone.

(67) Institution for mental diseases--Has the meaning set forth in 42 CFR §435.1010.

(68) Institutional services--Medicaid-funded services provided in a nursing facility or in an ICF/IID.

(69) Intellectual disability--Consistent with THSC §591.003, significantly sub-average general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period.

(70) Intervener--A service provider with specialized training and skills in deafblindness who, working with one individual at a time, serves as a facilitator to involve an individual in home and community services and activities, and who is classified as an "Intervener", "Intervener I", "Intervener II", or "Intervener III" in accordance with Texas Government Code §531.0973.

(71) IPC--Individual plan of care. A written plan developed by an individual's service planning team and documented on the HHSC Individual Plan of Care form. An IPC:

(A) documents:

(i) the type and amount of each DBMD Program service and each CFC service, except for CFC support management, to be provided to the individual during an IPC year; and

(ii) if an individual will receive CFC support management; and

(B) is authorized by HHSC.

(72) IPC period--The effective period of an enrollment IPC and a renewal IPC as follows:

(A) for an enrollment IPC, the period of time from the effective date of the enrollment IPC, as described in §260.67(a)(1)(F) of this chapter (relating to Development of a Proposed Enrollment IPC), through the last calendar day of the 11th month after the month in which enrollment occurred; and

(B) for a renewal IPC, a 12-month period of time starting on the effective date of a renewal IPC as described in §260.77(a)(1) of this chapter (relating to Renewal and Revision of an IPP and IPC).

(73) IPP--Individual program plan. A written plan that includes the information described in §260.65(b) of this chapter (relating to Development of an Enrollment IPP) and documented on an HHSC Individual Program Plan form.

(74) LAR--Legally authorized representative. A person authorized by law to act on behalf of an individual with regard to a matter described in this chapter, including a parent, guardian, or managing conservator of a minor; a guardian of an adult; an agent appointed under a power of attorney; or a representative payee appointed by the Social Security Administration. An LAR, such as an agent appointed under a power of attorney or representative payee appointed by the Social Security Administration, may have limited authority to act on behalf of a person.

(75) Licensed assisted living--A DBMD Program service provided by a program provider in an ALF that is owned by the program provider.

(76) Licensed home health assisted living--A DBMD Program service provided by a program provider licensed as a HCSSA, in a residence for no more than three individuals. The residence must be owned or leased by at least one of the residents and must not be owned or leased by a program provider.

(77) Licensed vocational nursing--A DBMD Program service that provides vocational nursing, as defined in Texas Occupations Code §301.002.

(78) LIDDA--Local intellectual and developmental disability authority. An entity designated by the executive commissioner of HHSC, in accordance with THSC §533A.035.

(79) LOC--Level of care. A determination given to an individual as part of the eligibility determination process based on data submitted on the ID/RC Assessment.

(80) LVN--Licensed vocational nurse. A person licensed to provide vocational nursing in accordance with Texas Occupations Code Chapter 301.

(81) Managed care organization--This term has the meaning set forth in Texas Government Code §536.001.

(82) MAO Medicaid--Medical Assistance Only Medicaid. A type of Medicaid by which an individual qualifies financially for Medicaid assistance but does not receive Supplemental Security Income (SSI) benefits.

(83) Mechanical restraint--A mechanical device, material, or equipment used to control an individual's behavior by restricting the ability of the individual to freely move part or all of the individual's body. The term does not include a protective device.

(84) Medicaid--A program administered by CMS and funded jointly by the states and the federal government that pays for health care to eligible groups of low-income people.

(85) Medicaid HCBS--Medicaid home and community-based services. Medicaid services provided to an individual in an individual's home and community, rather than in a facility.

(86) Mental health facility--A facility licensed in accordance with THSC Chapter 577.

(87) MESAV--Medicaid Eligibility Service Authorization Verification. The automated system that contains information regarding an individual's Medicaid eligibility and service authorizations.

(88) Military family member--A person who is the spouse or child, regardless of age, of:

(A) a military member; or

(B) a former military member.

(89) Military member--A member of the United States military serving in the Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force on active duty who has declared and maintains Texas as the member's state of legal residence in the manner provided by the applicable military branch.

(90) Minor home modifications--A DBMD Program service that:

(A) makes a physical adaptation to an individual's residence that:

(i) is necessary to address the individual's specific needs; and

(ii) enables the individual to function with greater independence in the individual's residence or to control his or her environment; and

(B) meets one of the following criteria:

(i) is included on the list of minor home modifications in the *Deaf Blind with Multiple Disabilities Program Manual*; or

(ii) is the repair or maintenance of a minor home modification purchased through the DBMD Program that:

(I) is needed after one year has elapsed from the date the minor home modification is complete;

(II) is needed for a reason other than the minor home modification was intentionally damaged, as described in §260.329(c) of this chapter (relating to Repair or Replacement of a Minor Home Modification); and

(III) is not covered by a warranty.

(91) Natural supports--Unpaid persons, including family members, volunteers, neighbors, and friends, who assist and sustain an individual.

(92) Neglect--A negligent act or omission that caused physical or emotional injury or death to an individual or placed an individual at risk of physical or emotional injury or death.

(93) Nursing--One or more of the following DBMD Program services:

- (A) licensed vocational nursing;
- (B) registered nursing;
- (C) specialized licensed vocational nursing; and
- (D) specialized registered nursing.

(94) Nursing facility--A facility that is licensed or exempt from licensure in accordance with the THSC Chapter 242.

(95) Occupational therapy--A DBMD Program service that provides occupational therapy, as described in Texas Occupations Code §454.006.

(96) Orientation and mobility--A DBMD Program service that assists an individual to acquire independent travel skills that enable the individual to negotiate safely and efficiently between locations at home, school, work, and in the community.

(97) PAS/HAB plan--Personal Assistance Services (PAS)/Habilitation Plan. A written plan developed by an individual's service planning team and documented on the HHSC Personal Assistance Services (PAS)/Habilitation Plan form that describes the type and frequency of CFC PAS/HAB activities to be performed by a service provider.

(98) Person--A corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, natural person, or any other legal entity that can function legally, sue or be sued, and make decisions through agents.

(99) Personal funds--The funds that belong to an individual, including earned income, social security benefits, gifts, and inheritances.

(100) Person-centered planning process--The process described in §260.57 of this chapter (relating to Person-Centered Planning Process).

(101) Personal leave day--A continuous 24-hour period, measured from midnight to midnight, when an individual who resides in a residence in which licensed assisted living or licensed home health assisted living is provided is absent from the residence for personal reasons.

(102) Physical abuse--Any of the following:

(A) an act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, that caused physical injury or death to an individual or placed an individual at risk of physical injury or death;

(B) an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to an individual;

(C) the use of a restraint on an individual not in compliance with federal and state laws, rules, and regulations; or

(D) seclusion.

(103) Physical restraint--Any manual method used to control an individual's behavior, except for physical guidance or prompting of brief duration that an individual does not resist, that restricts:

(A) the free movement or normal functioning of all or a part of the individual's body; or

(B) normal access by an individual to a portion of the individual's body.

(104) Physical therapy--A DBMD program service that provides physical therapy, as defined in Texas Occupations Code §453.001.

(105) Physician--Consistent with §558.2 of this title (relating to Definitions), a person who is:

(A) licensed in Texas to practice medicine or osteopathy in accordance with Texas Occupations Code Chapter 155;

(B) licensed in Arkansas, Louisiana, New Mexico, or Oklahoma to practice medicine, who is the treating physician of an individual, and orders home health or hospice services for the individual in accordance with Texas Occupations Code §151.056(b)(4); or

(C) a commissioned or contract physician or surgeon who serves in the United States uniformed services or Public Health Service if the person is not engaged in private practice, in accordance with the Texas Occupations Code §151.052(a)(8).

(106) Program provider--A person that has a contract with HHSC to provide DBMD Program services, excluding an FMSA.

(107) Protective device--An item or device, such as a safety vest, lap belt, bed rail, safety padding, adaptation to furniture, or helmet, if:

(A) used only:

(i) to protect an individual from injury; or

(ii) for body positioning of the individual to ensure health and safety; and

(B) not used to modify or control behavior.

(108) Public emergency personnel--Personnel of a sheriff's department, police department, emergency medical service, or fire department.

(109) Reduction--An action taken by HHSC as a result of a review of a revised IPC or renewal IPC that decreases the amount or level of a service authorized by HHSC on the prior IPC.

(110) Registered nursing--A DBMD Program service that provides professional nursing, as defined in Texas Occupations Code §301.002.

(111) Related condition--As defined in 42 CFR §435.1010, a severe and chronic disability that:

(A) is attributed to:

(i) cerebral palsy or epilepsy; or

(ii) any other condition, other than mental illness, found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with an intellectual disability, and requires treatment or services similar to those required for individuals with an intellectual disability;

(B) is manifested before the individual reaches 22 years of age;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitation in at least three of the following areas of major life activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

- (iv) mobility;
- (v) self-direction; and
- (vi) capacity for independent living.

(112) **Relative**--A person related to another person within the fourth degree of consanguinity or within the second degree of affinity. A more detailed explanation of this term is included in the *Deaf Blind with Multiple Disabilities Program Manual*.

(113) **Renewal IPC**--An IPC developed in accordance with §260.77 of this chapter.

(114) **Residential child-care facility**--The term has the meaning set forth in Texas Human Resources Code §42.002.

(115) **Respite**--A DBMD Program service described in §260.353 of this chapter (relating to Respite).

(116) **Responder**--A person designated to respond to an alarm call activated by an individual.

(117) **Restraint**--Any of the following:

- (A) a physical restraint;
- (B) a mechanical restraint; or
- (C) a chemical restraint.

(118) **Restrictive intervention**--An action or procedure that limits an individual's movement, access to other individuals, locations, or activities, or restricts an individual's rights, including a restraint, a protective device, and seclusion.

(119) **Revised IPC**--An enrollment IPC or a renewal IPC that is revised during an IPC period in accordance with §260.77 of this chapter to add a new DBMD Program service or CFC service or change the amount of an existing service.

(120) **RN**--Registered nurse. A person licensed to provide professional nursing in accordance with Texas Occupations Code Chapter 301.

(121) **Seclusion**--A restrictive intervention that is the involuntary placement of an individual alone in an area from which the individual is prevented from leaving.

(122) **Service backup plan**--A written plan developed and revised by an individual's service planning team in accordance with §260.213 of this chapter (relating to Service Backup Plans) to ensure continuity of critical program services if service delivery is interrupted.

(123) **Service planning team**--A team consisting of:

- (A) the individual;
- (B) if applicable, the individual's LAR or an actively involved person;
- (C) the individual's case manager;
- (D) one of the following persons who is not the case manager:
 - (i) the program director; or
 - (ii) an RN designated by the program provider;
- (E) other persons whose inclusion is requested by the individual, LAR, or actively involved person, including a managed care organization service coordinator, a family member, a friend, and a teacher; and
- (F) other persons selected by the program provider who are:

- (i) professionally qualified by certification or licensure and have special training and experience in the diagnosis and habilitation of persons with the individual's related condition; or

- (ii) directly involved in the delivery of services and supports to the individual.

(124) **Service provider**--A person who is an employee or contractor of a program provider who provides a DBMD Program service or a CFC service directly to an individual.

(125) **Sexual abuse**--Any of the following:

- (A) sexual exploitation of an individual;
- (B) non-consensual or unwelcomed sexual activity with an individual; or
- (C) consensual sexual activity between an individual and a service provider, staff person, volunteer, or controlling person, unless a consensual sexual relationship with an adult individual existed before the service provider, staff person, volunteer, or controlling person became a service provider, staff person, volunteer, or controlling person.

(126) **Sexual activity**--An activity that is sexual in nature, including kissing, hugging, stroking, or fondling with sexual intent.

(127) **Sexual exploitation**--A pattern, practice, or scheme of conduct against an individual that can reasonably be construed as being for the purposes of sexual arousal or gratification of any person:

- (A) which may include sexual contact; and
- (B) does not include obtaining information about an individual's sexual history within standard accepted clinical practice.

(128) **Significant subaverage general intellectual functioning**--Consistent with THSC §591.003, measured intelligence on standardized general intelligence tests of two or more standard deviations (not including standard error of measurement adjustments) below the age-group mean for the tests used.

(129) **Specialized licensed vocational nursing**--A DBMD Program service that provides licensed vocational nursing to an individual who has a tracheostomy or is dependent on a ventilator.

(130) **Specialized registered nursing**--A DBMD Program service that provides registered nursing to an individual who has a tracheostomy or is dependent on a ventilator.

(131) **Speech-language pathology**--A DBMD Program service that provides speech-language pathology as defined in Texas Occupations Code §401.001.

(132) **SSA**--Social Security Administration.

(133) **SSI**--Supplemental Security Income.

(134) **Staff person**--A full-time or part-time employee of a program provider, other than a service provider.

(135) **State supported living center**--A state-supported and structured residential facility operated by HHSC to provide to persons with an intellectual disability a variety of services, including medical treatment, specialized therapy, and training in the acquisition of personal, social, and vocational skills, but does not include a community-based facility owned by HHSC.

(136) **Support consultation**--A DBMD Program service that is defined in 40 TAC §41.103 and may be provided an individual who chooses to participate in the CDS option.

(137) Supported employment--A DBMD Program service that provides assistance to sustain competitive employment to an individual who, because of a disability, requires intensive, ongoing support to be self-employed, work from home, or perform in a work setting at which individuals without disabilities are employed.

(138) System check--A test of the CFC ERS equipment to determine if:

- (A) the individual can successfully activate an alarm call; and
- (B) the equipment is working properly.

(139) TAC--Texas Administrative Code. A compilation of state agency rules published by the Texas State Secretary of State in accordance with Texas Government Code Chapter 2002, Subchapter C.

(140) TAS--Transition Assistance Services. A DBMD Program service provided in accordance with Chapter 272 of this title (relating to Transition Assistance Services) to an individual who is receiving institutional services and is eligible for and enrolling into the DBMD Program.

(141) Texas Workforce Commission--The state agency established under Texas Labor Code Chapter 301.

(142) THSC--Texas Health and Safety Code. Texas statutes relating to health and safety.

(143) TMHP--Texas Medicaid & Healthcare Partnership. The Texas Medicaid program claims administrator.

(144) Transfer--The movement of an individual from a DBMD Program provider or a FMSA to a different DBMD Program provider or FMSA.

(145) Trust fund account--An account at a financial institution that contains an individual's personal funds and is under the program provider's control.

(146) Verbal or emotional abuse--Any act or use of verbal or other communication, including gestures:

- (A) to:
 - (i) harass, intimidate, humiliate, or degrade an individual; or
 - (ii) threaten an individual with physical or emotional harm; and
- (B) that:
 - (i) results in observable distress or harm to the individual; or
 - (ii) is of such a serious nature that a reasonable person would consider it harmful or a cause of distress.

(147) Videoconferencing--An interactive, two-way audio and video communication:

- (A) used to conduct a meeting between two or more persons who are in different locations; and
- (B) that conforms to the privacy requirements under the Health Insurance Portability and Accountability Act.

(148) Volunteer--A person who works for a program provider without compensation, other than reimbursement for actual expenses.

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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For further information, please call: (512) 438-2622



SUBCHAPTER B. ELIGIBILITY, ENROLLMENT, AND REVIEW DIVISION 1. ELIGIBILITY AND MAINTENANCE OF THE DBMD INTEREST LIST

26 TAC §260.51, §260.53

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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

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DIVISION 2. ENROLLMENT PROCESS, PERSON-CENTERED PLANNING, AND REQUIREMENTS FOR SERVICE SETTINGS

**26 TAC §§260.55, 260.57, 260.59, 260.61, 260.63, 260.65,
260.67, 260.69, 260.71**

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of ser-

VICES by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

§260.59. *Requirements for Home and Community-Based Settings.*

(a) A home and community-based setting is a setting in which an individual resides or receives DBMD Program services or CFC services. A home and community-based setting must have all of the following qualities based on the individual's strengths, preferences, and needs as documented in the individual's IPP.

(1) The setting is integrated in and supports the individual's access to the greater community to the same degree as a person not enrolled in a Medicaid waiver program, including opportunities for the individual to:

- (A) seek employment and work in a competitive integrated setting;
- (B) engage in community life;
- (C) control personal resources; and
- (D) receive services in the community.

(2) The setting is selected by an individual from among setting options, including non-disability specific settings and an option for a private unit in a setting in which licensed assisted living is provided. The setting options are identified and documented in an individual's IPP and are based on the individual's needs, preferences, and, for settings in which licensed assisted living is provided, resources available for room and board.

(3) The setting ensures the individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

(4) The setting optimizes, not regiments, individual initiative, autonomy, and independence in making life choices, including choices regarding daily activities, physical environment, and with whom to interact.

(5) The setting facilitates individual choice regarding services and supports and the service providers who provide the services and supports.

(b) Except as provided in subsection (c) of this section, a program provider must ensure that DBMD Program services and CFC services are not provided in a setting that is presumed to have the qualities of an institution. A setting is presumed to have the qualities of an institution if the setting:

- (1) is located in a building in which a certified ICF/IID operated by a LIDDA or state supported living center is located but is distinct from the ICF/IID;
- (2) is located in a building on the grounds of, or immediately adjacent to, a certified ICF/IID operated by a LIDDA or state supported living center;
- (3) is located in a building in which a licensed private ICF/IID, a hospital, a nursing facility, or other institution is located but is distinct from the ICF/IID, hospital, nursing facility, or other institution;
- (4) is located in a building on the grounds of, or immediately adjacent to, a hospital, a nursing facility, or other institution except for a licensed private ICF/IID; or
- (5) has the effect of isolating individuals from the broader community of persons not receiving Medicaid HCBS.

(c) A program provider may provide a DBMD Program service or a CFC service to an individual in a setting that is presumed to have the qualities of an institution as described in subsection (b) of this section, if CMS determines through a heightened scrutiny review that the setting:

- (1) does not have the qualities of an institution; and
- (2) does have the qualities of home and community-based settings.

§260.61. *Process for Enrollment of an Individual.*

(a) After HHSC notifies a program provider, as described in §260.55(d) of this division (relating to Written Offer of Enrollment in the DBMD Program), that an individual selected the program provider, the program provider must assign a case manager to the individual.

(b) A program provider must ensure that the assigned case manager contacts the individual or LAR by telephone, videoconferencing, or in person in the individual's residence as soon as possible but no later than five business days after the program provider receives the HHSC notification. During this initial contact, the case manager must:

- (1) verify that the individual resides in a county for which the program provider has a contract;
- (2) determine if the individual is currently enrolled in Medicaid;
- (3) determine if the individual is currently enrolled in another waiver program or receiving a service that may not be received if the individual is enrolled in the DBMD Program, as identified in the Mutually Exclusive Services table in Appendix V of the *Deaf Blind with Multiple Disabilities Program Manual* available on the HHSC website; and
- (4) schedule an initial in-person visit to be held in the individual's residence with the individual and LAR or actively involved person at a time convenient to the individual and LAR and no later than 30 calendar days after the program provider receives the HHSC notification.

(c) During an initial in-person visit in an individual's residence at a time convenient to the individual and LAR, a case manager:

- (1) must provide an oral and written explanation to the individual or LAR:
 - (A) of the DBMD Program services described in §260.7(c) of this chapter (relating to Description of the DBMD Program and CFC), including TAS if the individual is receiving institutional services;
 - (B) of the CFC services described in §260.7(e) of this chapter;
 - (C) of the individual's rights and responsibilities:
 - (i) as described in §260.111 of this subchapter (relating to Individual's Right to a Fair Hearing); and
 - (ii) as described in §260.113 of this subchapter (relating to Mandatory Participation Requirements of an Individual);
 - (D) the process by which the individual, LAR, or actively involved person may file a complaint regarding a program provider as required by 40 TAC §49.309 (relating to Complaint Process);
 - (E) that the HHSC Complaint and Incident Intake toll-free telephone number at 1-800-458-9858 may be used to file a complaint regarding the program provider;

(F) of the CDS option described in §260.71 of this division (relating to CDS Option);

(G) of voter registration, if the individual is 18 years of age or older;

(H) of how to contact the program provider, the case manager, and the RN;

(I) that while the individual is staying at a location outside the contracted service delivery area but within the state of Texas for a period of no more than 60 consecutive days, the individual and LAR or actively involved person may request that the program provider provide:

(i) transportation as a residential habilitation activity, as described in §260.343(b)(1)(A)(ii)(I) of this chapter (relating to Day Habilitation, Residential Habilitation, and CFC PAS/HAB);

(ii) case management;

(iii) nursing;

(iv) out-of-home respite in a camp described in §260.353 of this chapter (relating to Respite);

(v) adaptive aids;

(vi) intervener services; or

(vii) CFC PAS/HAB;

(J) of the use of electronic visit verification, as required by 1 TAC Chapter 354, Subchapter O; and

(K) that the individual, LAR, or actively involved person may report an allegation of abuse, neglect, or exploitation to DFPS by calling the toll-free telephone number at 1-800-252-5400;

(2) must educate the individual, LAR, and actively involved person about protecting the individual from abuse, neglect, and exploitation;

(3) must use the HHSC Understanding Program Eligibility - CLASS/DBMD form to provide an oral and written explanation to the individual or LAR, and obtain the individual's or LAR's signature and date on the form, to acknowledge understanding of:

(A) the eligibility requirements for:

(i) DBMD Program services, as described in §260.51(a) of this subchapter (relating to Eligibility Criteria for DBMD Program Services and CFC Services);

(ii) CFC services for individuals who do not receive MAO Medicaid, as described in §260.51(b) of this subchapter; and

(iii) CFC services for individuals who receive MAO Medicaid, as described in §260.51(c) of this subchapter;

(B) the reasons DBMD Program services and CFC services may be suspended, as described in §260.85 of this chapter (relating to Suspension of DBMD Program Services and CFC Services); and

(C) the reasons DBMD Program services and CFC services may be terminated as described in §§260.89, 260.101, 260.103, and 260.105 of this chapter (relating to Termination of DBMD Program Services and CFC Services With Advance Notice Due to Ineligibility or Leave from the State, Termination of DBMD Program Services and CFC Services With Advance Notice Due to Non-compliance with Mandatory Participation Requirements, Termination of DBMD Program Services and CFC Services Without Advance Notice for Reasons Other Than Behavior Causing Immediate Jeopardy, and Termina-

tion of DBMD Program Services and CFC Services Without Advance Notice Due to Behavior Causing Immediate Jeopardy);

(4) must complete an ID/RC Assessment;

(5) must give the individual or LAR the HHSC Verification of Freedom of Choice form to document the individual's or LAR's choice regarding the DBMD Program or the ICF/IID Program;

(6) may complete an adaptive behavior screening assessment or ensure an appropriate professional described in the assessment instructions completes the adaptive behavior screening assessment;

(7) may complete a Related Conditions Eligibility Screening Instrument or ensure an RN completes a Related Conditions Eligibility Screening Instrument; and

(8) may ensure an RN completes a nursing assessment using the HHSC CLASS/DBMD Nursing Assessment form.

(d) If an assessment described in subsection (c)(6) - (8) of this section is not completed during the initial in-person visit in the individual's residence, a case manager must ensure that the assessment is completed in person as soon as possible but no later than 10 business days after the date of the initial in-person visit.

(e) If an individual is Medicaid eligible, is receiving institutional services, and anticipates needing TAS, a case manager must determine whether the individual meets the following criteria:

(1) the individual is being discharged from a nursing facility or an ICF/IID;

(2) the individual has not previously received TAS;

(3) the individual's proposed enrollment IPC will not include licensed assisted living or licensed home health assisted living; and

(4) the individual anticipates needing TAS.

(f) If a case manager determines that an individual meets the criteria described in subsection (e) of this section, the case manager must:

(1) provide the individual or LAR with a list of TAS providers in the service delivery area in which the individual will reside;

(2) complete, with the individual or LAR, the HHSC Transition Assistance Services (TAS) Assessment and Authorization form in accordance with the form's instructions, which includes:

(A) identifying the items and services as described in §272.5(e) of this title (relating to Service Description) that the individual needs;

(B) estimating the monetary amount for the items and services identified on the form, which must be within the service limit described in §272.5(d) of this title; and

(C) documenting the individual's or LAR's choice of TAS provider;

(3) submit the completed form to HHSC for authorization;

(4) if HHSC authorizes the form, send the form to the TAS provider chosen by the individual or LAR; and

(5) include TAS and the monetary amount authorized by HHSC on the individual's proposed enrollment IPC.

(g) Before an individual enrolls in the DBMD Program, a case manager must inform the individual or LAR that the individual may reside in the individual's own home or family home or may receive a

DBMD residential service described in §260.351 of this chapter (relating to Residential Services).

(h) A program provider must:

(1) gather and maintain the information necessary to process an individual's request for enrollment in the DBMD Program using forms prescribed by HHSC in the *Deaf Blind with Multiple Disabilities Program Manual*;

(2) assist an individual who does not have Medicaid financial eligibility or the individual's LAR to:

(A) complete an application for Medicaid financial eligibility; and

(B) submit the completed application to HHSC as soon as possible but no later than 30 calendar days after the case manager's initial in-person visit in the individual's residence;

(3) document in an individual's record any problems or barriers the individual or LAR encounters that may inhibit progress towards completing:

(A) the application for Medicaid financial eligibility; and

(B) enrollment in the DBMD Program; and

(4) assist the individual or LAR to overcome problems or barriers documented as described in paragraph (3) of this subsection.

(i) If an individual or LAR does not submit a completed Medicaid application to HHSC as described in subsection (h)(2)(B) of this section as a result of problems or barriers documented in accordance with subsection (h)(3) of this section, but is making progress in collecting the documentation necessary to complete the application, the program provider:

(1) may extend, in 30-calendar day increments, the time frame in which the application must be submitted to HHSC, except as provided in paragraph (2) of this subsection;

(2) must not grant an extension that results in a time period of more than 365 calendar days from the date of the case manager's initial in-person visit in the individual's residence;

(3) must ensure that the case manager documents the rationale for each extension in the individual's record; and

(4) must notify a DBMD program specialist, in writing, if the individual or LAR:

(A) does not submit a completed Medicaid application to HHSC no later than 365 calendar days after the date of the case manager's initial in-person visit in the individual's residence; or

(B) does not cooperate with the case manager in completing the enrollment process described in this section.

(j) A program provider must ensure that:

(1) the related conditions documented on the ID/RC Assessment for the individual are on the HHSC Approved Diagnostic Codes for Persons with Related Conditions list contained in the *Deaf Blind with Multiple Disabilities Program Manual*;

(2) the ID/RC Assessment is submitted to a physician for review; and

(3) if the individual or LAR requests dental services, other than an initial dental exam, a dentist completes the HHSC Prior Authorization for Dental Services form as required by §260.339 of this chapter (related to Dental Treatment).

(k) Not more than 10 business days after a program provider receives a signed and dated ID/RC Assessment from a physician establishing that an individual meets the requirements described in §260.51(a)(2) and (3) of this subchapter, the case manager must:

(1) convene a service planning team meeting; and

(2) ensure that the individual's service planning team:

(A) reviews the HHSC CLASS/DBMD Nursing Assessment form completed by an RN;

(B) reviews Addendum E of the HHSC CLASS/DBMD Nursing Assessment form, Recommendations/Coordination of Care, to address any information included in Addendum E to ensure the individual's needs are met;

(C) documents on the HHSC CLASS/DBMD Coordination of Care form how the information in Addendum E was addressed;

(D) reviews the completed ID/RC assessment signed and dated by a physician;

(E) reviews the adaptive behavior screening assessment;

(F) reviews the HHSC Related Conditions Eligibility Screening Instrument form;

(G) reviews the completed HHSC Prior Authorization for Dental Services form, if required by §260.339 of this chapter;

(H) completes an enrollment IPP in accordance with §260.65 of this division (relating to Development of an Enrollment IPP);

(I) completes a proposed enrollment IPC in accordance with §260.67 of this division (relating to Development of a Proposed Enrollment IPC); and

(J) if the enrollment IPP and the proposed enrollment IPC include:

(i) transportation provided as a residential habilitation activity or as an adaptive aid, develops an individual transportation plan; or

(ii) nursing, intervener services, or CFC PAS/HAB, develops a service backup plan if required by §260.213 of this chapter (relating to Service Backup Plans).

(l) As soon as possible but no later than 10 business days after an individual's service planning team completes an individual's enrollment IPP and proposed enrollment IPC, as described in subsection (k)(2) of this section, the case manager must:

(1) submit the following documents, completed according to form instructions, to HHSC for review:

(A) the proposed enrollment IPC;

(B) the ID/RC Assessment signed by a physician;

(C) the enrollment IPP;

(D) the PAS/HAB plan;

(E) the adaptive behavior screening assessment;

(F) the HHSC Related Conditions Eligibility Screening Instrument form;

(G) the HHSC DBMD Summary of Services Delivered form that documents pre-assessment services with supporting documentation;

(H) the HHSC Verification of Freedom of Choice form;
(I) the HHSC Non-Waiver Services form;
(J) the HHSC Documentation of Provider Choice form;
(K) the HHSC CLASS/DBMD Nursing Assessment form;

(L) the HHSC Prior Authorization for Dental Services form, if required by §260.339 of this chapter;

(M) the HHSC Rationale for Adaptive Aids, Medical Supplies, and Minor Home Modifications form, if required by:

(i) §260.303 of this chapter (relating to Requirements For Authorization to Purchase or Lease an Adaptive Aid);

(ii) §260.317 of this chapter (relating to Requesting Authorization to Purchase a Minor Home Modification that Costs Less than \$1,000); or

(iii) §260.319 of this chapter (relating to Requesting Authorization to Purchase a Minor Home Modification that Costs \$1,000 or More);

(N) the HHSC Provider Agency Model Service Backup Plan form, if required by §260.213 of this chapter;

(O) the HHSC Specialized Nursing Certification form, if required by §260.347 of this chapter (relating to Nursing);

(P) if a non-waiver resource is identified on the HHSC Non-Waiver Services form:

(i) documentation to demonstrate that a service comparable to a DBMD program service available from the non-waiver resource has been exhausted; or

(ii) documentation to explain why a service comparable to a DBMD Program service offered by the non-waiver resource is not provided to the individual by the non-waiver resource;

(Q) the HHSC Transition Assistance Services (TAS) Assessment and Authorization form, if required by subsection (f)(2) of this section; and

(R) the individual transportation plan, if required by subsection (k)(2)(J)(i) of this section; and

(2) if the individual will receive a service through the CDS option, send a copy of the proposed enrollment IPC, the enrollment IPP, and, if completed, the individual transportation plan to the FMSA.

(m) No later than five business days after receiving a written notice from HHSC approving or denying an individual's request for enrollment, the program provider must notify the individual or LAR of HHSC's decision. If HHSC:

(1) approves the request for enrollment, the program provider must initiate DBMD Program services and CFC services as described on the IPC; or

(2) denies the request for enrollment, the program provider must send the individual or LAR a copy of HHSC's written notice of denial.

(n) A program provider must not provide a DBMD Program service or CFC service to an individual before HHSC notifies the program provider, in accordance with §260.69(d)(1) of this division (relating to HHSC's Review of Request for Enrollment), that the individual's request for enrollment into the DBMD Program has been approved. If a program provider provides a DBMD Program service or CFC ser-

vice to an individual before the effective date of the individual's enrollment IPC authorized by HHSC, HHSC does not reimburse the program provider for those services.

(o) If HHSC notifies a program provider that an individual's request for enrollment is approved, the case manager must comply with §260.69(d)(2) of this subchapter.

§260.67. *Development of a Proposed Enrollment IPC.*

(a) A program provider must ensure that an individual's case manager convenes an in-person meeting with the service planning team in which the service planning team:

(1) develops a proposed enrollment IPC that:

(A) documents the type of each DBMD Program service and CFC service, other than CFC support management, to be provided by the program provider;

(B) documents the number of units or annual cost for each service;

(C) if the individual will receive a service through the CDS option, documents:

(i) the name of the individual's FMSA; and

(ii) the type and number of units for each service to be provided through the CDS option;

(D) documents whether the individual will receive CFC support management;

(E) documents whether the individual needs a service backup plan for nursing, intervener services, or CFC PAS/HAB critical to the individual's health and safety;

(F) documents an effective date of the IPC that:

(i) is at least 10 business days after the case manager submits the proposed enrollment IPC to HHSC as described in §260.61(m)(1) of this division (relating to Process for Enrollment of an Individual); and

(ii) does not overlap with the end date of another Medicaid waiver program or another HHSC-operated program described in the *Deaf Blind with Multiple Disabilities Program Manual*, other than the Day Activity and Health Services Program, in which the individual may have been enrolled; and

(G) does not exceed the service limits described in:

(i) Subchapter F, Divisions 1 - 3, of this chapter (relating to Service Descriptions and Requirements) if the enrollment IPC includes adaptive aids, minor home modifications, dental treatment, and respite;

(ii) Subchapter F, Division 5, of this chapter (relating to CFC ERS) if the enrollment IPC includes CFC ERS; or

(iii) §272.5(d) of this title (relating to Service Description), if the enrollment IPC includes TAS;

(2) if the proposed enrollment IPC includes transportation as a residential habilitation activity or as an adaptive aid, develops an individual transportation plan;

(3) if the proposed enrollment IPC includes TAS, completes the HHSC Transition Assistance Services (TAS) Assessment and Authorization form; and

(4) identifies the individual's non-waiver resources using the HHSC Non-Waiver Services form.

(b) A program provider must ensure that a DBMD Program service and CFC service, other than CFC support management, on a proposed enrollment IPC:

(1) are necessary to protect the individual's health and welfare in the community;

(2) address at least one of the individual's related conditions or the additional disability that impairs independent functioning;

(3) supplements rather than replaces the individual's natural supports and other non-waiver services and supports for which the individual is eligible;

(4) prevents the individual's admission to an institution;

(5) are the most appropriate type and amount of DBMD Program services and CFC services to meet the individual's needs; and

(6) are cost effective.

(c) A program provider must:

(1) ensure that a proposed enrollment IPC is signed and dated by each member of the service planning team;

(2) submit a request for enrollment to HHSC as described in §260.61(1)(1) of this division; and

(3) maintain in the individual's record the proposed enrollment IPC submitted to HHSC with the request for enrollment.

(d) A program provider must maintain the following in the individual's record and provide a copy to HHSC upon request:

(1) current data obtained from standardized evaluations and formal assessments related to the LOC VIII criteria and to support the individual's diagnoses, in accordance with §260.51(a)(2) and (3) of this subchapter (relating to Eligibility Criteria for DBMD Program Services and CFC Services);

(2) documentation, including assessments of the individual, that support the DBMD Program services and CFC services recommended on the proposed enrollment IPC; and

(3) documentation that DBMD Program services or CFC services recommended on the proposed enrollment IPC are not available from another source.

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DIVISION 3. REVIEW

26 TAC §§260.73, 260.75, 260.77

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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DIVISION 4. TRANSFER BETWEEN PROGRAM PROVIDERS

26 TAC §260.79, §260.81

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DIVISION 5. DENIAL, SUSPENSION, REDUCTION, AND TERMINATION

26 TAC §§260.83, 260.85, 260.87, 260.89, 260.101, 260.103, 260.105, 260.107, 260.109

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of

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DIVISION 6. RIGHTS AND RESPONSIBILITIES OF AN INDIVIDUAL

26 TAC §260.111, §260.113

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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SUBCHAPTER C. COMPLIANCE WITH RULES

26 TAC §260.151

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the

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SUBCHAPTER D. ADDITIONAL PROGRAM PROVIDER PROVISIONS

26 TAC §§260.201, 260.203, 260.205, 260.207, 260.209, 260.211, 260.213, 260.215, 260.217, 260.219, 260.221, 260.223

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

§260.207. *Service Delivery.*

(a) A program provider must ensure that:

(1) a full-time case manager is assigned to provide case management services to no more than 30 individuals or other persons receiving services through another Medicaid waiver at one time;

(2) a part-time case manager is assigned to provide case management services to no more than 15 individuals or other persons receiving services through another Medicaid waiver at one time; and

(3) for a month in which a case manager does not meet with an individual or LAR as required by §260.77(a) of this chapter (relating to Renewal and Revision of an IPP and IPC), the case manager has contact with the individual, LAR, primary caregiver, or actively involved person in person, by videoconferencing, or by telephone, to provide case management.

(b) In determining the number of individuals or other persons receiving services through another Medicaid waiver at one time to whom a case manager will be assigned, a program provider must take into consideration:

(1) the intensity of needs of each individual or person;

(2) the frequency and duration of contacts the case manager will need to make with the individual or person; and

(3) the amount of travel time involved in making such contacts.

(c) A program provider must have:

(1) a sufficient number of case managers available at all times to ensure the provision of case management services; and

(2) a written process that ensures a case manager can readily become familiar with an individual to whom the case manager is not ordinarily assigned but to whom the case manager may be required to provide case management services.

(d) A program provider must have written policies and procedures that ensure backup service providers are or can readily become familiar with individuals to whom they are not ordinarily assigned but to whom they may be required to deliver services.

(e) A program provider must provide each DBMD Program service and CFC service authorized in an individual's IPC in accordance with:

- (1) the individual's current IPC;
- (2) the individual's current IPP; and
- (3) the requirements in this chapter.

(f) A program provider must ensure a copy of an individual's IPP is distributed or made available to each service provider who provides a service on the IPP.

(g) A program provider must:

(1) provide or ensure the provision of each DBMD Program service listed in §260.7(c) of this chapter (relating to Description of the DBMD Program and CFC);

(2) provide the assisted living service as either licensed assisted living or licensed home health assisted living in accordance with §260.351 of this chapter (relating to Residential Services);

(3) provide or ensure the provision of each CFC service listed in §260.7(e) of this chapter; and

(4) ensure that CFC support management is provided to an individual or LAR as described in the *Deaf Blind with Multiple Disabilities Program Manual* if:

(A) the individual is receiving CFC PAS/HAB; and

(B) the individual or LAR requests to receive CFC support management.

(h) A program provider must offer an individual choices and opportunities for accessing and participating in community activities, including employment opportunities and experiences available to peers without disabilities, and provide supports necessary for an individual to participate in those activities consistent with an individual's or LAR's choice and the individual's IPC and IPP.

(i) A program provider may accept or decline the request of an individual or LAR for the provision of transportation provided as a residential habilitation activity, nursing, out-of-home respite in a camp, case management, adaptive aids, intervener services, or CFC PAS/HAB to the individual while the individual is staying at a location outside the program provider's contracted service delivery area but within the state of Texas.

(j) If a program provider accepts the request of an individual or LAR, as described in subsection (i) of this section, the program provider:

(1) may provide transportation provided as a residential habilitation activity, nursing, out-of-home respite in a camp, adaptive aids, intervener services, CFC PAS/HAB, and case management services at the requested location;

(2) must document in the service delivery log:

(A) that the individual is receiving services outside the program provider's contracted service delivery area;

(B) the location where the individual is receiving the services;

(C) the estimated length of time the individual is expected to be outside the program provider's contracted service delivery area; and

(D) contact information for the individual or LAR;

(3) must, if the individual receives services outside the program provider's contracted service delivery area for 30 consecutive days, inform the individual or LAR, on or before the 35th day, that:

(A) to ensure the continued provision of the services, the individual must do one of the following before the 61st day:

(i) transfer to a program provider that has a contracted service delivery area that includes the area in which the individual is receiving the services; or

(ii) return to the program provider's contracted service delivery area; and

(B) if the individual receives services outside the program provider's contracted service delivery area during a period of 60 consecutive days, the individual must return to the contracted service delivery area and receive services in that area before the program provider may accept another request from the individual or LAR for the provision of the services outside the program provider's contracted service delivery area; and

(4) must, if the individual or LAR expresses a desire for the individual to transfer to a program provider that has a contracted service delivery area that includes the area in which the individual is receiving services:

(A) give the individual and LAR the HHSC Documentation of Provider Choice form for the contracted service delivery area in which the individual is receiving the services;

(B) have the individual or LAR select a program provider and designate that selection on the HHSC Documentation of Provider Choice form; and

(C) coordinate the individual's transfer in accordance with §260.79 of this chapter (relating to Coordination of Transfers).

(k) If the program provider declines the request of an individual or LAR, as described in subsection (i) of this section, the program provider must:

(1) inform the individual or LAR orally or in writing:

(A) of the reasons for declining the request; and

(B) that the individual may request a service planning team meeting to discuss the reasons for declining the request; and

(2) document the discussion and the final outcome if the service planning team meeting is held.

(l) If a program provider or case manager is unable to meet a time frame specified in this chapter, it must be for a reason not directly caused by the program provider or case manager, or for a reason beyond the program provider's or case manager's control, such as a man-made or natural disaster. The program provider or case manager must document the program provider's or case manager's efforts to meet a time frame and maintain the documentation in the individual's record. The documentation must include:

(1) the reason the time frame could not be met, which must be beyond the program provider's or case manager's control; and

(2) a description of the program provider's or case manager's ongoing efforts to meet a time frame.

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SUBCHAPTER E. ASSISTANCE WITH PERSONAL FUNDS MANAGEMENT

26 TAC §§260.251, 260.253, 260.255, 260.257, 260.259, 260.261, 260.263, 260.265, 260.267, 260.269, 260.271

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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SUBCHAPTER F. SERVICE DESCRIPTIONS AND REQUIREMENTS

DIVISION 1. ADAPTIVE AIDS

26 TAC §§260.301, 260.303, 260.305, 260.307, 260.309, 260.311

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of

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DIVISION 2. MINOR HOME MODIFICATIONS

26 TAC §§260.313, 260.315, 260.317, 260.319, 260.321, 260.323, 260.325, 260.327, 260.329, 260.331

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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DIVISION 3. REQUIREMENTS FOR OTHER DBMD PROGRAM SERVICES

26 TAC §§260.333, 260.335, 260.337, 260.339, 260.341, 260.343, 260.345, 260.347, 260.349, 260.351, 260.353, 260.355

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of ser-

VICES by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

§260.351. Residential Services.

(a) General.

(1) A program provider may provide residential services as:

(A) licensed assisted living, either 18-hour or 24-hour;

or

(B) licensed home health assisted living, either 18-hour or 24-hour.

(2) A program provider must:

(A) provide personal assistance with ADLs and IADLs;

(B) provide assistance with housekeeping;

(C) provide therapeutic social and recreational activities;

(D) provide on-site response staff to meet scheduled or unpredictable needs;

(E) provide supervision of an individual's safety and security; and

(F) provide, make arrangements for, transportation other than medical transportation.

(3) An individual receiving either licensed assisted living or licensed home health assisted living must not receive:

(A) in-home respite;

(B) out-of-home respite;

(C) transportation provided as a residential habilitation activity;

(D) chore services;

(E) CFC PAS/HAB; or

(F) nursing services except those required for program eligibility.

(4) A program provider must ensure that an individual transitioning from institutional services to either licensed assisted living or licensed home health assisted living does not receive TAS.

(5) If an individual is absent from the individual's residence for six or more hours in a day, the program provider may bill for 18-hour licensed assisted living or 18-hour licensed home health assisted living for a day on which the individual participates in day habilitation, but must not bill for 24-hour licensed assisted living or 24-hour licensed home health assisted living.

(6) If an individual's IPC includes day habilitation, the program provider may bill for 18-hour licensed assisted living or 18-hour licensed home health assisted living for a day on which the individual participates in day habilitation, but must not bill for 24-hour licensed assisted living or 24-hour licensed home health assisted living.

(7) A program provider must maintain documentation of the daily census using the HHSC Daily Census Documentation form or a form developed by the program provider that documents the information on the HHSC Daily Census Documentation form.

(8) A program provider must ensure that an individual's record includes the individual's progress or lack of progress in achieving the following outcomes for residential services:

(A) the ability to effectively communicate the individual's wants and needs to a residential services service provider;

(B) the ability to actively participate in activities of daily living to the extent of the individual's ability;

(C) the ability to implement the individual's choices;

(D) the ability to access and participate in community activities; and

(E) the ability to move safely and efficiently within home and community settings.

(b) Licensed assisted living.

(1) A program provider must provide licensed assisted living to no more than six persons in an ALF owned by the program provider.

(2) A program provider must not bill HHSC for the cost of a minor home modification for an individual who is receiving licensed assisted living.

(3) A program provider must not charge an individual or LAR a pet deposit for a service animal, including a guide dog, signal dog, or other animal individually trained to provide assistance to an individual who is receiving licensed assisted living.

(4) A program provider must maintain a ledger in accordance with generally accepted accounting principles with amounts paid for room and board by an individual who is receiving licensed assisted living.

(5) A program provider must provide a receipt for amounts paid for room and board by an individual who is receiving licensed assisted living.

(c) Licensed home health assisted living.

(1) A program provider must not allow more than three persons to reside in a residence in which the program provider provides licensed home health assisted living.

(2) A program provider must ensure that a residence in which licensed home health assisted living is provided:

(A) is accessible to and usable by the individuals receiving services in the residence;

(B) is maintained in good repair;

(C) has at least two means of egress from:

(i) the living areas; and

(ii) the individuals' bedrooms;

(D) has working smoke alarms installed to detect smoke in the kitchen, living areas, and the individuals' bedrooms;

(E) has a universal, fully-charged, and unexpired fire extinguisher easily accessible:

(i) from the kitchen;

(ii) from the laundry area;

(iii) from the vicinity of a hot water heater or furnace;

(iv) from each bedroom area; and

(v) on each floor of a multi-level residence;

(F) has a first aid kit that complies with American Red Cross recommendations with contents that are not out-of-date;

(G) has water temperature that does not exceed 110 degrees Fahrenheit from faucets used by an individual who cannot self-regulate the water temperature from a faucet the individual uses;

(H) has a locked container that can be used to store the medications for the individual as required by paragraph (3) of this subsection;

(I) has a place to store flammable or poisonous substances in a manner that makes them inaccessible to the individuals; and

(J) has a working carbon monoxide detector installed in each individual's bedroom.

(3) A program provider must ensure:

(A) an individual's prescribed medication is stored in a locked container and in the original container labeled with:

- (i) individual's name;
- (ii) date dispensed;
- (iii) instructions;
- (iv) name of medication with dosage; and
- (v) physician's name;

(B) a medication requiring refrigeration is kept separate from food in a clearly labeled, designated locked container;

(C) a medication that is no longer needed by the individual or that is past its expiration date is disposed of according to federal and state laws and regulations;

(D) a medication prescribed for one individual is not given to another individual; and

(E) an individual takes prescribed medications according to the physician's instructions and over-the-counter medications according to the package directions.

(4) A program provider must conduct a home inspection and document the results of the inspection to determine compliance with the requirements in paragraph (2) of this subsection for a residence:

(A) before providing services and annually thereafter for a residence not used to provide licensed home health assisted living services before September 1, 2014; or

(B) before September 30, 2014 and annually thereafter for a residence used to provide licensed home health assisted living before September 1, 2014.

(5) A program provider must ensure correction of any non-compliance found during the home inspection and document the correction.

(6) A program provider must:

(A) develop and implement a written emergency response plan for the residence that describes the actions a program provider will take in the event of an emergency, such as a fire or other man-made or natural disaster, including evacuation or sheltering-in-place of the individual, as appropriate; and

(B) ensure that:

(i) the emergency response plan takes into account the abilities of the individual to follow the plan;

(ii) the individual receives instruction concerning the emergency response plan:

(I) within 48 hours after the individual moves into the residence and annually thereafter; and

(II) if the individual's ability to follow the emergency response plan changes;

(iii) the individual's service providers demonstrate competence in implementing the emergency response plan at the time job duties are assumed and annually thereafter;

(iv) the emergency response plan is reviewed and revised by the program provider when necessary and at least annually; and

(v) a copy of the current emergency response plan is:

(I) maintained in the residence; and

(II) accessible to service providers.

(7) A program provider must ensure:

(A) an individual successfully participates in a fire drill within 48 hours after the individual moves into the residence;

(B) all individuals in the residence successfully participate in a fire drill at least every 90 calendar days, with at least two drills per year conducted when at least one individual is sleeping; and

(C) an individual successfully participates in a fire drill within 48 hours after a change occurs in the individual's condition that may negatively affect the individual's ability to participate in a fire drill.

(8) A program provider must ensure:

(A) the residence has furnishings that are safe for the individual in all common areas;

(B) a bedroom in the residence:

(i) has at least:

(I) 80 square feet of floor space for a single occupancy room; and

(II) 60 square feet of floor space per individual in a double occupancy room;

(ii) was built as a bedroom when the residence was built, or was remodeled under a permit that meets local building codes;

(iii) is finished with walls or partitions of standard construction that go from floor to ceiling;

(iv) is adequately ventilated and lighted;

(v) has at least one window that will open freely and remain open from the inside without special tools;

(vi) has no more than two beds in any room;

(vii) has adequate drawer and closet space; and

(viii) provides comfortable sleeping arrangements for the individual;

(C) the residence has a common telephone or other communication system usable by the individual and for which:

(i) an individual has an opportunity to have input on residence procedures concerning:

(I) time limits on calls; and

(II) privacy during an individual's use of the phone; and

(ii) a program provider does not charge an individual for local calls; and

(D) bathrooms have adequate supplies of towels, washcloths, soap, and toilet tissue at all times.

(9) A program provider must ensure that an individual living in a residence where the individual receives licensed home health assisted living has a written "lease," as defined in Texas Property Code Chapter 92, with the owner of the residence or with an individual who leases from the owner of the residence. The lease must provide the same responsibilities and protections against eviction that tenants have under state law governing residential tenancies, including Texas Property Code Chapters 24, 91, and 92 and the Texas Rules of Civil Procedure Rule 510.

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

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Karen Ray

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For further information, please call: (512) 438-2622



DIVISION 4. NON-BILLABLE TIME AND ACTIVITIES

26 TAC §260.357

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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DIVISION 5. CFC ERS

26 TAC §260.359

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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SUBCHAPTER G. PROGRAM PROVIDER-OWNED RESIDENTIAL SETTINGS

26 TAC §260.401, §260.403

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

§260.401. *Residential Agreements.*

(a) During a service planning team meeting to develop an enrollment, a revised, or a renewal IPP, a case manager must inform an individual or LAR of the following if the individual is interested in receiving licensed assisted living:

(1) that if the individual or LAR selects licensed assisted living, the individual or LAR will be responsible for paying the cost of room and board in accordance with a residential agreement described in subsections (b) and (c) of this section;

(2) that if the individual or LAR does not pay room and board as required by a residential agreement, the individual's program provider may evict the individual in accordance with the residential agreement and state law; and

(3) that if the program provider evicts the individual:

(A) the individual will not receive licensed assisted living until the delinquent room and board is paid; and

(B) the IPC will be revised to own home or family home if the delinquent room and board is not paid.

(b) An individual's program provider must ensure that an individual receiving licensed assisted living has a written residential agreement with the program provider.

(c) The residential agreement required by subsection (b) of this section must include:

- (1) the physical address of the residence;
- (2) the name of the individual;
- (3) the name of the program provider;
- (4) the beginning date of the residential agreement;
- (5) the date the residential agreement expires;
- (6) a provision that:

(A) the program provider and the individual or LAR agree that the residential agreement is a "lease," as defined in Texas Property Code Chapter 92 and that they are subject to state law governing residential tenancies, including Texas Property Code Chapters 24, 91, and 92 and the Texas Rules of Civil Procedure Rule 510;

(B) to the extent allowed by law, in the event of a conflict or inconsistency between any provision of the residential agreement and any provision of state statutory law, including Texas Property Code Chapters 91 and 92, the provision in the residential agreement governs;

(C) the individual or LAR is not waiving any right or remedy provided to tenants under state law, including the Texas Fair Housing Act in Texas Property Code Chapter 301, and is not agreeing to any notice period that is shorter than the notice period to which tenants are entitled under state law;

(D) allows the individual to terminate the residential agreement before its expiration date without any obligation under the residential agreement except an obligation that accrued before the date of termination, if the individual permanently moves from the residence for any reason, including transferring to a different program provider;

(E) if the individual permanently moves from the residence, the program provider agrees to refund any amount the individual has paid under the residential agreement for days the individual did not reside in the residence;

(F) an amount refunded under the circumstances described in paragraph (13) of this subsection will be calculated by:

(i) dividing the monthly amount the individual pays under the residential agreement by the number of days in the month; and

(ii) multiplying the quotient from subparagraph (A) of this paragraph by the number of days for which the individual paid but did not reside in the residence;

(G) the individual may furnish and decorate the individual's bedroom;

(H) the program provider agrees to be responsible for all repairs to the residence resulting from normal wear and tear, as defined in Texas Property Code §92.001;

(I) the individual will pay for damages to property in the residence if the individual caused the damage and the damage is not ordinary wear and tear;

(J) allows eviction of the individual only if:

(i) the individual or LAR fails to pay room or board, which does not include any late fee; or

(ii) the individual's DBMD Program services are terminated;

(K) the program provider will, before giving the individual or LAR a notice to vacate, give the individual or LAR a notice of proposed eviction that allows the individual or LAR at least 60 calendar days to pay the delinquent room or board;

(L) if the individual or LAR pays the delinquent room and board within the period required by subparagraph (K) of this paragraph, the program provider will not give the individual or LAR a notice to vacate or otherwise proceed to evict the individual; and

(M) the program provider will not accelerate the entire balance of the unpaid room and board owed under the remainder of the term of the residential agreement if the individual or LAR violates the residential agreement and the violation does not result in an eviction;

(7) the amount the individual or LAR is paying for room and board;

(8) the day of the month that the amount for room and board is due, which must not be before the day of the month an individual receives a primary source of income such as supplemental security income and social security disability insurance;

(9) the amount of a late fee, if any, which may be charged only once per month and must not exceed 10 percent of the amount for room and board, that the program provider may charge the individual or LAR if room and board is not paid by the third day after it is due; and

(10) the signature of the program provider and individual or the LAR.

(d) A program provider must:

(1) give the individual or LAR at least three calendar days to review, request changes, and sign the residential agreement;

(2) ensure the residential agreement is fully executed before the individual begins living in a residence in which licensed assisted living is provided, except that the individual may begin living in such a residence before the residential agreement is fully executed in the event of an emergency;

(3) if an individual begins living in a residence in which licensed assisted living is provided before a residential agreement is fully executed because of an emergency, as allowed by paragraph (2) of this subsection:

(A) document the details of the emergency; and

(B) ensure the residential agreement is fully executed within seven calendar days after the individual begins living in the residence; and

(4) provide one copy of the residential agreement to the individual or LAR within three business days after the date the residential agreement is fully executed.

(e) If a program provider becomes aware that a modification to the provision in the residential agreement that the individual may furnish and decorate the individual's bedroom is needed based on a specific assessed need of an individual, the program provider must:

(1) notify the case manager of the needed modification; and

(2) provide the case manager the documentation described in §260.403(b)(2) of this chapter (relating to Requirements for Program Provider-Owned Residential Settings).

(f) If a case manager receives a notification and documentation as described in subsection (e) of this section, the case manager must convene a meeting of the service planning team to revise the individual's IPP in accordance with §260.403(b) of this chapter.

(g) After the service planning team revises the individual's IPP, as required by subsection (f) of this section, the program provider may implement the modification.

(h) If an individual or LAR is delinquent in payment of room or board and the program provider wants to evict the individual, the program provider must:

(1) notify the case manager that the individual or LAR is delinquent in the payment of room or board under the residential agreement and that the program provider wants to evict the individual;

(2) after providing the notification required by paragraph (1) of this subsection, meet with the individual or LAR, including the representative payee if one has been appointed by the Social Security Administration, and the case manager to discuss the alleged non-payment of room or board and options to prevent an eviction; and

(3) if the program provider intends to proceed to evict the individual, at the meeting required by paragraph (2) of this subsection:

(A) give the individual or LAR a written notice of proposed eviction that allows the individual or LAR at least 60 calendar days to pay the delinquent room and board; and

(B) provide the case manager with a copy of the written notice of proposed eviction.

(i) If the individual or LAR pays the delinquent room or board within the period required by subsection (h)(3) of this section, the program provider must not give the individual or LAR a notice to vacate or otherwise proceed to evict the individual.

(j) If the individual or LAR does not pay the delinquent room and board within the period required by subsection (h)(3) of this section, the program provider:

(1) must report the failure to pay to one of the following as appropriate:

(A) the SSA;

(B) the probate court that appointed the individual's guardian; or

(C) DFPS as an allegation of the LAR's exploitation or neglect of the individual;

(2) must meet with the individual or LAR to discuss alternative living settings for the individual; and

(3) if the program provider wants to proceed to evict the individual, the program provider must:

(A) give the individual or LAR a written notice to vacate the residence in accordance with the residential agreement and state law; and

(B) send a copy of the written notice described in subparagraph (A) of this paragraph to the individual's case manager within one business day after the individual or LAR is given the notice.

(k) If an individual is evicted by a program provider and the individual or LAR has not paid the delinquent room and board, the case manager must convene a meeting or meetings to revise the IPP and revise the IPC as described in §260.77 of this chapter (relating to Renewal and Revision of an IPP and IPC). If the individual or LAR wants to keep licensed assisted living on the individual's IPC, the case

manager must inform the individual or LAR at the meeting or meetings that HHSC will deny licensed assisted living if included on the individual's IPC, until the individual pays the delinquent room and board.

(l) If a program provider evicts an individual who has an LAR and the LAR fails to arrange an alternative living setting for the individual, the program provider must report the LAR's failure to DFPS as neglect of the individual and notify the case manager that such report was made.

(m) If an individual pays the delinquent room and board, a program provider must, within one business day after the payment, notify the individual's case manager that the individual is no longer delinquent.

§260.403. *Requirements for Program Provider-Owned Residential Settings.*

(a) A program provider must ensure that, except as provided in subsection (b) of this section, in a residence in which licensed assisted living is provided:

(1) an individual has privacy in the individual's bedroom;

(2) an individual has the option not to share a bedroom with a roommate;

(3) an individual sharing a bedroom has a choice of roommates;

(4) a lock is installed on the individual's bedroom door at no cost to the individual, and that:

(A) the lock is operable by the individual; and

(B) only the individual, a roommate of the individual, and staff designated by the program provider have keys to the individual's bedroom door;

(5) an individual can furnish and decorate the individual's bedroom;

(6) while in the residence, an individual has the freedom and support:

(A) to control the individual's schedules and activities that are not part of the IPP for licensed assisted living; and

(B) to have access to food at any time;

(7) an individual may have visitors of the individual's choosing at any time; and

(8) the residence is physically accessible and free of hazards to the individual.

(b) If an individual's service planning team determines that any of the requirements in subsection (a)(1) - (6) of this section must be modified, the service planning team must:

(1) revise the individual's IPP in accordance with §260.77 of this chapter (relating to Renewal and Revision of an IPP and IPC); and

(2) document on the individual's IPP:

(A) a description of the specific and individualized assessed need that justifies the modification;

(B) a description of any positive interventions and supports that have been tried but did not work;

(C) a description of any less intrusive methods of meeting the need that have been tried but did not work;

(D) a description of the condition that is directly proportionate to the specific assessed need;

(E) a description of how data will be routinely collected and reviewed to measure the ongoing effectiveness of the modification;

(F) the established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;

(G) the individual's or LAR's signature on the IPP evidencing informed consent to the modification; and

(H) the program provider's assurance that the modification will cause the individual no harm.

(c) After the service planning team revises an individual's IPP, as required by subsection (b) of this section, the program provider must implement the modification.

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

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SUBCHAPTER H. DECLARATION OF DISASTER

26 TAC §260.451

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program.

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CHAPTER 744. MINIMUM STANDARDS FOR SCHOOL-AGE AND BEFORE OR AFTER-SCHOOL PROGRAMS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§744.121, 744.123, 744.201, 744.305, 744.307, 744.401, 744.405, 744.501, 744.605, 744.701, 744.901, 744.1015, 744.1035, 744.1203, 744.1301, 744.1309, 744.1311, 744.1321, 744.1401, 744.2001, 744.2105, 744.2209, 744.2401, 744.2571, 744.2753, 744.2911, 744.3301, and 744.3807; new §§744.1205, 744.1403, 744.1405, and 744.2009; and the repeal of §744.1205, in Texas Administrative Code, Title 26, Chapter 744, Minimum Standards for School-Age and Before or After-School Programs.

Amended §§744.123, 744.605, 744.1309, and 744.1311 are adopted with changes to the proposed text as published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6082). These rules will be republished.

Amended §§744.121, 744.201, 744.305, 744.307, 744.401, 744.405, 744.501, 744.701, 744.901, 744.1015, 744.1035, 744.1203, 744.1301, 744.1321, 744.1401, 744.2001, 744.2105, 744.2209, 744.2401, 744.2571, 744.2753, 744.2911, 744.3301, and 744.3807; new §§744.1205, 744.1403, 744.1405, and 744.2009; and the repeal of §744.1205 are adopted without changes to the proposed text as published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6082). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amended, new, and repealed sections are necessary to comply with Texas Human Resources Code (HRC) §42.042(b), which requires HHSC Child Care Regulation (CCR) to conduct a comprehensive review of minimum standards at least once every six years.

The purpose of the comprehensive review is to (1) identify any minimum standards that need clarification and amend them; (2) identify any minimum standards that may not have the intended outcome and amend or repeal them; (3) ensure that minimum standards are consistent with current research, best practices, and other guidelines; and (4) ensure regulatory requirements support the availability and affordability of child day care without compromising children's overall health, safety, and well-being.

The adopted changes are the result of recommendations based on input from CCR staff and stakeholders, including child-care providers, caregivers, advocates, parents, and the public, compiled during the comprehensive review of all minimum standards located in Chapter 744.

COMMENTS

The 31-day comment period ended October 24, 2022. During this period, HHSC received eight comments regarding the proposed rules from two water safety advocacy groups, Colin's Hope and Live Like Kati; and one state entity, the Texas Groundwater Protection Committee. A summary of the comments relating to the rules and HHSC's responses follows.

Comment: Regarding §744.123(11), two commenters issued a statement of support for the updates to the definition of "certified lifeguard."

Response: HHSC appreciates support of the rule.

Comment: Regarding §744.605(10), two commenters recommended HHSC require legal guardians to identify non-swimmers when enrolling a child if the child-care operation participates in water-related activities.

Response: HHSC agrees with the comment and revised the rule to require a parent or guardian to disclose on the child-care operation's admission form whether the child can swim.

Comment: Regarding Subchapter D, Personnel, Division 4, Professional Development, two commenters recommended HHSC require at least two hours of water safety training for all providers who are participating in water activities prior to the activity.

Response: HHSC disagrees with the comment and declines to add this requirement. Implementing this recommendation would require HHSC to develop a new rule not currently included in this project. Any such change would require specific notice and an opportunity for the public to comment on it. In addition, HHSC has existing rules that help ensure the safety of children in care engaging in water activities. Section 744.1907 requires a certified lifeguard be on duty when children are swimming in more than two feet of water and §744.1911 requires anyone counted in the child to caregiver ratio during swimming activities to know how to swim. While HHSC will not add a water safety training requirement at this time, HHSC will consider the recommendation during future revisions to Chapter 744.

Comment: Regarding §744.1911, two commenters recommended HHSC add a definition for the term "know how to swim" in this rule.

Response: HHSC disagrees with the comment and declines to revise the rule. Because HHSC did not propose changes to this rule as part of this project, making a change at this stage of the project would result in HHSC requiring child-care operations to comply with a new requirement without providing the opportunity to provide comment. HHSC will consider this recommendation during future revisions to Chapter 744.

Comment: Regarding §744.2459, one commenter recommended HHSC add a requirement that child-care operations notify HHSC if the operation's water supply is from a private water well or other private water supply upon license application and license renewal. The same commenter recommended HHSC provide an actionable standard that child-care operations can follow by further clarifying the term "safe and sanitary manner." The commenter recommended HHSC (1) add this term as a definition that references an authoritative source or (2) amend the rule to require child-care operations that use water from private water supplies to follow standards developed by the National Resource Center for Health and Safety in Child Care and Early Education's Caring for Our Children.

Response: HHSC disagrees with the comments and declines to revise the rule. HHSC did not propose changes to this rule during the comment period for this project and does not collect data related to an operation's water supply. However, HHSC added a Helpful Information box that follows the rule in the courtesy publication of the minimum standards to include additional resources regarding private water supplies.

Comment: Regarding §744.3401, two commenters recommended HHSC require the use of water badges during water related activities. The same two commenters recommended HHSC require the use of U.S. Coast Guard-approved life jackets ahead of pool activities and have children remain in them until they have been swim tested to determine their swim ability.

Response: HHSC did not propose changes to this rule during the comment period for this project and declines to revise the rule. However, HHSC added best practice information about (1) caregivers wearing physical reminders when they are responsible for supervising children in and around water and (2) the use of life-saving devices in a Helpful Information box that follows the rule in the minimum standards courtesy publication.

HHSC also received comments on parallel rules in Chapter 746, Minimum Standards for Child-Care Centers, published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6102). HHSC amended the proposed text in §§744.123, 744.605(13), 744.1309, and 744.1311 to ensure the minimum standards remain congruent throughout Chapters 744 and 746. For a more detailed description of comments received for Chapter 746 and HHSC's response, please see the preamble for Chapter 746, which is published elsewhere in this issue of the *Texas Register*.

In addition to the rule revisions noted, HHSC updated §744.123 to reflect changes adopted in another rule project in Chapter 744, relating to Protections for Children on the Grounds or Premises.

SUBCHAPTER A. PURPOSE, SCOPE, AND DEFINITIONS

DIVISION 3. DEFINITIONS

26 TAC §744.121, §744.123

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§744.123. What do certain words and terms mean when used in this chapter?

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or another subchapter or unless the context clearly indicates otherwise. In addition, the following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

(1) Activity plan--A written plan that outlines the daily routine and activities in which a group of children will engage while in your care. The plan is designed to meet the children's cognitive, language, social, emotional, and physical developmental strengths and needs.

(2) Activity space--An area or room used for children's activities, including areas separate from a group's classroom.

(3) Administrative and clerical duties--Duties that involve the administration of an operation, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

(4) Admission--The process of enrolling a child in an operation. The date of admission is the first day the child is physically present at the operation.

- (5) **Adult**--A person 18 years old and older.
- (6) **Age-appropriate**--Activities, equipment, materials, curriculum, and environment, including the child's assigned classroom, that are developmentally consistent with the developmental or chronological age of the child being served.
- (7) **Attendance**--When referring to a child's attendance, the physical presence of a child at the operation or after on any given day or at any given time, as distinct from the child's enrollment in the operation.
- (8) **Before or after-school program**--An operation that provides care before and after or before or after the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend pre-kindergarten through grade six.
- (9) **Caregiver**--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child. As used in this chapter, a caregiver must meet the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel). A caregiver is usually an employee, but may also be a substitute, volunteer, or contractor, as outlined in paragraph (15) of this section and Subchapter D, Division 5 of this chapter (relating to Substitutes, Volunteers, and Contractors).
- (10) **Certified Child-Care Professional Credential**--A credential given by the National Early Childhood Program Accreditation to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.
- (11) **Certified lifeguard**--A person who has been trained in life saving and water safety by a qualified instructor, from a recognized organization that awards a certificate upon successful completion of the training. The certificate is not required to use the term "lifeguard," but you must be able to document that the certificate is current, relevant to the type of water activity in which children will engage, and represents the type of training described.
- (12) **CEUs**--Continuing education units. A standard unit of measure for adult education and training activities. One CEU equals 10 clock hours of participation in an organized, continuing-education experience, under responsible, qualified direction and instruction. Although a person may obtain a CEU in many of the same settings as clock hours, the CEU provider must meet the criteria established by the International Association for Continuing Education and Training to be able to offer the CEU.
- (13) **Child Development Associate Credential**--A credential given by the Council for Professional Recognition to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.
- (14) **Clock hour**--An actual hour of documented:
- (A) Attendance at instructor-led training, such as seminars, workshops, conferences, early childhood classes, and other planned learning opportunities, provided by an individual or individuals, as specified in §744.1319(a) of this chapter (relating to Must the training for my caregivers and the director meet certain criteria?); or
- (B) Self-instructional training that was created by an individual or individuals, as specified in §744.1319(a) and (b) of this chapter, or self-study training.
- (15) **Contract service provider**--A person or entity contracting with the operation to provide a service, whether paid or unpaid. Also referred to as "contract staff" and "contractor" in this chapter.
- (16) **Corporal punishment**--The infliction of physical pain on a child as a means of controlling behavior. This includes spanking, hitting with a hand or instrument, slapping, pinching, shaking, biting, or thumping a child.
- (17) **Days**--Calendar days, unless otherwise stated.
- (18) **Director**--An adult you designate to have daily, on-site responsibility for your operation, including maintaining compliance with the minimum standards, rules, and laws. As this term is used in this chapter, a director may be an operation director, program director, or site director, unless the context clearly indicates otherwise.
- (19) **Employee**--A person an operation employs full-time or part-time to work for wages, salary, or other compensation. Employees are all of the operation staff, including caregivers, kitchen staff, office staff, maintenance staff, the assistant director, all directors, and the owner, if the owner is ever on site at the operation or transports a child.
- (20) **Enrollment**--The list of names or number of children who have been admitted to attend an operation for any given period of time; the number of children enrolled in an operation may vary from the number of children in attendance on any given day.
- (21) **Entrap**--A component or group of components on equipment that forms angles or openings that may trap a child's head by being too small to allow the child's body to pass through, or large enough for the child's body to pass through but too small to allow the child's head to pass through.
- (22) **Field trips**--Activities conducted away from the operation.
- (23) **Food service**--The preparation or serving of meals or snacks.
- (24) **Frequent**--More than two times in a 30-day period. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).
- (25) **Garbage**--Waste food or items that when deteriorating cause offensive odors and attract rodents, insects, and other pests.
- (26) **Governing body**--A group of persons or officers of a corporation or other type of business entity having ultimate authority and responsibility for the operation.
- (27) **Grounds**--Includes any parcel of land where the operation is located and any building, other structure, body of water, play equipment, street, sidewalk, walkway, driveway, parking garage, or parking lot on the parcel. Also referred to as "premises" in this chapter.
- (28) **Group activities**--Activities that allow children to interact with other children in large or small groups. Group activities include storytelling, finger plays, show and tell, organized games, and singing.
- (29) **Hazardous materials**--Any substance or chemical that is a health hazard or physical hazard as determined by the Environmental Protection Agency. Also referred to as "toxic materials" and "toxic chemicals" in this chapter.
- (30) **Health-care professional**--A licensed physician, a licensed advanced practice registered nurse (APRN), a licensed vocational nurse (LVN), a licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the license. This does not include physicians, nurses, or other medical personnel who are not licensed in the United States or in the country in which the person practices.

(31) Health check--A visual or physical assessment of a child to identify potential concerns about a child's health, including signs or symptoms of illness and injury, in response to changes in the child's behavior since the last date of attendance.

(32) High school equivalent--

(A) Documentation of a program recognized by the Texas Education Agency (TEA) or other public educational entity in another state, which offers similar training on reading, writing, and math skills taught at the high school level, such as a General Educational Development (GED) certificate; or

(B) Confirmation that the person received home-schooling that adequately addressed basic competencies such as basic reading, writing, and math skills, which would otherwise have been documented by a high school diploma.

(33) Individual activities--Opportunities for the child to work independently or to be away from the group but supervised.

(34) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use by children, as specified by the manufacturer, which may include bouncing, climbing, sliding, or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(35) Instructor-led training--Training characterized by the communication and interaction that takes place between the student and the instructor. The training must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must communicate with the student in a timely fashion, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include, classroom training, web-based on-line facilitated learning, video-conferencing, or other group learning experiences.

(36) Janitorial duties--Those duties that involve the cleaning and maintenance of the operation's building, rooms, furniture, etc. Cleaning and maintenance include such duties as cleansing carpets, washing cots, and sweeping, vacuuming, or mopping a restroom or a classroom. Sweeping up after an activity or mopping up a spill in a classroom that is immediately necessary for the children's safety is not considered a janitorial duty.

(37) Local sanitation official--A sanitation official designated by the city or county government.

(38) Multi-site operations--Two or more operations owned by the same person or entity, but the operations have separate permits. These operations may have centralized business functions, record keeping, and leadership.

(39) Natural environment--Settings that are natural or typical for all children of the same age without regard to ability or disability. For example, a natural environment for learning social skills is a play group of peers.

(40) Nighttime care--Care given on a regular or frequent basis to children who are starting or continuing their night sleep, or to children who spend the night or part of the night at the operation between the hours of 9:00 p.m. and 6:00 a.m.

(41) Operation--A person or entity offering a before or after-school program or school-age program that is subject to Licensing's regulation. An operation includes the grounds where the program is

offered, any person involved in providing the program, and any equipment used in providing the program.

(42) Operation director--A director at your operation who is not supervised by a program director. An operation that has an operation director cannot have a program director or a site director.

(43) Owner--The sole proprietor, partnership, corporation, or other type of business entity who owns the operation.

(44) Permit holder--The owner of the operation that is granted the permit.

(45) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your:

(A) Operation voluntarily closes;

(B) Operation must close because of an enforcement action in Chapter 745, Subchapter L of this title (relating to Enforcement Actions);

(C) Permit expires according to §745.481 of this title (relating to When does my permit expire?); or

(D) Operation must close because its permit is automatically revoked according to Texas Human Resources Code §§42.048(e), 42.052(j), or 42.054(f).

(46) Physical activity (moderate)--Levels of activity for a child that are at intensities faster than a slow walk, but still allow the child to talk easily. Moderate physical activity increases heart rate and breathing rate.

(47) Physical activity (vigorous)--Rhythmic, repetitive physical movement for a child that uses large muscle groups, causing the child to breathe rapidly and only enabling the child to speak in short phrases. Typically, the child's heart rate is substantially increased and the child is likely to be sweating while engaging in the vigorous physical activity.

(48) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(49) Premises--See the term "grounds" and its definition in this section.

(50) Program--The services and activities provided by an operation.

(51) Program director--A director who oversees your program at multi-site operations and supervises a site director at each operation.

(52) Regular--On a recurring, scheduled basis. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title.

(53) Safety belt--A lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(54) Sanitize--The use of a disinfecting product that provides instructions specific for sanitizing and is registered by the Environmental Protection Agency (EPA) to substantially reduce germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labelling instructions for sanitizing or disinfecting, depending on the surface (paying attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children). If you use bleach instead of an approved disinfecting product, you must follow these steps in order:

- (A) Washing with water and soap;
- (B) Rinsing with clear water;
- (C) Soaking in or spraying on a bleach solution for at least two minutes;
- (D) Rinsing with cool water only those items that children are likely to place in their mouths; and
- (E) Allowing the surface or item to air-dry.

(55) School-age child--A child who is five years of age and older and is enrolled in or has completed kindergarten.

(56) School-age program--An operation that provides supervision and recreation, skills instruction, or skills training for at least two hours a day and three days a week to children who attend pre-kindergarten through grade six. A school-age program operates before or after the customary school day and may also operate during school holidays, the summer period, or any other time when school is not in session.

(57) Screen time activity--An activity during which a child views media content on a cell or mobile phone, tablet, computer, television, video, film, or DVD. Screen time activities do not include video chatting with a child's family or assistive and adaptive computer technology used by a child with special care needs on a consistent basis.

(58) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. An example of this type of training is web-based training. Self-study training is also a type of self-instructional training.

(59) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours of annual training per year.

(60) Site director--A director who has on-site responsibility at a specific operation, but who is supervised by a program director.

(61) Special care needs--A child with special care needs is a child who has:

- (A) A chronic physical, developmental, behavioral, or emotional condition or a disability and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including the movement of large or small muscles, learning, talking, communicating, comprehension, emotional regulation, self-help, social skills, emotional well-being, seeing, hearing, and breathing; or
- (B) A limitation due to an injury, illness, or allergy.

(62) State or local fire authority--A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government, including certified fire inspectors. Also referred to as "fire marshal" in this chapter.

(63) Universal precautions--An approach to infection control where all human blood and certain human bodily fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(64) Water activities--Related to the use of swimming pools, splashing pools, wading pools, sprinkler play, or other bodies of water.

(65) Weather permitting--Weather conditions that do not pose any concerns for health and safety, such as significant risk of frost-bite or heat-related illness. This includes adverse weather conditions in which children may still play safely outdoors for shorter periods with appropriate adjustments to clothing and any necessary access to water, shade, or shelter.

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SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION
DIVISION 1. PERMIT HOLDER RESPONSIBILITIES

26 TAC §744.201

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 2. REQUIRED NOTIFICATIONS
26 TAC §744.305, §744.307

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DIVISION 3. REQUIRED POSTINGS

26 TAC §744.401, §744.405

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DIVISION 4. OPERATIONAL POLICIES

26 TAC §744.501

STATUTORY AUTHORITY

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SUBCHAPTER C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §744.605

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§744.605. *What admission information must I obtain for each child?* You must obtain at least the following information before admitting a child to the operation:

- (1) The child's name and birth date;
- (2) The child's home address and telephone number;
- (3) Date of the child's admission to the operation;
- (4) Name and address of parent(s);
- (5) Telephone numbers at which parent(s) can be reached while the child is in care;
- (6) Name, address, and telephone number of another responsible individual (friend or relative) who should be contacted in an emergency when the parent cannot be reached;

(7) Names and telephone numbers of persons other than a parent to whom the child may be released;

(8) Permission for transportation, if provided, including any authorized pick-up and drop-off locations;

(9) Permission for field trips, if provided;

(10) Permission for participation in water activities, if provided, including whether the child is able to swim without assistance;

(11) Name, address, and telephone number of the child's physician or an emergency-care facility;

(12) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment;

(13) A statement of the child's special problems or special care needs, which must include:

(A) Any limitations or restrictions on the child's activities;

(B) Special care the child requires, including:

(i) Any reasonable accommodations or modifications;

(ii) Any adaptive equipment provided for the child, including instructions for how to use the equipment; and

(iii) Symptoms or indications of potential complications related to a physical, cognitive, or mental condition that may warrant prevention or intervention while the child is in care; and

(C) Any medications prescribed for continuous, long-term use.

(14) The name and telephone number of the school that a school-age child attends, unless the operation is located at the child's school;

(15) Permission for a school-age child to ride a bus, walk to or from school or home, or to be released to the care of a sibling under 18 years old, if applicable; and

(16) The child's allergies and a completed food allergy emergency plan for the child, if applicable.

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DIVISION 2. RECORDS OF ACCIDENTS AND INCIDENTS

26 TAC §744.701

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. PERSONNEL RECORDS

26 TAC §744.901

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER D. PERSONNEL DIVISION 1. DIRECTOR

26 TAC §744.1015, §744.1035

STATUTORY AUTHORITY

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DIVISION 3. GENERAL RESPONSIBILITIES FOR PERSONNEL

26 TAC §744.1203, §744.1205

STATUTORY AUTHORITY

The amendment and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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26 TAC §744.1205

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §§744.1301, 744.1309, 744.1311, 744.1321

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§744.1309. *What areas of training must the annual training for caregivers and site directors cover?*

(a) The 15 clock hours of annual training must:

(1) For a caregiver, be relevant to the age of the children for whom the caregiver provides care; or

(2) For a site director, be relevant to the age of the children for whom the operation provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

(1) Child growth and development;

(2) Guidance and discipline;

- (3) Age-appropriate curriculum; and
- (4) Teacher-child interaction.

(c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:

- (1) Factors indicating a child is at risk for abuse or neglect;
- (2) Warning signs indicating a child may be a victim of abuse or neglect;
- (3) Procedures for reporting child abuse or neglect; and
- (4) Community organizations that have training programs available to employees, children, and parents.

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §744.2653 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) The remaining annual training hours must be in one or more of the following topics:

- (1) Care of children with special needs;
- (2) Child health (for example, nutrition, and physical activity);
- (3) Safety;
- (4) Risk management;
- (5) Identification and care of ill children;
- (6) Cultural diversity for children and families;
- (7) Professional development (for example, effective communication with families and time and stress management);
- (8) Topics relevant to the particular age group the caregiver is assigned;
- (9) Planning developmentally appropriate learning activities; and
- (10) Minimum standards and how they apply to the caregiver.

(f) At least three of the 15 required annual training hours must be instructor-led training. The remaining 12 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

(g) The 15 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, pediatric first aid and pediatric CPR training, transportation safety training, and high school child-care work-study classes.

§744.1311. *What areas of training must the annual training for an operation director or a program director cover?*

(a) The 20 clock hours of annual training must be relevant to the age of the children for whom the operation provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum;
- (4) Teacher-child interaction; and
- (5) Serving children with special care needs.

(c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:

- (1) Factors indicating a child is at risk for abuse or neglect;
- (2) Warning signs indicating a child may be a victim of abuse or neglect;
- (3) Procedures for reporting child abuse or neglect; and
- (4) Community organizations that have training programs available to employees, children, and parents.

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §744.2653 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) An operation director or program director with:

- (1) Five or fewer years of experience as a designated operation director or program director must complete at least six clock hours of the annual training hours in management techniques, leadership, or staff supervision; or
- (2) More than five years of experience as a designated operation director or program director must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision.

(f) The remainder of the 20 clock hours of annual training must be selected from the training topics specified in §744.1309(e) of this division (relating to What areas of training must the annual training for caregivers and site directors cover?).

(g) An operation director or program director may obtain clock hours or CEUs from the same sources as caregivers.

(h) A director may not earn training hours by presenting training to others.

(i) At least four of the required 20 annual training hours must come from instructor-led training. The remaining 16 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

(j) The 20 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, pediatric first aid and pediatric CPR training, and transportation safety training.

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DIVISION 5. SUBSTITUTES, VOLUNTEERS, AND CONTRACTORS

26 TAC §§744.1401, 744.1403, 744.1405

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SUBCHAPTER F. DEVELOPMENTAL ACTIVITIES AND EQUIPMENT DIVISION 1. ACTIVITIES AND ACTIVITY PLANS

26 TAC §744.2001, §744.2009

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SUBCHAPTER G. DISCIPLINE AND GUIDANCE

26 TAC §744.2105

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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Chief Counsel

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SUBCHAPTER H. NAPTIME

DIVISION 1. NAPTIME

26 TAC §744.2209

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER J. NUTRITION AND FOOD SERVICE

26 TAC §744.2401

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective

Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER K. HEALTH PRACTICES

DIVISION 3. ILLNESS AND INJURY

26 TAC §744.2571

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER L. SAFETY PRACTICES

DIVISION 4. FIRST-AID KITS

26 TAC §744.2753

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER M. PHYSICAL FACILITIES DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §744.2911

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER N. INDOOR AND OUTDOOR ACTIVE PLAY SPACE AND EQUIPMENT DIVISION 5. SOFT CONTAINED PLAY EQUIPMENT

26 TAC §744.3301

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER Q. TRANSPORTATION

26 TAC §744.3807

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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CHAPTER 746. MINIMUM STANDARDS FOR CHILD-CARE CENTERS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§746.121, 746.123, 746.201, 746.305, 746.307, 746.309, 746.405, 746.501, 746.605, 746.701, 746.901, 746.1015, 746.1017, 746.1037, 746.1203, 746.1301, 746.1309, 746.1311, 746.1317, 746.1319, 746.1323, 746.1401, 746.1605, 746.2201, 746.2403, 746.2405, 746.2415, 746.2426, 746.2427, 746.2503, 746.2703, 746.2805, 746.2909, 746.3205, 746.3301, 746.3601, 746.3701, 746.4003, 746.4217, 746.4403, 746.4951, 746.5607, and 746.5625; new §§746.1005, 746.1011, 746.1205, 746.1403, 746.1405, 746.2202, 746.2424, and 746.2601; and repeal of §§746.1011, 746.1205, and 746.2601 in Texas Administrative Code, Title 26, Chapter 746, Minimum Standards for Child-Care Centers.

Amended §§746.123, 746.605, 746.1309, and 746.1311 are adopted with changes to the proposed text as published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6102). These rules will be republished.

Amended §§746.121, 746.201, 746.305, 746.307, 746.309, 746.405, 746.501, 746.701, 746.901, 746.1015, 746.1017, 746.1037, 746.1203, 746.1301, 746.1317, 746.1319, 746.1323, 746.1401, 746.1605, 746.2201, 746.2403, 746.2405, 746.2415, 746.2426, 746.2427, 746.2503, 746.2703, 746.2805, 746.2909, 746.3205, 746.3301, 746.3601, 746.3701, 746.4003, 746.4217, 746.4403, 746.4951, 746.5607, and 746.5625; new §§746.1005, 746.1011, 746.1205, 746.1403, 746.1405, 746.2202, 746.2424, and 746.2601; and repeal of §§746.1011, 746.1205, and 746.2601 are adopted without changes to the proposed text as published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6102). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amended, new, and repealed sections are necessary to comply with Texas Human Resources Code (HRC) §42.042(b), which requires HHSC Child Care Regulation (CCR) to conduct a comprehensive review of minimum standards at least once every six years.

The purpose of the comprehensive review is to (1) identify any minimum standards that need clarification and amend them; (2) identify any minimum standards that may not have the intended outcome and amend or repeal them; (3) ensure that minimum standards are consistent with current research, best practices, and other guidelines; and (4) ensure regulatory requirements support the availability and affordability of child day care without compromising children's overall health, safety, and well-being.

The adopted changes are the result of recommendations based on input from CCR staff and stakeholders, including child-care providers, caregivers, advocates, parents, and the public, compiled during the comprehensive review of all minimum standards located in Chapter 746.

COMMENTS

The 31-day comment period ended October 24, 2022. During this period, HHSC received 52 comments regarding the rules from four commenters representing licensed child-care centers, including The Roundup Corral, Kiddie Academy, Grapevine-Colleyville Independent School District Early Childhood Development Center, and Sons Kids Christian School; ten commenters representing advocacy groups, including Texans Care for Children, Coalition for Texans with Disabilities, Colin's Hope, Live Like Kati, North Texas Early Education Alliance, Texas Association for the Education of Young Children, Early Matters, Children at Risk, Success by 6 - Austin/Travis Coalition, and United Ways of Texas; one state entity, the Texas Groundwater Protection Committee; one parent; and one individual. A summary of the comments relating to the rules and HHSC's responses follows.

Comment: Regarding terms and definitions, two commenters recommended HHSC include the term "disability" alongside the phrase "special care need" throughout Chapter 746.

Response: HHSC agrees with the comment and revised the definition of "special care needs" in §746.123(55)(A) to include the term "disability." The addition of this term to the definition ensures its inclusion in any rule that uses the term "special care needs" throughout Chapter 746.

Comment: Regarding §746.123(1), one commenter issued a statement of support for the added clarification that an activity plan be designed to meet the child's cognitive, language, social, emotional, and physical developmental needs.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.123(1), one commenter recommended HHSC add the word "individual" to the definition of the term "activity plan."

Response: HHSC agrees that the term needs clarification but disagrees with the recommendation to add the word "individual" to the definition. Because an activity plan is designed and posted to represent the activities in which an entire class or group will engage, HHSC revised the rule to clarify that an activity plan applies to a group of children rather than an individual child.

Comment: Regarding §746.123(6), one commenter issued a statement of support for the addition of the child's developmental age to the definition of "age-appropriate."

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.123(12), two commenters issued a statement of support for the updates to the definition of "certified lifeguard."

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.123(20), one commenter stated support for the revision to the definition of "corporal punishment," but recommended HHSC add to the examples in the definition the terms "pushing" and "punching."

Response: HHSC appreciates support of the rule but disagrees with the recommendation to add more terms as examples and declines to revise the rule. The term "corporal punishment" encompasses many types of physical actions used to inflict pain, and HHSC does not intend for the examples provided in rule to be all inclusive.

Comment: Regarding §746.123(55)(A), one commenter issued a statement of support for the addition of the terms "comprehension" and "emotional regulation" to the definition of "special care needs."

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.305(a)(6), one commenter recommended HHSC add language to require an operation to report to HHSC the failure to prevent a child wandering away from the childcare class or group.

Response: HHSC disagrees with the comment and declines to revise the rule. As written, the rule requires an operation to report to HHSC the occurrence of any other non-routine situation that places, or may place, a child at risk for injury or harm. While the rule provides two examples of situations that meet the requirement, there are many scenarios that have the potential to place a child at risk. Therefore, HHSC does not intend the examples in rule to be all inclusive. Depending on multiple factors, including the age and developmental level of the child, proximity of caregivers, surrounding environment, etc., a child who wanders away from a class or group may not be at risk for injury or harm and, consequently, the scenario may not always require a report to HHSC. HHSC offers additional information and examples in a Helpful Information box that follows the rule in the minimum standards courtesy publication.

Comment: Regarding §746.305(a), one commenter recommended HHSC add a new subsection (a)(8), to require a child-care center to report to HHSC suspensions and expulsions of children from the child-care center.

Response: HHSC disagrees with the comment and declines to revise the rule. Each situation listed in this rule requires notification because HHSC must timely process or investigate the information submitted due to the risk of children in care. Section 746.501(8) requires a child-care center to have written operational policies and procedures that address the suspension and expulsion of children in care, and HHSC would investigate any report alleging a violation of the operation's policies, including policies related to a child's suspension or expulsion.

Comment: Regarding §746.307(b), one commenter recommended HHSC add language to require an operation report to parents instances of a child's elopement.

Response: HHSC disagrees with the comment and declines to revise the rule. The rule requires parental notification for any non-routine situation that placed or may place a child at risk for injury or harm. Though not explicitly included as an example, a child eloping from the child-care center is reportable under the current rule.

Comment: Regarding §746.307(d), one commenter recommended HHSC revise the rule to require child-care centers to notify the parent of each child attending the child-care center within 48 hours of becoming aware that a child in care or an employee has contracted a communicable disease listed on the Communicable Disease Chart and Notes for Schools and Child-Care Centers published by the Texas Department of State Health Services (DSHS). The commenter further recommended if the communicable disease is one requiring exclusion, the child-care center should state so in their notification to parents.

Response: HHSC disagrees with the comment and declines to revise the rule. Because CCR does not have expertise in communicable diseases, CCR relies on DSHS to determine whether a communicable disease warrants notification protocols. For this

reason, the rule currently requires an operation to provide written notice to the parent of each child attending the child-care center within 48 hours of becoming aware that a child in care or an employee has contracted a communicable disease deemed notifiable by DSHS rules. In addition, CCR currently has rules that require a child with a communicable illness be excluded from care if the communicable disease chart referenced by the commenter indicates exclusion is warranted.

Comment: Regarding §746.501, two commenters recommended HHSC add to a child-care center's operational policies a requirement that child-care centers provide parents with information regarding Early Childhood Intervention (ECI) services. One of the commenters noted the information could be distributed from existing resources at no cost to the child-care center.

Response: HHSC disagrees with the comment and declines to revise the rule. Though HHSC agrees that sharing information with parents about community services is valuable, HHSC does not agree that an operation's policies should require it. CCR collaborates with ECI to provide multiple ECI resources in the CCR Technical Assistance library. These documents are accessible to child-care providers and parents. They are also provided directly to child-care providers who may need support around this topic.

Comment: Regarding §746.501, two commenters recommended HHSC add to a child-care center's operational policies a requirement that child-care centers provide parents and caregivers with information about Title III of the Americans with Disabilities Act (ADA) and its application to child-care centers, including ADA Frequently Asked Questions, so that parents and caregivers may learn more about their legal protections under the ADA.

Response: HHSC disagrees with the comment and declines to revise the rule. While a child-care center is considered a place of public accommodation under Title III of the ADA, HHSC is not the regulatory authority responsible for implementing or enforcing ADA requirements. Rather than requiring child-care centers to distribute ADA materials in rule, HHSC provides weblinks to additional information regarding Title III as it relates to child-care centers in a Helpful Information box that follows §746.2202 in the courtesy publication of the minimum standards.

Comment: Regarding §746.501, one commenter recommended HHSC require child-care centers to include their disciplinary policies and procedures in their operational policies.

Response: HHSC disagrees with the comment and declines to revise the rule. This requirement is already included in §746.501(a)(7), which states that child-care centers are required to develop written operational policies and procedures for discipline in guidance.

Comment: Regarding §746.501(a)(15), one commenter recommended HHSC add to a child-care center's operational policies a requirement to address water safety, including policies to address non-swimmers during water activities and safeguards, such as life jackets, for non-swimmers.

Response: HHSC disagrees with the comment and declines to revise the rule. The rule currently requires child-care centers to develop operational policies for water activities, if provided. While a child-care center is not required to include the commenter's suggestions in the policy, HHSC has several rules that address water safety for children in care when a child-care center

provides water activities. In addition, HHSC added best practice information about life-saving devices, pre-identifying non-swimmers, etc., to a Helpful Information box that follows §746.5001 in the courtesy publication of the minimum standards, a rule relating to water safety not included in this project. HHSC will consider updating operational policies for water activities to include more specific requirements in the future but needs more time to consider the recommendation before making a substantive change to operational policies related to water activities. Moreover, any such change would require specific notice and an opportunity for the public to comment.

Comment: Regarding §746.501(30), one commenter issued a statement of support for the new requirement that a child-care center must have written policies and procedures in place for supporting inclusive services to children with special care needs.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.605(10), two commenters recommended HHSC require legal guardians to identify non-swimmers when enrolling a child if the child-care center participates in water-related activities.

Response: HHSC agrees with the comment and revised the rule to require a parent or guardian to disclose on the child-care center's admission form whether the child can swim.

Comment: Regarding §746.605(13), one commenter issued a statement of support for the additional and clarifying language related to required admission information for children with special care needs.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.605(13), two commenters recommended HHSC revise the special care needs statement in the required admission information to read "disability and special care needs statement."

Response: HHSC agrees that the rule should be inclusive of a child's disability but declines to revise the rule as recommended. Instead, HHSC revised the definition of "special care needs" in §746.123(55)(A) to include the term "disability." The addition of this term to the definition ensures it is included in any rule that uses the term "special care needs" throughout Chapter 746.

Comment: Regarding §746.605(13)(B)(ii), one commenter issued a statement of support for the revised language related to the required admission information for children with special care needs and recommended HHSC further revise the rule to require a brief explanation for how to use any recommended adaptive equipment.

Response: HHSC agrees with the comment and revised the rule to require the admission information include instructions for how to use any adaptive equipment the child requires.

Comment: Regarding §746.901, one commenter requested clarification regarding whether the rule amendment changes the current record keeping requirements by requiring the operation to maintain paper rather than electronic copies of personnel training certificates.

Response: HHSC declines to revise the rule based on this comment. The rule amendment clarifies that a child-care center must maintain documentation of training required in §746.1329 in the personnel record; it does not change current requirements related to the type of documentation required to verify training.

Comment: Regarding §746.1203(4), two commenters issued a statement of support for the addition of the new subsection that outlines caregiver responsibilities with a clarification that caregivers must provide care that is consistent with a child's habits, interests, and any special needs, including any special supervision needs or care.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.1203(6), one commenter issued a statement of support for the addition of language clarifying that caregivers set appropriate behavior expectations based on the child's current stage of development as opposed to the language in the previous draft that required a caregiver to set age-appropriate behavioral expectations.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.1203(6), one commenter issued a statement of support for the rule, but also recommended that HHSC revise the rule to require a caregiver to set behavior expectations based on the child's developmental age.

Response: HHSC disagrees with the comment and declines to revise the rule. In the comment, the commenter referenced language from an earlier draft of the rules. HHSC updated that language in response to informal comment. The proposed language requires caregivers to set appropriate behavior expectations based on the child's current stage of development.

Comment: Regarding §746.1205(b)(1), one commenter recommended HHSC change the language from "a child's chronological age" to "a child's developmental age."

Response: HHSC disagrees with the comment and declines to revise the rule. The child's chronological age is one of many factors a caregiver must consider when deciding how closely to supervise a child. Section 746.1205(b)(2) requires a caregiver to also consider the child's current stage of development.

Comment: Regarding §746.1301(a)(2)(A), one commenter recommended HHSC revise the rule to allow a caregiver with only eight hours of pre-service training to be counted in ratio only under the supervision of another individual who has completed all the required pre-service training or has the required experience.

Response: HHSC disagrees with the comment and declines to revise the rule. Requiring an additional employee or caregiver in the classroom with a new caregiver who has not yet completed all 24 hours of pre-service training could result in staffing shortages in an industry already struggling to hire enough caregivers to meet enrollment needs. A staffing shortage may limit available capacity to care for children in child-care centers, which could impact a parent's ability to find child care. To ensure that new caregivers with the minimum required hours of pre-service training are properly supervised and supported, Chapter 746 requires the child-care center director to supervise all caregivers and ensure that all employees have assignments that match their skills, abilities, and training.

Comment: Regarding §746.1305, one commenter recommended HHSC revise pre-service training requirements related to child development to include awareness of children with disabilities and developmental delays. The same commenter recommended HHSC revise pre-service training requirements to include training in child mental health that addresses one or more of the following subjects: child mental health, mental health screening, social and emotional learning, positive be-

havior interventions and supports, trauma-informed care, or another similar subject.

Response: HHSC declines to revise the rule. Because HHSC did not propose changes to this rule during the comment period for this project and there are a limited number of hours available for pre-service topics, requiring additional topics in pre-service training would result in an increase in required pre-service training hours or a reduction in the hours available for current topics.

Comment: Regarding §746.1309(g), one commenter recommended the hours for self-instructional training remain as a percentage to allow for staff with more than the minimum hours of required training to obtain more than 19 hours of self-instructional training.

Response: HHSC agrees that the rule requires further clarification but disagrees to revise the rule as recommended. Instead, HHSC revised the rule to clarify that at least five of the 24 required annual training hours must come from instructor-led training. HHSC has also added information to the Helpful Information box that follows the rule in the courtesy publication of the minimum standards to clarify that HHSC will only evaluate the number of required training hours and, provided a caregiver has at least five hours of instructor-led training, any remaining annual training hours may be completed through instructor-led or self-instructional training. HHSC made a similar revision to §746.1311(j), related to child-care center director required annual training hours, to maintain consistency in the language describing the number of required annual training hours that must be instructor-led.

Comment: Regarding §746.1309 and §746.1311, one commenter recommended HHSC revise annual training requirements to include awareness of children with disabilities and developmental delays.

Response: HHSC disagrees with the comment and declines to revise the rules. Both rules currently have an allowance for annual training related to care of children with special needs, in §746.1309(f)(1) and §746.1311(b)(5), respectively.

Comment: Regarding §746.1309 and §746.1311, one commenter recommended HHSC revise annual training requirements to include training in child mental health that addresses one or more of the following subjects: child mental health, mental health screening, social and emotional learning, positive behavior interventions and supports, trauma-informed care, or another similar subject.

Response: HHSC disagrees with the comment and declines to revise the rules. The rules outline numerous topics that are currently required for annual training for caregivers and child-care center directors. Adding another required topic would reduce the number of hours caregivers and directors have available to obtain training on current training topics. Therefore, HHSC is not making changes to require additional topics at this time. However, the additional training topics listed in §746.1309(f) allow caregivers and directors the flexibility to obtain training on topics such as those mentioned by the commenter. Therefore, HHSC added clarifying information to the Helpful Information box that follows the rule in the courtesy publication of the minimum standards indicating child mental health, social and emotional learning, and positive behavior interventions and supports fall within those categories.

Comment: Regarding Subchapter D, Personnel, Division 4, Professional Development, two commenters recommended HHSC

require at least two hours of water safety training for all providers who are participating in water activities prior to the activity.

Response: HHSC disagrees with the comment and declines to add this requirement. Implementing this recommendation would require HHSC develop a new rule not currently included in this project. Any such change would require specific notice and an opportunity for the public to comment on it. In addition, HHSC has existing rules that help ensure the safety of children in care engaging in water activities. Section 746.2109 requires a certified lifeguard be on duty when children are swimming in more than two feet of water and §746.2113 requires anyone counted in the child to caregiver ratio during swimming activities to know how to swim. While HHSC cannot add a water safety training requirement at this time, HHSC will consider the recommendation during future revisions to Chapter 746.

Comment: Regarding §746.1601 and §746.1609, seven commenters recommended HHSC evaluate lowering child to caregiver ratios prior to the next review of the minimum standards. Commenters also recommended, as soon as viable, HHSC phase in the ratio and group sizes recommended by the Texas Department of Family and Protective Services (DFPS) in 2010 for 18- to 24-month-old toddlers to ensure that children are in safe learning environments.

Response: HHSC declines to revise the rules based on these comments. HHSC did not propose changing the ratio, so HHSC cannot change it at adoption. However, HHSC may revisit DFPS's recommendation and evaluate it for a future project.

Comment: Regarding §746.2113, two commenters recommended HHSC add a definition for the term "know how to swim" in this rule.

Response: HHSC disagrees with the comment and declines to revise the rule. Because HHSC did not propose changes to this rule as part of this project, making a change at this stage of the project would result in HHSC requiring child-care centers to comply with a new requirement without providing the opportunity to provide comment. HHSC will consider the recommendation during future revisions to Chapter 746.

Comment: Regarding §746.2202(3), two commenters issued a statement of support for the new requirement that mandates a child-care center allow a child who receives early intervention services or special education services to receive those services from a qualified service provider at the center, with parental request and approval.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.2202(5), two commenters issued a statement of support for the addition of language that requires a child-care center to adapt equipment and procedures and vary methods as necessary to ensure that the child-care center cares for a child with special needs in a natural environment.

Response: HHSC appreciates support of the rule.

Comment: Regarding §746.3431, one commenter recommended HHSC add a requirement that child-care centers notify HHSC if the center's water supply is from a private water well or other private water supply upon license application and license renewal. The same commenter recommended HHSC provide an actionable standard that child-care centers can follow by further clarifying the term "safe and sanitary manner." The commenter recommended HHSC (1) add this term as a definition that references an authoritative source or (2) amend

the rule to require child-care centers that use water from private water supplies to follow standards developed by the National Resource Center for Health and Safety in Child Care and Early Education's Caring for Our Children.

Response: HHSC disagrees with the comments and declines to revise the rule. HHSC did not propose changes to this rule during the comment period for this project and does not collect data related to an operation's water supply. However, HHSC added a Helpful Information box that follows the rule in the courtesy publication of the minimum standards to include additional resources regarding private water supplies.

Comment: Regarding §746.5001, two commenters recommended HHSC require the use of water badges during water related activities. The same two commenters recommended HHSC require the use of U.S. Coast Guard-approved life jackets ahead of pool activities and have children remain in them until they have been swim tested to determine their swim ability.

Response: HHSC did not propose changes to this rule during the comment period for this project and declines to revise the rule. However, HHSC added best practice information about (1) caregivers wearing physical reminders when they are responsible for supervising children in and around water and (2) the use of life-saving devices in a Helpful Information box that follows the rule in the minimum standards courtesy publication.

Comment: Regarding the rules in general, one commenter issued a statement of support for all the rule amendments and new rules in the project.

Response: HHSC appreciates support of the rules.

Comment: Regarding the rules process, one commenter requested HHSC adopt rule changes with a single effective date once per year. The commenter stated that many child-care providers print the minimum standards annually and a single effective date for all adopted rules would assist them in not missing any updates.

Response: This comment is not related to a specific rule in this project and does not require a change to any of the proposed rules. HHSC cannot commit to a single date for all rule adoptions because of timeframes attached to various projects, including legislative implementation, comprehensive reviews, program needs, coordination with IT projects, etc. When possible, HHSC combines rule initiatives into a single project to minimize the number of individual rule updates sent to providers throughout the course of a year. At rule adoption, HHSC posts on the HHSC public website a highlighted copy displaying rule changes and a revision memo explaining any rule changes so that providers and the public can more easily determine which rules have been added, amended, or repealed. Finally, CCR is currently making changes to department procedures regarding how CCR communicates rule changes to providers to ensure regulated providers receive this important information.

Comment: Two commenters requested HHSC create a resource pamphlet for child care providers to provide parents to ensure that information distribution regarding ECI services is uniform across the state.

Response: This comment is not related to a specific rule in this project and does not require a change to any of the proposed rules. CCR has shared the commenter's suggestion with ECI, which is the division of HHSC responsible for creating, producing, maintaining, and distributing statewide outreach materials related to their program. While CCR collaborates with ECI to

provide multiple ECI resources in the CCR Technical Assistance Library, CCR does not regulate ECI services, develop resources related to ECI services, or regulate the distribution of ECI materials from child-care centers to parents.

In addition to the rule revisions noted, HHSC updated §746.123 to reflect changes adopted in another rule project in Chapter 744, relating to Protections for Children on the Grounds or Premises.

SUBCHAPTER A. PURPOSE, SCOPE, AND DEFINITIONS

DIVISION 3. DEFINITIONS

26 TAC §746.121, §746.123

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§746.123. What do certain words and terms mean when used in this chapter?

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or another subchapter or unless the context clearly indicates otherwise. In addition, the following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

- (1) Activity plan--A written plan that outlines the daily routine and activities in which a group of children will engage while in your care. The plan is designed to meet the children's cognitive, language, social, emotional, and physical developmental strengths and needs.
- (2) Activity space--An area or room used for children's activities, including areas separate from a group's classroom.
- (3) Administrative and clerical duties--Duties that involve the operation of a child-care center, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.
- (4) Admission--The process of enrolling a child in a child-care center. The date of admission is the first day the child is physically present in the center.
- (5) Adult--A person 18 years old and older.
- (6) Age-appropriate--Activities, equipment, materials, curriculum, and environment, including the child's assigned classroom, that are developmentally consistent with the developmental or chronological age of the child being served.
- (7) Alternate care program--A program in which no child is in care for more than five consecutive days, and no child is in care for more than 15 days in one calendar month, regardless of the duration of each stay.
- (8) Attendance--When referring to a child's attendance, the physical presence of a child at the child-care center's program on any

given day or at any given time, as distinct from the child's enrollment in the child-care center.

(9) Bouncer seat--A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement, or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.

(10) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child. As used in this chapter, a caregiver must meet the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel). A caregiver is usually an employee, but may also be a substitute, volunteer, or contractor, as outlined in paragraph (19) of this section and Subchapter D, Division 5 of this chapter.

(11) Certified Child-Care Professional Credential--A credential given by the National Early Childhood Program Accreditation to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.

(12) Certified lifeguard--A person who has been trained in life saving and water safety by a qualified instructor, from a recognized organization that awards a certificate upon successful completion of the training. The certificate is not required to use the term "lifeguard," but the permit holder must be able to document that the certificate is current, relevant to the type of water activity in which children will engage, and represents the type of training described.

(13) CEUs--Continuing education units. A standard unit of measure for adult education and training activities. One CEU equals 10 clock hours of participation in an organized, continuing-education experience, under responsible, qualified direction and instruction. Although a person may obtain a CEU in many of the same settings as clock hours, the CEU provider must meet the criteria established by the International Association for Continuing Education and Training to be able to offer the CEU.

(14) Child--An infant, a toddler, a pre-kindergarten age child, or a school-age child.

(15) Child-care center--A child-care facility that is licensed to care for seven or more children for less than 24 hours per day, at a location other than the permit holder's home. If you were licensed before September 1, 2003, the location of the center could be in the permit holder's home.

(16) Child-care program--The services and activities provided by a child-care center.

(17) Child Development Associate Credential--A credential given by the Council for Professional Recognition to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.

(18) Clock hour--An actual hour of documented:

(A) Attendance at instructor-led training, such as seminars, workshops, conferences, early childhood classes, and other planned learning opportunities, provided by an individual or individuals as specified in §746.1317(a) of this chapter (relating to Must the training for my caregivers and the director meet certain criteria?); or

(B) Self-instructional training that was created by an individual or individuals, as specified in §746.1317(a) and (b) of this chapter, or self-study training.

(19) Contract service provider--A person or entity contracting with the operation to provide a service, whether paid or

unpaid. Also referred to as "contract staff" and "contractor" in this chapter.

(20) Corporal punishment--The infliction of physical pain on a child as a means of controlling behavior. This includes spanking, hitting with a hand or instrument, slapping, pinching, shaking, biting, or thumping a child.

(21) Days--Calendar days, unless otherwise stated.

(22) Employee--A person a child-care center employs full-time or part-time to work for wages, salary, or other compensation. Employees are all of the child-care center staff, including caregivers, kitchen staff, office staff, maintenance staff, the assistant director, the director, and the owner, if the owner is ever on site at the center or transports a child.

(23) Enrollment--The list of names or number of children who have been admitted to attend a child-care center for any given period of time; the number of children enrolled in a child-care center may vary from the number of children in attendance on any given day.

(24) Entrap--A component or group of components on equipment that forms angles or openings that may trap a child's head by being too small to allow the child's body to pass through, or large enough for the child's body to pass through but too small to allow the child's head to pass through.

(25) Field trips--Activities conducted away from the child-care center.

(26) Food service--The preparation or serving of meals or snacks.

(27) Frequent--More than two times in a 30-day period. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(28) Garbage--Waste food or items that when deteriorating cause offensive odors and attract rodents, insects, and other pests.

(29) Grounds--Includes any parcel of land where the child-care center is located and any building, other structure, body of water, play equipment, street, sidewalk, walkway, driveway, parking garage, or parking lot on the parcel. Also referred to as "premises" in this chapter.

(30) Group activities--Activities that allow children to interact with other children in large or small groups. Group activities include storytelling, finger plays, show and tell, organized games, and singing.

(31) Hazardous materials--Any substance or chemical that is a health hazard or physical hazard, as determined by the Environmental Protection Agency. Also referred to as "toxic materials" and "toxic chemicals" in this chapter.

(32) Health-care professional--A licensed physician, a licensed advanced practice registered nurse (APRN), a licensed vocational nurse (LVN), a licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the license. This does not include physicians, nurses, or other medical personnel who are not licensed in the United States or in the country in which the person practices.

(33) Health check--A visual or physical assessment of a child to identify potential concerns about a child's health, including signs or symptoms of illness and injury, in response to changes in the child's behavior since the last date of attendance.

(34) High school equivalent--

(A) Documentation of a program recognized by the Texas Education Agency (TEA) or other public educational entity in another state, which offers similar training on reading, writing, and math skills taught at the high school level, such as a General Educational Development (GED) certificate; or

(B) Confirmation that the person received home-schooling that adequately addressed basic competencies such as basic reading, writing, and math skills, which would otherwise have been documented by a high school diploma.

(35) Individual activities--Opportunities for the child to work independently or to be away from the group but supervised.

(36) Infant--A child from birth through 17 months.

(37) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use by children, as specified by the manufacturer, which may include bouncing, climbing, sliding, or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(38) Instructor-led training--Training characterized by the communication and interaction that takes place between the student and the instructor. The training must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must communicate with the student in a timely fashion, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include classroom training, web-based on-line facilitated learning, video-conferencing, or other group learning experiences.

(39) Janitorial duties--Those duties that involve the cleaning and maintenance of the child-care center building, rooms, furniture, etc. Cleaning and maintenance include such duties as cleansing carpets, washing cots, and sweeping, vacuuming, or mopping a restroom or a classroom. Sweeping up after an activity or mopping up a spill in a classroom that is immediately necessary for the children's safety is not considered a janitorial duty.

(40) Local sanitation official--A sanitation official designated by the city or county government.

(41) Natural environment--Settings that are natural or typical for all children of the same age without regard to ability or disability. For example, a natural environment for learning social skills is a play group of peers.

(42) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your center voluntarily closes or must close because of an enforcement action in Chapter 745, Subchapter L of this title (relating to Enforcement Actions).

(43) Physical activity (moderate)--Levels of activity for a child that are at intensities faster than a slow walk, but still allow the child to talk easily. Moderate physical activity increases the child's heart rate and breathing rate.

(44) Physical activity (vigorous)--Rhythmic, repetitive physical movement for a child that uses large muscle groups, causing the child to breathe rapidly and only enabling the child to speak in short phrases. Typically, the child's heart rate is substantially increased, and the child is likely to be sweating while engaging in vigorous physical activity.

(45) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(46) Premises--See the term "grounds" and its definition in this section.

(47) Regular--On a recurring, scheduled basis. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title.

(48) Restrictive device--Equipment that places the body of a child in a position that may restrict airflow or cause strangulation; usually, the child is placed in a semi-seated position. Examples of restrictive devices are car seats, swings, bouncy seats, and high chairs.

(49) Safety belt--A lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(50) Sanitize--The use of a disinfecting product that provides instructions specific for sanitizing and is registered by the Environmental Protection Agency (EPA) to substantially reduce germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labeling instructions for sanitizing or disinfecting, depending on the surface (paying particular attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children, such as toys and crib rails). If you use bleach instead of an approved disinfecting product, you must follow these steps in order:

(A) Washing with water and soap;

(B) Rinsing with clear water;

(C) Soaking in or spraying on a bleach solution for at least two minutes;

(D) Rinsing with cool water only those items that children are likely to place in their mouths; and

(E) Allowing the surface or item to air-dry.

(51) School-age child--A child who is five years of age and older and is enrolled in or has completed kindergarten.

(52) Screen time activity--An activity during which a child views media content on a cell or mobile phone, tablet, computer, television, video, film, or DVD. Screen time activities do not include video chatting with a child's family or assistive and adaptive computer technology used by a child with special care needs on a consistent basis.

(53) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. An example of this type of training is web-based training. Self-study training is also a type of self-instructional training.

(54) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours of annual training per year.

(55) Special care needs--A child with special care needs is a child who has:

(A) A chronic physical, developmental, behavioral, or emotional condition or a disability and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including the movement of large or small muscles, learning, talking, communicat-

ing, comprehension, emotional regulation, self-help, social skills, emotional well-being, seeing, hearing, and breathing; or

(B) A limitation due to an injury, illness, or allergy.

(56) State or local fire authority--A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government, including certified fire inspectors. Also referred to as "fire marshal" in this chapter.

(57) Toddler--A child from 18 months through 35 months.

(58) Universal precautions--An approach to infection control where all human blood and certain human bodily fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(59) Water activities--Related to the use of swimming pools, splashing pools, wading pools, sprinkler play, or other bodies of water.

(60) Weather permitting--Weather conditions that do not pose any concerns for health and safety, such as a significant risk of frostbite or heat-related illness. This includes adverse weather conditions in which children may still play safely outdoors for shorter periods with appropriate adjustments to clothing and any necessary access to water, shade, or shelter.

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

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SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION

DIVISION 1. PERMIT HOLDER RESPONSIBILITIES

26 TAC §746.201

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 2. REQUIRED NOTIFICATION

26 TAC §§746.305, 746.307, 746.309

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 3. REQUIRED POSTINGS

26 TAC §746.405

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. OPERATIONAL POLICIES

26 TAC §746.501

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §746.605

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§746.605. What admission information must I obtain for each child?

You must obtain at least the following information before admitting a child to care:

- (1) The child's name and birth date;
- (2) The child's home address and telephone number;
- (3) Date of the child's admission to the child-care center;
- (4) Name and address of parent(s);
- (5) Telephone numbers at which parent(s) can be reached while the child is in care;
- (6) Name, address, and telephone number of another responsible individual (friend or relative) who should be contacted in an emergency when the parent cannot be reached;
- (7) Names and telephone numbers of persons other than a parent to whom the child may be released;
- (8) Permission for transportation, if provided;
- (9) Permission for field trips, if provided;
- (10) Permission for participation in water activities, if provided, including whether the child is able to swim without assistance;
- (11) Name, address, and telephone number of the child's physician or an emergency-care facility;
- (12) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment;
- (13) A statement of the child's special care needs, which must include:
 - (A) Any limitations or restrictions on the child's activities;
 - (B) Special care the child requires, including:
 - (i) Any reasonable accommodations or modifications;
 - (ii) Any adaptive equipment provided for the child, including instructions for how to use the equipment; and
 - (iii) Symptoms or indications of potential complications related to a physical, cognitive, or mental condition that may warrant prevention or intervention while the child is in care; and
 - (C) Any medications prescribed for continuous, long-term use;
- (14) The name and telephone number of the school that a school-age child attends, unless the operation is located at the child's school;
- (15) Permission for a school-age child to ride a bus, walk to or from school or home, or to be released to the care of a sibling under 18 years old, if applicable; and
- (16) The child's allergies and a completed food allergy emergency plan for the child, if applicable.

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. RECORDS OF ACCIDENTS AND INCIDENTS

26 TAC §746.701

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. PERSONNEL RECORDS

26 TAC §746.901

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER D. PERSONNEL DIVISION 1. CHILD-CARE CENTER DIRECTOR

26 TAC §§746.1005, 746.1011, 746.1015, 746.1017, 746.1037

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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26 TAC §746.1011

The repeal is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 3. GENERAL RESPONSIBILITIES FOR CHILD-CARE CENTER PERSONNEL

26 TAC §746.1203, §746.1205

The amendment and new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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26 TAC §746.1205

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For further information, please call: (512) 438-3269



DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §§746.1301, 746.1309, 746.1311, 746.1317, 746.1319, 746.1323

The amendment and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§746.1309. What areas of training must the annual training for caregivers cover?

(a) The 24 clock hours of annual training must be relevant to the age of the children for whom the caregiver provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum; and
- (4) Teacher-child interaction.

(c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:

- (1) Factors indicating a child is at risk for abuse or neglect;
- (2) Warning signs indicating a child may be a victim of abuse or neglect;
- (3) Procedures for reporting child abuse or neglect; and
- (4) Community organizations that have training programs available to employees, children, and parents.

(d) If a caregiver provides care for children younger than 24 months of age, one clock hour of the annual training hours must cover the following topics:

- (1) Recognizing and preventing shaken baby syndrome and abusive head trauma;
- (2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and
- (3) Understanding early childhood brain development.

(e) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §746.3803 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).
- (f) The remaining annual training hours must be in one or more of the following topics:
 - (1) Care of children with special needs;
 - (2) Child health (for example, nutrition and physical activity);
 - (3) Safety;
 - (4) Risk management;
 - (5) Identification and care of ill children;
 - (6) Cultural diversity for children and families;
 - (7) Professional development (for example, effective communication with families and time and stress management);
 - (8) Topics relevant to the particular age group the caregiver is assigned (for example, caregivers assigned to an infant or toddler group should receive training on biting and toilet training);
 - (9) Planning developmentally appropriate learning activities;
 - (10) Observation and assessment;
 - (11) Attachment and responsive care giving; and
 - (12) Minimum standards and how they apply to the caregiver.

(g) At least five of the 24 required annual training hours must come from instructor-led training. The remaining 19 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

(h) The 24 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, pediatric first aid and pediatric CPR training, transportation safety training, and high school child-care work-study classes.

§746.1311. *What areas of training must the annual training for my child-care center director cover?*

(a) The 30 clock hours of annual training must be relevant to the age of the children for whom the child-care center provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;

- (2) Guidance and discipline;
- (3) Age-appropriate curriculum;
- (4) Teacher-child interaction; and
- (5) Serving children with special care needs.

(c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:

- (1) Factors indicating a child is at risk for abuse or neglect;
- (2) Warning signs indicating a child may be a victim of abuse or neglect;
- (3) Procedures for reporting child abuse or neglect; and
- (4) Community organizations that have training programs available to employees, children, and parents.

(d) If the center provides care for children younger than 24 months of age, one hour of the annual training hours must cover the following topics:

- (1) Recognizing and preventing shaken baby syndrome and abusive head trauma;
- (2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and
- (3) Understanding early childhood brain development.

(e) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §746.3803 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(f) A director with:

- (1) Five or fewer years of experience as a designated director of a child-care center must complete at least six clock hours of the annual training hours in management techniques, leadership, or staff supervision; or
- (2) More than five years of experience as a designated director of a child-care center must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision.

(g) The remainder of the 30 clock hours of annual training must be selected from the training topics specified in §746.1309(f) of

this division (relating to What areas of training must the annual training for caregivers cover?).

(h) The director may obtain clock hours or CEUs from the same sources as caregivers.

(i) A director may not earn training hours by presenting training to others.

(j) At least six of the required 30 annual training hours must come from instructor-led training. The remaining 24 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



DIVISION 5. SUBSTITUTES, VOLUNTEERS, AND CONTRACTORS

26 TAC §§746.1401, 746.1403, 746.1405

The amendment and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER E. CHILD/CAREGIVER RATIOS AND GROUP SIZES

DIVISION 2. CLASSROOM RATIOS AND GROUP SIZES FOR CENTERS LICENSED TO CARE FOR 13 OR MORE CHILDREN

26 TAC §746.1605

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER F. DEVELOPMENTAL ACTIVITIES AND ACTIVITY PLAN

26 TAC §746.2201, §746.2202

The amendment and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER H. BASIC CARE REQUIREMENTS FOR INFANTS

**26 TAC §§746.2403, 746.2405, 746.2415, 746.2424,
746.2426, 746.2427**

The amendments and new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER I. BASIC CARE REQUIREMENTS FOR TODDLERS

26 TAC §746.2503

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER J. BASIC CARE REQUIREMENTS FOR PRE-KINDERGARTEN AGE CHILDREN

26 TAC §746.2601

The repeal is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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26 TAC §746.2601

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER K. BASIC CARE REQUIREMENTS FOR SCHOOL-AGE CHILDREN

26 TAC §746.2703

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER L. DISCIPLINE AND GUIDANCE

26 TAC §746.2805

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER M. NAPTIME

26 TAC §746.2909

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER P. NIGHTTIME CARE

26 TAC §746.3205

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER Q. NUTRITION AND FOOD SERVICE

26 TAC §746.3301

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER R. HEALTH PRACTICES DIVISION 3. ILLNESS AND INJURY

26 TAC §746.3601

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while

§42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER S. SAFETY PRACTICES DIVISION 1. SAFETY PRECAUTIONS

26 TAC §746.3701

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. FIRST-AID KITS

26 TAC §746.4003

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the re-

quirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER T. PHYSICAL FACILITIES

DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §746.4217

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 3. TOILETS AND SINKS

26 TAC §746.4403

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective

Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER U. INDOOR AND OUTDOOR ACTIVE PLAY SPACE AND EQUIPMENT

DIVISION 6. SOFT CONTAINED PLAY EQUIPMENT

26 TAC §746.4951

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER X. TRANSPORTATION

26 TAC §746.5607, §746.5625

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of

HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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CHAPTER 747. MINIMUM STANDARDS FOR CHILD-CARE HOMES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§747.121, 747.123, 747.207, 747.303, 747.305, 747.307, 747.403, 747.605, 747.701, 747.801, 747.901, 747.1107, 747.1129, 747.1131, 747.1305, 747.1309, 747.1501, 747.2101, 747.2305, 747.2315, 747.2323, 747.2326, 747.2327, 747.2403, 747.2603, 747.2705, 747.3101, 747.3303, 747.3401, 747.3501, 747.3803, 747.4015, 747.4307, and 747.5407; new §§747.1503, 747.2107, 747.2324, and 747.2501; and the repeal of §747.1503 and §747.2501, in Texas Administrative Code, Title 26, Part 1, Chapter 747, Minimum Standards for Child-Care Homes.

Amended §§747.123, 747.605, 747.1305, and 747.1309 are adopted with changes to the proposed text as published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6128). These rules will be republished.

Amended §§747.121, 747.207, 747.303, 747.305, 747.307, 747.403, 747.701, 747.801, 747.901, 747.1107, 747.1129, 747.1131, 747.1501, 747.2101, 747.2305, 747.2315, 747.2323, 747.2326, 747.2327, 747.2403, 747.2603, 747.2705, 747.3101, 747.3303, 747.3401, 747.3501, 747.3803, 747.4015, 747.4307, and 747.5407; new §§747.1503, 747.2107, 747.2324, and 747.2501; and the repeal of §747.1503 and §747.2501 are adopted without changes to the proposed text as published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6128). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amended, new, and repealed sections are necessary to comply with Texas Human Resources Code (HRC) §42.042(b), which requires Child Care Regulation (CCR) to conduct a comprehensive review of minimum standards at least once every six years.

The purpose of the comprehensive review is to (1) identify any minimum standards that need clarification and amend them; (2) identify any minimum standards that may not have the intended outcome and amend or repeal them; (3) ensure that minimum standards are consistent with current research, best practices, and other guidelines; and (4) ensure regulatory requirements support the availability and affordability of child day care without compromising children's overall health, safety, and well-being.

The adopted changes are the result of recommendations based on input from CCR staff and stakeholders, including child-care providers, caregivers, advocates, parents, and the public, compiled during the comprehensive review of all minimum standards located in Chapter 747.

COMMENTS

The 31-day comment period ended October 24, 2022. During this period, HHSC received eight comments regarding the proposed rules from two water safety advocacy groups, Colin's Hope and Live Like Kati, and one state entity, the Texas Groundwater Protection Committee. A summary of the comments relating to the rules and HHSC's responses follows.

Comment: Regarding §747.123(12), two commenters issued a statement of support for the updates to the definition of "certified lifeguard."

Response: HHSC appreciates support of the rule.

Comment: Regarding §747.605(10), two commenters recommended HHSC require legal guardians to identify non-swimmers when enrolling a child if the child-care home participates in water-related activities.

Response: HHSC agrees with the comment and revised the rule to require a parent or guardian to disclose on the child-care home's admission form whether the child can swim.

Comment: Regarding Subchapter D, Personnel, Division 4, Professional Development, two commenters recommended HHSC require at least two hours of water safety training for all providers who are participating in water activities prior to the activity.

Response: HHSC disagrees with the comment and declines to add this requirement. Implementing this recommendation would require HHSC to develop a new rule not currently included in this project. Any such change would require specific notice and an opportunity for the public to comment. In addition, HHSC has existing rules that help ensure the safety of children in care engaging in water activities. Section 747.2009 requires a certified lifeguard be on duty when children are swimming in more than two feet of water and §747.2013 requires anyone counted in the child to caregiver ratio during swimming activities to know how to swim. While HHSC will not add a water safety training requirement at this time, HHSC will consider the recommendation during future revisions to Chapter 747.

Comment: Regarding §747.2013, two commenters recommended HHSC add a definition for the term "know how to swim" in this rule.

Response: HHSC disagrees with the comment and declines to revise the rule. Because HHSC did not propose changes to this rule as part of this project, making a change at this stage of the project would result in HHSC requiring child-care homes to comply with a new requirement without providing the opportunity to provide comment. HHSC will consider the recommendation during future revisions to Chapter 747.

Comment: Regarding §747.3227, one commenter recommended HHSC add a requirement that child-care homes notify HHSC if the home's water supply is from a private water well or other private water supply upon license application and license renewal. The same commenter recommended HHSC provide an actionable standard that child-care homes can follow by further clarifying the term "safe and sanitary manner." The commenter recommended HHSC (1) add this term as a definition that references an authoritative source or (2) amend the rule to require child-care homes that use water from private water supplies to follow standards developed by the National Resource Center for Health and Safety in Child Care and Early Education's Caring for Our Children.

Response: HHSC disagrees with the comments and declines to revise the rule. HHSC did not propose changes to this rule during the comment period for this project and does not collect data related to an operation's water supply. However, HHSC added a Helpful Information box that follows the rule in the courtesy publication of the minimum standards to include additional resources regarding private water supplies.

Comment: Regarding §747.4801, two commenters recommended HHSC require the use of water badges during water related activities. The same two commenters recommended HHSC require the use of U.S. Coast Guard-approved life jackets ahead of pool activities and have children remain in them until they have been swim tested to determine their swim ability.

Response: HHSC did not propose changes to this rule during the comment period for this project and declines to revise the rule. However, HHSC added best practice information about (1) caregivers wearing physical reminders when they are responsible for supervising children in and around water and (2) the use of life-saving devices in a Helpful Information box that follows the rule in the minimum standards courtesy publication.

HHSC also received comments on parallel rules in Chapter 746, Minimum Standards for Child-Care Centers, published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6102). HHSC amended the proposed text in §§747.123, 747.605(13), 747.1305, and 747.1309 to ensure the minimum standards remain congruent throughout Chapters 746 and 747. For a more detailed description of comments received for Chapter 746 and HHSC's response, please see the preamble for Chapter 746, which is published elsewhere in this issue of the *Texas Register*.

In addition to the rule revisions noted, HHSC updated §747.123 to reflect changes adopted in another rule project in Chapter 744, relating to Protections for Children on the Grounds or Premises.

SUBCHAPTER A. PURPOSE, SCOPE, AND DEFINITIONS

DIVISION 3. DEFINITIONS

26 TAC §747.121, §747.123

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the re-

quirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§747.123. *What do certain words and terms mean when used in this chapter?*

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or another subchapter or unless the context clearly indicates otherwise. In addition, the following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

(1) Activity plan--A written plan that outlines the daily routine and activities in which a group of children will engage while in your care. The plan is designed to meet the children's cognitive, social, language, emotional, and physical developmental strengths and needs.

(2) Activity space--An area or room used for children's activities.

(3) Administrative and clerical duties--Duties that involve the operation of a child-care home, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

(4) Admission--The process of enrolling a child in a child-care home. The date of admission is the first day the child is physically present in the home.

(5) Adult--A person 18 years old and older.

(6) After-school hours--Hours before and after school, and days when school is not in session, such as school holidays, summer vacations, and teacher in-service days.

(7) Age-appropriate--Activities, equipment, materials, curriculum, and environment that are developmentally consistent with the developmental or chronological age of the child being served.

(8) Attendance--When referring to a child's attendance, the physical presence of a child at the child-care home on any given day or at any given time, as distinct from the child's enrollment in the child-care home.

(9) Bouncer seat--A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement, or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.

(10) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child. As used in this chapter, a caregiver must meet the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel).

(11) Certified Child-Care Professional Credential--A credential given by the National Early Childhood Program Accreditation to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.

(12) Certified lifeguard--A person who has been trained in life saving and water safety by a qualified instructor, from a recognized organization that awards a certificate upon successful completion of the training. The certificate is not required to use the term "lifeguard," but you must be able to document that the certificate is current, relevant to the type of water activity in which children will engage, and representative of the type of training described.

(13) CEUs--Continuing education units. A standard unit of measure for adult education and training activities. One CEU equals 10 clock hours of participation in an organized, continuing-education experience, under responsible, qualified direction and instruction. Although a person may obtain a CEU in many of the same settings as clock hours, the CEU provider must meet the criteria established by the International Association for Continuing Education and Training to be able to offer the CEU.

(14) Child--An infant, a toddler, a pre-kindergarten age child, or a school-age child.

(15) Child-care home--A registered or licensed child-care home, as specified in §747.113 of this chapter (relating to What is a registered child-care home?) or §747.115 of this chapter (relating to What is a licensed child-care home?). This term includes the program, home, grounds, furnishings, and equipment.

(16) Child-care program--The services and activities provided by a child-care home.

(17) Child Development Associate Credential--A credential given by the Council for Professional Recognition to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.

(18) Clock hour--An actual hour of documented:

(A) Attendance at instructor-led training, such as seminars, workshops, conferences, early childhood classes, and other planned learning opportunities, provided by an individual or individuals as specified in §747.1315(a) of this chapter (relating to Must child-care training meet certain criteria?); or

(B) Self-instructional training that was created by an individual or individuals, as specified in §747.1315(a) and (b) of this chapter, or self-study training.

(19) Corporal punishment--The infliction of physical pain on a child as a means of controlling behavior. This includes spanking, hitting with a hand or instrument, slapping, pinching, shaking, biting, or thumping a child.

(20) Days--Calendar days, unless otherwise stated.

(21) Employee--An assistant caregiver, substitute caregiver, or any other person a child-care home employs full-time or part-time to work for wages, salary, or other compensation, including kitchen staff, office staff, maintenance staff, or anyone hired to transport a child.

(22) Enrollment--The list of names or number of children who have been admitted to attend a child-care home for any given period of time; the number of children enrolled in a child-care home may vary from the number of children in attendance on any given day.

(23) Entrap--A component or group of components on equipment that forms angles or openings that may trap a child's head by being too small to allow the child's body to pass through, or large enough for the child's body to pass through but too small to allow the child's head to pass through.

(24) Field trips--Activities conducted away from the child-care home.

(25) Food service--The preparation or serving of meals or snacks.

(26) Frequent--More than two times in a 30-day period. Note: For the definition of "regularly or frequently present at an operation" (child-care home) as it applies to background checks,

see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(27) Garbage--Waste food or items that when deteriorating cause offensive odors and attract rodents, insects, and other pests.

(28) Grounds-- Includes any parcel of land where the home of the primary caregiver is located and any building, other structure, body of water, play equipment, street, sidewalk, walkway, driveway, parking garage, or parking lot on the parcel. Also referred to as "premises" in this chapter.

(29) Group activities--Activities that allow children to interact with other children in large or small groups. Group activities include storytelling, finger plays, show and tell, organized games, and singing.

(30) Hazardous materials--Any substance or chemical that is a health hazard or physical hazard, as determined by the Environmental Protection Agency. Also referred to as "toxic materials" and "toxic chemicals" in this chapter

(31) Health-care professional--A licensed physician, a licensed advanced practice registered nurse (APRN), a licensed vocational nurse (LVN), a licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the license. This does not include physicians, nurses, or other medical personnel who are not licensed in the United States or in the country in which the person practices.

(32) Health check--A visual or physical assessment of a child to identify potential concerns about a child's health, including signs or symptoms of illness and injury, in response to changes in the child's behavior since the last date of attendance.

(33) High school equivalent--

(A) Documentation of a program recognized by the Texas Education Agency (TEA) or other public educational entity in another state, which offers similar training on reading, writing, and math skills taught at the high school level, such as a General Educational Development (GED) certificate; or

(B) Confirmation that the person received home-schooling that adequately addressed basic competencies such as basic reading, writing, and math skills, which would otherwise have been documented by a high school diploma.

(34) Individual activities--Opportunities for the child to work independently or to be away from the group but supervised.

(35) Infant--A child from birth through 17 months.

(36) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use by children, as specified by the manufacturer, which may include bouncing, climbing, sliding, or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(37) Instructor-led training--Training characterized by the communication and interaction that takes place between the student and the instructor. The training must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must communicate with the student in a timely fashion, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include, classroom training, web-based on-line

facilitated learning, video-conferencing, or other group learning experiences.

(38) Janitorial duties--Those duties that involve the cleaning and maintenance of the child-care home, building, rooms, furniture, etc. Cleaning and maintenance include such duties as cleansing carpets, washing cots, and sweeping, vacuuming, or mopping a restroom or a classroom. Sweeping up after an activity or mopping up a spill in a classroom that is immediately necessary for the children's safety is not considered a janitorial duty.

(39) Natural environment--Settings that are natural or typical for all children of the same age without regard to ability or disability. For example, a natural environment for learning social skills is a play group of peers.

(40) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your:

(A) Home voluntarily closes;

(B) Home must close because of an enforcement action in Chapter 745, Subchapter L of this title (relating to Enforcement Actions);

(C) Permit expires according to §745.481 of this title (relating to When does my permit expire?); or

(D) Home must close because its permit is automatically revoked according to the Human Resources Code §§42.048(e), 42.052(i), or 42.054(f).

(41) Physical activity (moderate)--Levels of activity for a child that are at intensities faster than a slow walk, but still allow the child to talk easily. Moderate physical activity increases the child's heart rate and breathing rate.

(42) Physical activity (vigorous)--Rhythmic, repetitive physical movement for a child that uses large muscle groups, causing the child to breathe rapidly and only enabling the child to speak in short phrases. Typically, the child's heart rate is substantially increased, and the child is likely to be sweating while engaging in vigorous physical activity.

(43) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(44) Premises--See the term "grounds" and its definition in this section.

(45) Regular--On a recurring, scheduled basis. Note: For the definition of "regularly or frequently present at an operation" (child-care home) as it applies to background checks, see §745.601 of this title.

(46) Restrictive device--Equipment that places the body of a child in a position that may restrict airflow or cause strangulation; usually, the child is placed in a semi-seated position. Examples of restrictive devices are car seats, swings, bouncy seats, and high chairs.

(47) Safety belt--A lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(48) Sanitize--The use of a disinfecting product that provides instructions specific for sanitizing and is registered by the Environmental Protection Agency (EPA) to substantially reduce germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labelling instructions for sanitizing or disinfecting, depending on the surface (paying particular attention to any instructions regarding contact time and toxicity on surfaces

likely to be mouthed by children, such as toys and crib rails). If you use bleach instead of an approved disinfecting product, you must follow these steps in order:

(A) Washing with water and soap;

(B) Rinsing with clear water;

(C) Soaking in or spraying on a bleach solution for at least two minutes;

(D) Rinsing with cool water only those items that children are likely to place in their mouths; and

(E) Allowing the surface or item to air-dry.

(49) School-age child--A child who is five years of age and older and is enrolled in or has completed kindergarten.

(50) Screen time activity--An activity during which a child views media content on a cell or mobile phone, tablet, computer, television, video, film, or DVD. Screen time activities do not include video chatting with a child's family or assistive and adaptive computer technology used by a child with special care needs on a consistent basis.

(51) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. An example of this type of training is web-based training. Self-study training is also a type of self-instructional training.

(52) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours of annual training per year.

(53) Special care needs--A child with special care needs is a child who has:

(A) A chronic physical, developmental, behavioral, or emotional condition or a disability and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including the movement of large or small muscles, learning, talking, communicating, comprehension, emotional regulation, self-help, social skills, emotional well-being, seeing, hearing, and breathing; or

(B) A limitation due to an injury, illness or allergy.

(54) State or local fire authority--A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government, including certified fire inspectors. Also referred to as "fire marshal" in this chapter.

(55) Toddler--A child from 18 months through 35 months.

(56) Universal precautions--An approach to infection control where all human blood and certain human bodily fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(57) Water activities--Related to the use of swimming pools, splashing pools, wading pools, sprinkler play, or other bodies of water.

(58) Weather permitting--Weather conditions that do not pose any concerns for health and safety such as significant risk of frost-bite or heat-related illness. This includes adverse weather conditions in which children may still play safely outdoors for shorter periods with appropriate adjustments to clothing and any necessary access to water, shade, or shelter.

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

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SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION

DIVISION 1. PRIMARY CAREGIVER RESPONSIBILITIES

26 TAC §747.207

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 2. REQUIRED NOTIFICATIONS

26 TAC §§747.303, 747.305, 747.307

STATUTORY AUTHORITY

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

Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 3. REQUIRED POSTINGS

26 TAC §747.403

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §747.605

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§747.605. *What admission information must I obtain for each child?*
You must obtain at least the following information before admitting a child to the child-care home:

- (1) The child's name and birth date;
- (2) The child's home address and telephone number;
- (3) Date of the child's admission to the child-care home;
- (4) Name and address of parent(s);
- (5) Telephone numbers at which parent(s) can be reached while the child is in care;
- (6) Name, address, and telephone number of another responsible individual (friend or relative) who should be contacted in an emergency when the parent cannot be reached;
- (7) Names and telephone numbers of persons other than a parent to whom the child may be released;
- (8) Permission for transportation, if provided, including any authorized pick-up and drop-off locations;
- (9) Permission for field trips, if provided;
- (10) Permission for participation in water activities, if provided, including whether the child is able to swim without assistance;
- (11) Name, address, and telephone number of the child's physician or an emergency-care facility;
- (12) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment;
- (13) A statement of the child's special care needs, which must include:
 - (A) Any limitations or restrictions on the child's activities;
 - (B) Special care the child requires, including:
 - (i) Any reasonable accommodations or modifications;
 - (ii) Any adaptive equipment provided for the child, including instructions for how to use the equipment; and
 - (iii) Symptoms or indications of potential complications related to a physical, cognitive, or mental condition that may warrant prevention or intervention while the child is in care; and
 - (C) Any medications prescribed for continuous, long-term use;
- (14) The name and telephone number of the school a school-age child attends;
- (15) Permission for a school-age child to ride a bus, walk to or from school or home, or to be released to the care of a sibling under 18 years old, if applicable; and

(16) The child's allergies and a completed food allergy emergency plan for the child, if applicable.

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DIVISION 2. RECORDS OF ACCIDENTS AND INCIDENTS

26 TAC §747.701

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 3. RECORDS THAT MUST BE KEPT ON FILE AT THE CHILD-CARE HOME

26 TAC §747.801

STATUTORY AUTHORITY

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

Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. RECORDS ON CAREGIVERS AND HOUSEHOLD MEMBERS

26 TAC §747.901

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER D. PERSONNEL

DIVISION 2. PRIMARY CAREGIVER QUALIFICATIONS FOR A LICENSED CHILD-CARE HOME

26 TAC §§747.1107, 747.1129, 747.1131

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §747.1305, §747.1309

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

§747.1305. *What areas of training must the annual training for substitute and assistant caregivers cover?*

(a) Each caregiver counted in the child/caregiver ratio on more than ten separate occasions in one training year, as specified in §747.1311 of this division (relating to When must the annual training be obtained?) must obtain annual training relevant to the age of the children for whom the caregiver provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum; and
- (4) Teacher-child interaction.

(c) If your home provides care for a child younger than 24 months, one hour of the annual training hours must cover the following topics:

- (1) Recognizing and preventing shaken baby syndrome and abusive head trauma;
- (2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and
- (3) Understanding early childhood brain development.

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §747.3603 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §747.3221 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) The remaining annual training hours must be in one or more of the following topics:

- (1) Care of children with special needs;
- (2) Child health (for example, nutrition and physical activity);
- (3) Safety;
- (4) Risk management;
- (5) Identification and care of ill children;
- (6) Cultural diversity for children and families;
- (7) Professional development (for example, effective communication with families and time and stress management);
- (8) Topics relevant to the particular ages of children in care (for example, caregivers working with infants or toddlers should receive training on biting and toilet training);
- (9) Planning developmentally appropriate learning activities;
- (10) Observation and assessment;
- (11) Attachment and responsive care giving; and
- (12) Minimum standards and how they apply to the caregiver.

(f) For an assistant caregiver or substitute caregiver described in §747.1303(3)(B) of this division (relating to What training must I ensure that my caregivers have within certain timeframes?), at least three of the required 15 annual training hours must come from instructor-led

training. The remaining 12 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

(g) For an assistant caregiver or substitute caregiver described in §747.1303(4)(B) of this division, at least five of the required 24 annual training hours must come from instructor-led training. The remaining 19 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

(h) Annual training is exclusive of any requirements for orientation, pediatric first aid and pediatric CPR training, transportation safety training, and any training received through a high school child-care work-study program.

§747.1309. What areas of training must the annual training for the primary caregiver cover?

(a) You must obtain at least 30 clock hours of training each year relevant to the age of the children for whom you provide care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum; and
- (4) Teacher-child interaction.

(c) If your home provides care for children younger than 24 months, one hour of the annual training hours must cover the following topics:

- (1) Recognizing and preventing shaken baby syndrome;
- (2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and
- (3) Understanding early childhood brain development.

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §747.3603 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §747.3221 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) If you have:

- (1) Five or fewer years of experience as a primary caregiver in a licensed or registered child-care home, you must complete at least

six of the annual training hours in management techniques, leadership, or staff supervision; or

(2) More than five years of experience as a primary caregiver in a licensed or registered child-care home, you must complete at least three of the annual training hours in management techniques, leadership, or staff supervision.

(f) The remainder of annual training hours must be selected from the training topics specified in §747.1305(e) of this chapter (relating to What areas of training must the annual training for substitute and assistant caregivers cover?).

(g) You may obtain clock hours or CEUs from the same sources as other caregivers.

(h) You may not earn training hours by presenting training to other caregivers.

(i) At least six of the required 30 annual training hours must come from instructor-led training. The remaining 24 required annual training hours may come from self-instructional training, of which no more than three hours may come from self-study training.

(j) The 30 clock hours of annual training are exclusive of any requirements for the Licensing pre-application course, pediatric first aid and pediatric CPR training, and transportation safety training.

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

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Karen Ray
Chief Counsel
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DIVISION 6. GENERAL RESPONSIBILITIES FOR CAREGIVERS AND HOUSEHOLD MEMBERS

26 TAC §747.1501, §747.1503

STATUTORY AUTHORITY

The amendment and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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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26 TAC §747.1503

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER F. DEVELOPMENTAL ACTIVITIES AND ACTIVITY PLAN

26 TAC §747.2101, §747.2107

STATUTORY AUTHORITY

The amendment and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER H. BASIC CARE REQUIREMENTS FOR INFANTS

**26 TAC §§747.2305, 747.2315, 747.2323, 747.2324,
747.2326, 747.2327**

STATUTORY AUTHORITY

The amendments and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER I. BASIC CARE REQUIREMENTS FOR TODDLERS

26 TAC §747.2403

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory

functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER J. BASIC CARE REQUIREMENTS FOR PRE-KINDERGARTEN AGE CHILDREN

26 TAC §747.2501

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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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26 TAC §747.2501

STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner

of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER K. BASIC CARE REQUIREMENTS FOR SCHOOL-AGE CHILDREN

26 TAC §747.2603

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER L. DISCIPLINE

26 TAC §747.2705

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER Q. NUTRITION AND FOOD SERVICE

26 TAC §747.3101

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER R. HEALTH PRACTICES
DIVISION 2. DIAPER CHANGING

26 TAC §747.3303

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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. ILLNESS AND INJURY

26 TAC §747.3401

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER S. SAFETY PRACTICES
DIVISION 1. SAFETY PRECAUTIONS

26 TAC §747.3501

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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Karen Ray

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DIVISION 4. FIRST-AID KITS

26 TAC §747.3803

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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SUBCHAPTER T. PHYSICAL FACILITIES DIVISION 4. FURNITURE AND EQUIPMENT

26 TAC §747.4307

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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SUBCHAPTER T. PHYSICAL FACILITIES DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §747.4015

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while

§42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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

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Chief Counsel

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SUBCHAPTER X. TRANSPORTATION

26 TAC §747.5407

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, Texas Human Resources Code §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42, while §42.042(b) requires the comprehensive review of all rules and standards at least every six years.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 42. DEAF BLIND WITH MULTIPLE DISABILITIES (DBMD) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) SERVICES

As required by Texas Government Code §531.0202(b), the Department of Aging and Disability Services (DADS) was abolished effective September 1, 2017, after all of its functions were transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code §531.0201 and §531.02011. Rules of the former DADS are codified in Title 40, Part 1, and will be repealed or administratively transferred to Title 26, Health and Human Services, as appropriate. Until such action is taken, the rules in Title 40, Part 1 govern functions previously performed by DADS that have transferred to HHSC. Texas Government Code §531.0055, requires the Executive Commissioner of HHSC to adopt rules for the operation and provision of services by the health and human services system, including rules in Title 40, Part 1.

Therefore, the Executive Commissioner of HHSC adopts the repeal of §§42.101 - 42.105, 42.201, 42.202, 42.211 - 42.217, 42.220, 42.221, 42.223, 42.231, 42.232, 42.241 - 42.249, 42.251, 42.252, 42.301, 42.401 - 42.411, 42.501 - 42.511, 42.601 - 42.606, 42.611 - 42.632, 42.641, and 42.651 in Texas Administrative Code Title 40 (40 TAC), Part 1, Chapter 42, concerning Deaf Blind with Multiple Disabilities (DBMD) Program and Community First Choice (CFC) Services.

The repeal of §§42.101 - 42.105, 42.201, 42.202, 42.211 - 42.217, 42.220, 42.221, 42.223, 42.231, 42.232, 42.241 - 42.249, 42.251, 42.252, 42.301, 42.401 - 42.411, 42.501 - 42.511, 42.601 - 42.606, 42.611 - 42.632, 42.641, and 42.651 is adopted without changes to the proposed text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5772). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The adoption repeals all of the rules in 40 TAC Chapter 42 for the DBMD Program. HHSC is adopting new rules regarding the DBMD Program in 26 TAC Chapter 260 elsewhere in this issue of the *Texas Register*.

COMMENTS

The 31-day comment period ended October 17, 2022.

During this period and the public hearing held on September 26, 2022, HHSC did not receive any comments regarding the proposed repeal.

SUBCHAPTER A. INTRODUCTION

40 TAC §§42.101 - 42.105

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Karen Ray
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Department of Aging and Disability Services
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SUBCHAPTER B. ELIGIBILITY, ENROLLMENT, AND REVIEW

DIVISION 1. ELIGIBILITY

40 TAC §§42.201, §42.202

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Department of Aging and Disability Services
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DIVISION 2. ENROLLMENT PROCESS

40 TAC §§42.211 - 42.217

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Department of Aging and Disability Services
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DIVISION 3. REVIEW

40 TAC §§42.220, 42.221, 42.223

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Karen Ray

Chief Counsel

Department of Aging and Disability Services

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DIVISION 4. TRANSFER BETWEEN PROGRAM PROVIDERS

40 TAC §42.231, §42.232

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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DIVISION 5. DENIAL, SUSPENSION, REDUCTION, AND TERMINATION

40 TAC §§42.241 - 42.249

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300520

Karen Ray

Chief Counsel

Department of Aging and Disability Services

Effective date: February 26, 2023

Proposal publication date: September 16, 2022

For further information, please call: (512) 438-2622



DIVISION 6. RIGHTS AND RESPONSIBILITIES OF AN INDIVIDUAL

40 TAC §42.251, §42.252

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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TRD-202300521

Karen Ray
Chief Counsel
Department of Aging and Disability Services
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Proposal publication date: September 16, 2022
For further information, please call: (512) 438-2622



SUBCHAPTER C. PROGRAM PROVIDER ENROLLMENT

40 TAC §42.301

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Karen Ray
Chief Counsel
Department of Aging and Disability Services
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For further information, please call: (512) 438-2622



SUBCHAPTER D. ADDITIONAL PROGRAM PROVIDER PROVISIONS

40 TAC §§42.401 - 42.411

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Karen Ray
Chief Counsel
Department of Aging and Disability Services
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For further information, please call: (512) 438-2622



SUBCHAPTER E. ASSISTANCE WITH PERSONAL FUNDS MANAGEMENT

40 TAC §§42.501 - 42.511

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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Karen Ray
Chief Counsel
Department of Aging and Disability Services
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For further information, please call: (512) 438-2622



SUBCHAPTER F. SERVICE DESCRIPTIONS AND REQUIREMENTS

DIVISION 1. ADAPTIVE AIDS

40 TAC §§42.601 - 42.606

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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TRD-202300525

Karen Ray
Chief Counsel
Department of Aging and Disability Services
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For further information, please call: (512) 438-2622



DIVISION 2. MINOR HOME MODIFICATIONS
40 TAC §§42.611 - 42.620

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300526
Karen Ray
Chief Counsel
Department of Aging and Disability Services
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For further information, please call: (512) 438-2622



**DIVISION 3. REQUIREMENTS FOR OTHER
DBMD PROGRAM SERVICES**

40 TAC §§42.621 - 42.632

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

Filed with the Office of the Secretary of State on February 6, 2023.

TRD-202300529

Karen Ray
Chief Counsel
Department of Aging and Disability Services
Effective date: February 26, 2023
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For further information, please call: (512) 438-2622



DIVISION 4. ADDITIONAL REQUIREMENTS
40 TAC §42.641

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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TRD-202300528
Karen Ray
Chief Counsel
Department of State and Disability Services
Effective date: February 26, 2023
Proposal publication date: September 16, 2022
For further information, please call: (512) 438-2622



DIVISION 5. CFC ERS

40 TAC §42.651

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the proper and efficient operation of the Medicaid program, including the DBMD Program.

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

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TRD-202300560

Karen Ray
Chief Counsel
Department of Aging and Disability Services
Effective date: February 26, 2023
Proposal publication date: September 16, 2022
For further information, please call: (512) 438-2622





REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Texas Historical Commission

Title 13, Part 2

The Texas Historical Commission files this notice of intent to review and consider for re-adoption, revision or repeal, Texas Administrative Code, Title 13, Part 2, Chapter 30 Texas Heritage Trails Program.

Pursuant to Texas Government Code 2001.039, the Texas Historical Commission will assess whether the reason(s) for initially adopting these rules continue to exist. The rules will be reviewed to determine whether it is obsolete, reflects current legal and policy considerations, reflects current general provisions in the governance of the Commission and/or whether it is in compliance with Chapter 2001 of the Texas Government Code (Administrative Procedures Act).

The Commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*. Comments as to whether the reasons for initially adopting these rules continue to exist may be submitted to Bradford Patterson, Director, Community Heritage Development Division, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276, or by email to brad.patterson@thc.texas.gov. Any additional changes to the rules resulting from the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202300564

Mark Wolfe

Executive Director

Texas Historical Commission

Filed: February 6, 2023



Adopted Rule Reviews

Health and Human Services Commission

Title 26, Part 1

The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code:

Chapter 553, Licensing Standards for Assisted Living Facilities

Subchapter A, Introduction

Subchapter B, Licensing

Subchapter D, Facility Construction

Subchapter E, Standards for Licensing

Subchapter F, Additional Licensing Standards for Certified Alzheimer's Assisted Living Facilities

Subchapter G, Inspections, Investigations, and Informal Dispute Resolution

Subchapter H, Enforcement

Notice of the review of this chapter was published in the August 19, 2022, issue of the *Texas Register* (47 TexReg 5006). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 553 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting the rules in the chapter continue to exist and readopts Chapter 553. Any appropriate amendments to Chapter 553 identified by HHSC during the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 553 as required by the Government Code, §2001.039.

TRD-202300500

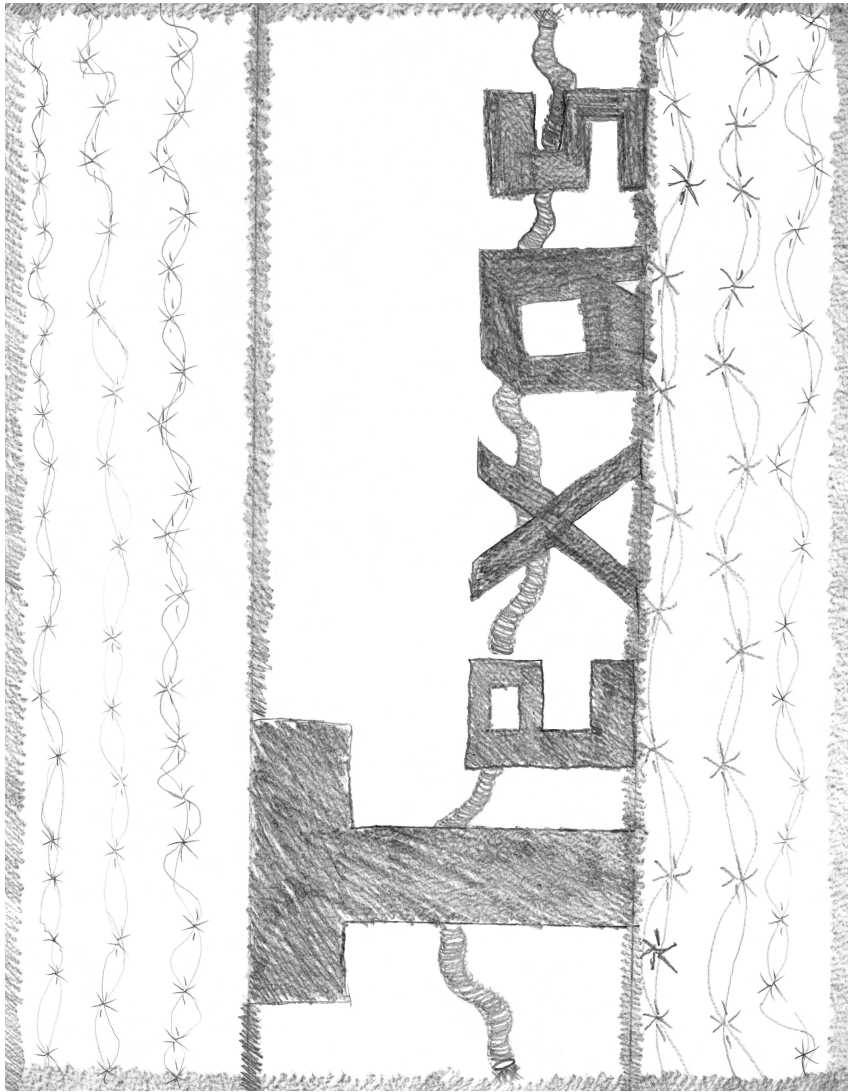
Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: February 2, 2023





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. Exxon Mobil Corporation*; Cause No. D-1-GN-19-004495; in the 419th Judicial District Court, Travis County, Texas.

Background: Defendant Exxon Mobil Corporation owns and operates a chemical and refining complex located at 3525 Decker Road, Baytown, Harris County, Texas, which includes a petroleum refinery and a plant that processes olefins to produce industrial chemicals. On July 31, 2019, a fire occurred at the olefins plant due to over-accumulation of butadiene popcorn polymer, resulting in the release of multiple air contaminants, including highly reactive volatile organic compounds; large, dark emissions plume that was visible from miles away; and an order for residents to shelter-in-place. On behalf of the Texas Commission on Environmental Quality (TCEQ), the State filed suit against Exxon Mobil Corporation for its violations 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 orders Exxon Mobil Corporation to implement a management plan to prevent the formation of butadiene popcorn polymer, and to undertake scheduled corrective actions according to the plan. It also requires Exxon Mobil to develop, submit, and implement a written procedure that will govern how Exxon Mobil plans to submit Corrective Action Plans and a certification regarding its efforts to improve management of light end hydrocarbon streams from the Refinery Blend Gas System. The proposed judgment also assesses a civil penalty of \$755,000, and attorney's fees and costs to the State in the amount of \$70,000.

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 Katie Hobson, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, MC 066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911, email Katie.Hobson@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202300502

Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: February 3, 2023



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. Kelly Harris*; Cause No. D-1-GN-17-003370; in the 53rd Judicial District, Travis County, Texas.

Background: Defendant Kelly Harris owned and operated a tire retail shop that sold new and used tires at 930 North Palestine in Athens, Henderson County (the Site.) It was a registered scrap tire generator with the Texas Commission on Environmental Quality (TCEQ), but did not have a permit, registration, or other authorization to store, process, or dispose of municipal solid waste. The State filed suit for Harris' unauthorized storage and burial of scrap tires and tire pieces at the Site since 2011, in violation of the Texas Solid Waste Disposal Act, the Texas Water Code, TCEQ rules and a TCEQ-issued administrative order. In 2017, the Site was sold.

Proposed Settlement: The parties propose an Agreed Final Judgment which provides for an award to the State of \$5,000 in civil penalties; \$3,000 in attorney's fees; and costs of court.

For a complete description of the proposed settlement, the Agreed Final Judgment 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 Ixchel Parr, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, MC 066, Austin, Texas 78711-2548; (512) 463-2012; facsimile (512) 320-0911; email Ixchel.Parr@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202300503
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: February 3, 2023



Office of Consumer Credit Commissioner

Notice of Rate Bracket Adjustment

The Consumer Credit Commissioner of Texas has ascertained the following brackets and ceilings by use of the formula and method described in TEX. FIN. CODE §341.203.(1).

The amounts of brackets in TEX. FIN. CODE §342.201(a) are changed to \$2,550.00 and \$21,250.00, respectively.

The amounts of brackets in TEX. FIN. CODE §342.201(e) are changed to \$4,250.00, \$8,925.00, and \$21,250.00, respectively.

The ceiling amount in TEX. FIN. CODE §§342.251 and 342.259 are changed to \$850.00 and \$1,700.00, respectively.

The amounts of the brackets in TEX. FIN. CODE §345.055 are changed to \$4,250.00 and \$8,500.00, respectively.

The amounts of the bracket in TEX. FIN. CODE §345.103 is changed to \$4,250.00.

The ceiling amount of TEX. FIN. CODE §371.158 is changed to \$21,250.00.

The amounts of the brackets in TEX. FIN. CODE §371.159 are changed to \$255.00, \$1,700.00, and \$2,550.00, respectively.

The above dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 2023, and extending through June 30, 2024.

(1) Computation method: The Reference Base Index (the Index for December 1967) = 101.6. The December 2022 Index = 866.953. The percentage of change is 853.30%. This equates to an increase of 850% after disregarding the percentage of change in excess of multiples of 10%.

TRD-202300570

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 7, 2023

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 02/13/23 - 02/19/23 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 02/13/23 - 02/19/23 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009³ for the period of 02/01/23 - 02/28/23 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 02/01/23 - 02/28/23 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-202300569

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 7, 2023

Texas Commission on Environmental Quality

Enforcement Orders

An agreed order was adopted regarding Don Baxter, Jr., Docket No. 2020-0239-PST-E on January 31, 2023 assessing \$5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Pence, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding VIR PRAMUKH, LLC dba Inwood Cleaners, Docket No. 2021-0492-DCL-E on January 31, 2023 assessing \$2,005 in administrative penalties with \$401 deferred. Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Indorama Ventures Oxides LLC, Docket No. 2021-0866-AIR-E on January 31, 2023 assessing \$3,750 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lumberton on the Lake, Docket No. 2021-0901-MSW-E on January 31, 2023 assessing \$750 in administrative penalties with \$150 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SHAX MART INC dba LAKESIDE BEVERAGE, Docket No. 2021-1038-PST-E on January 31, 2023 assessing \$4,875 in administrative penalties with \$975 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Olsen Estates Property Owner's Association, Docket No. 2021-1375-PWS-E on January 31, 2023 assessing \$1,050 in administrative penalties with \$210 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Liberty-Danville Fresh Water Supply District 2, Docket No. 2021-1584-PWS-E on January 31, 2023 assessing \$4,435 in administrative penalties with \$887 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Duncan, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 2020 Landmark Capital, LLC, Docket No. 2022-0084-PWS-E on January 31, 2023 assessing \$1,563 in administrative penalties with \$312 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Juan G. Jasso, Docket No. 2022-0193-WOC-E on January 31, 2023 assessing \$2,888 in admin-

istrative penalties with \$577 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Exxon Mobil Corporation, Docket No. 2022-0232-AIR-E on January 31, 2023 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sana Healthcare Carrollton, LLC dba Carrollton Regional Medical Center, Docket No. 2022-0320-PST-E on January 31, 2023 assessing \$5,085 in administrative penalties with \$1,017 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Laredo Holdings Investments, LLC, Docket No. 2022-0337-MWD-E on January 31, 2023 assessing \$5,000 in administrative penalties with \$1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas MEX Limited Company, LLC dba Tejano Mart 515, Docket No. 2022-0363-PST-E on January 31, 2023 assessing \$4,119 in administrative penalties with \$823 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ALTON MB INVESTMENT LLC, Docket No. 2022-0640-PST-E on January 31, 2023 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Janet Rivera, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Z Constructors Nationwide LLC, Docket No. 2022-0643-WQ-E on January 31, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas, LLC, Docket No. 2022-0726-PWS-E on January 31, 2023 assessing \$3,675 in administrative penalties with \$735 deferred. Information concerning any aspect of this order may be obtained by contacting Daniel Brill, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jochum Schievink dba Schievink's Heavenly Holsteins, Docket No. 2022-0737-AGR-E on January 31, 2023 assessing \$1,625 in administrative penalties with \$325 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MIDWAY WATER UTILITIES, INC., Docket No. 2022-0769-PWS-E on January 31, 2023 assessing \$3,000 in administrative penalties with \$600 deferred. Infor-

mation concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas, LLC, Docket No. 2022-0800-PWS-E on January 31, 2023 assessing \$1,572 in administrative penalties with \$314 deferred. Information concerning any aspect of this order may be obtained by contacting Ecko Beggs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SIMPLY AQUATICS, INC., Docket No. 2022-0868-PWS-E on January 31, 2023 assessing \$4,595 in administrative penalties with \$919 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lake Effect Inc dba TJS Super Stop, Docket No. 2022-0882-PST-E on January 31, 2023 assessing \$4,500 in administrative penalties with \$900 deferred. Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LS Tavern, LLC dba Lone Star Tavern, LLC, Docket No. 2022-0947-PWS-E on January 31, 2023 assessing \$1,263 in administrative penalties with \$252 deferred. Information concerning any aspect of this order may be obtained by contacting Ecko Beggs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Consolidated Water Supply Corporation, Docket No. 2022-1193-UTL-E on January 31, 2023 assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Treasure Island Municipal Utility District, Docket No. 2022-1194-UTL-E on January 31, 2023 assessing \$610 in administrative penalties with \$122 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Dumas, Docket No. 2022-1236-UTL-E on January 31, 2023 assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Fortune & Son Enterprises LLC, Docket No. 2022-1272-WQ-E on January 31, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Valentine, Docket No. 2022-1275-UTL-E on January 31, 2023 assessing \$500 in administrative penalties with \$100 deferred. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, Enforce-

ment Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Wilson Built Homes LLC, Docket No. 2022-1286-WQ-E on January 31, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of citation order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Vinod Patel dba Linden Hill Motel, Docket No. 2022-1345-UTL-E on January 31, 2023 assessing \$510 in administrative penalties with \$102 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Jessica Rae Hester, Docket No. 2022-1359-WOC-E on January 31, 2023 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Samantha Salas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding J Garwood Enterprises LLC, Docket No. 2022-1364-WQ-E on January 31, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Katelyn Tubbs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding City of La Marque, Docket No. 2022-1434-WQ-E on January 31, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Larry D. Cordell, Docket No. 2022-1530-WOC-E on January 31, 2023 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Ashley Lemke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding BDS Constructors LLC, Docket No. 2022-1534-WR-E on January 31, 2023 assessing \$350 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202300590

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2023



Enforcement Orders

An agreed order was adopted regarding Equistar Chemicals, LP, Docket No. 2017-1021-AIR-E on February 8, 2023 assessing \$37,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Blanco, Docket No. 2019-1675-MWD-E on February 8, 2023 assessing \$97,313 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Misty James, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Bobby Krout, Docket No. 2020-0388-MSW-E on February 8, 2023 assessing \$12,037 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Pence, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alleyton Resource Company, LLC, Docket No. 2020-0390-AIR-E on February 8, 2023 assessing \$7,563 in administrative penalties with \$1,512 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Cammie Panks, Docket No. 2021-1547-MSW-E on February 8, 2023 assessing \$4,538 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Mirasaad Mousavijam dba East Point Market, Docket No. 2022-0407-PST-E on February 8, 2023 assessing \$9,080 in administrative penalties with \$1,816 deferred. Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SWWC Utilities, Inc., Docket No. 2022-0482-MLM-E on February 8, 2023 assessing \$20,937 in administrative penalties with \$4,187 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hudson Water Supply Corporation, Docket No. 2022-0621-PWS-E on February 8, 2023 assessing \$4,050 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Daniel Brill, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Triangle Brick Company, Docket No. 2022-0622-PWS-E on February 8, 2023 assessing \$1,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Grand Saline, Docket No. 2022-0765-MWD-E on February 8, 2023 assessing \$10,500 in administrative penalties with \$2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Ellen Ojeda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2022-0832-PWS-E on February 8, 2023 assessing \$1,800 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting America Ruiz, Enforcement Coordinator at

(512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202300594

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 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 171543

APPLICATION. Holcim-SOR, Inc., 15900 Dooley Road, Addison, Texas 75001-4243 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a permanent Concrete Batch Plant with Enhanced Controls Registration Number 171543 to authorize the operation of a permanent concrete batch plant. The facility is proposed to be located at the following driving directions: from the intersection of Texas State Highway 289 and Main Street, travel approximately 2.3 miles west on West Main Street and then turn right at the intersection with Wall Street Road. The site is located approximately 1 mile north on Wall Street Road, Gunter, Grayson County. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=33.46951&lng=-96.78201&zoom=13&type=r>. This application was submitted to the TCEQ on January 18, 2023. 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 February 7, 2023.

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, March 15, 2023, at 6:00 p.m.

Van Alstyne Community Center

262 North Preston Avenue

Van Alstyne, Texas, 75495

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Dr., Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Holcim-SOR, Inc., 15900 Dooley Road, Addison, Texas 75001-4243, or by calling Ms. Riley Hewston, Environmental Manager at (972) 221-4646.

Notice Issuance Date: February 7, 2023

TRD-202300593

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2023



Notice of District Petition

Notice issued January 30, 2023

TCEQ Internal Control No. D-11142022-020; Rattler Ridge, LLC, a Texas limited liability company, (Petitioner) filed an amended petition for creation of Guadalupe County Municipal Utility District No. 9 (District) with the Texas Commission on Environmental Quality (TCEQ). The amended 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 amended petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Horizon Bank, SSB, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 343.60 acres located within Guadalupe County, Texas; and (4) the land within the proposed District is within the extraterritorial jurisdiction of the City of San Marcos. The amended petition further states that the requested name of the proposed District is "Guadalupe County Municipal Utility District No. 4 (or next available numerical designation)", the next available numerical designation at the time of filing the petition was Guadalupe County Municipal Utility District No. 9, which is reflected in this notice. The Property depicted in Exhibit "A" is located within the extraterritorial

jurisdiction of the City of San Marcos, Guadalupe County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §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 proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District. The amended petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such additional facilities, including roads, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the amended petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$74,750,000 (\$67,500,000 for water, wastewater, and drainage plus \$7,250,000 for 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-202300589

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2023



Notice of District Petition

Notice issued January 30, 2023

TCEQ Internal Control No. D-11142022-020; Rattler Ridge, LLC, a Texas limited liability company, (Petitioner) filed an amended petition for creation of Guadalupe County Municipal Utility District No. 9 (District) with the Texas Commission on Environmental Quality (TCEQ). The amended 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 amended petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Horizon Bank, SSB, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 343.60 acres located within Guadalupe County, Texas; and (4) the land within the proposed District is within the extraterritorial jurisdiction of the City of San Marcos. The amended petition further states that the requested name of the proposed District is "Guadalupe County Municipal Utility District No. 4 (or next available numerical designation)", the next available numerical designation at the time of filing the petition was Guadalupe County Municipal Utility District No. 9, which is reflected in this notice. The Property depicted in Exhibit "A" is located within the extraterritorial jurisdiction of the City of San Marcos, Guadalupe County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §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 proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District. The amended petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such additional facilities, including roads, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the amended petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$74,750,000 (\$67,500,000 for water, wastewater, and drainage plus \$7,250,000 for 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-202300591
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2023



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Corey Morrell
SOAH Docket No. 582-23-10566 TCEQ Docket No. 2021-0787-MSW-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - February 23, 2023
William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed October 18, 2022, concerning assessing administrative penalties against and requiring certain actions of Corey Morrell, for violations in Johnson County, Texas, of: 30 Texas Administrative Code §330.15(a) and (c).

The hearing will allow Corey Morrell, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Corey Morrell, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Corey Morrell to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Corey Morrell, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code § 7.054, Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and 30 Texas Administrative Code chs. 70 and 330; Tex. Water Code § 7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108, §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting William Hogan, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: January 26, 2023
TRD-202300588
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2023



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Laura Smith
SOAH Docket No. 582-23-05476 TCEQ Docket No. 2021-0764-MLM-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference at:

10:00 a.m. - February 23, 2023

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com/>

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed May 5, 2022 concerning assessing administrative penalties against and requiring certain actions of Laura Smith, for violations in Bandera County, Texas, of: 30 Texas Administrative Code §330.15(c) and §335.4.

The hearing will allow Laura Smith, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Laura Smith, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Laura Smith to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Laura Smith, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code § 7.054 and ch. 7, Tex. Health & Safety Code ch. 361 and 30 Texas Administrative Code chs. 70, 330, and 335; Tex. Water Code § 7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Casey Kurnath, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Coun-

sel, Mail Code 103, at the same P. O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: January 26, 2023

TRD-202300586

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2023



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Victory Rock Texas, LLC SOAH Docket No. 582-23-10565 TCEQ Docket No. 2021-0751-AIR-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - February 23, 2023

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed September 21, 2022 concerning assessing administrative penalties against and requiring certain actions of VICTORY ROCK TEXAS, LLC, for violations in Bell County, Texas, of: Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b) and 30 Texas Administrative Code §116.110(a).

The hearing will allow VICTORY ROCK TEXAS, LLC, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford VICTORY ROCK TEXAS, LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of VIC-**

TORY ROCK TEXAS, LLC to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. VICTORY ROCK TEXAS, LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code § 7.054, and Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361 and 382, and 30 Texas Administrative Code chs. 70 and 116; Tex. Water Code § 7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Jennifer Peltier, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: January 26, 2023

TRD-202300587

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2023



Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment

Notice issued on February 07, 2023

Proposed Permit No. 2416

Application. Haul-Brooke, Inc. 13540 FM 1937, San Antonio, Texas 78221, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit to authorize a Type V waste transfer station. The facility is proposed to be located at 13540 FM 1937, San Antonio, 78221, in Bexar County, Texas. The TCEQ received this application

on December 13, 2022. The permit application is available for viewing and copying at the San Antonio City Hall, 100 Military Plaza #4, San Antonio, Texas 78205, in Bexar County, and may be viewed online at <http://haulbrooke.com/about-us/>. 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/14j194>. For exact location, refer to application.

Alternative Language Notice/Aviso de idioma alternativo. 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 Haul-Brooke, Inc. at the address stated above or by calling Mr. Reuben Bidmead, Director at (210) 716-0000.

TRD-202300592

Laurie Gharis
Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2023



Update to the Water Quality Management Plan (WQMP)

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft January 2023 Update to the WQMP for the State of Texas.

Download the draft January 2023 WQMP Update at https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_updates.html or view a printed copy at the TCEQ Library, Building

A, 12100 Park 35 Circle, Austin, Texas. Please periodically check the following website for updates, in the event the TCEQ Library is closed due to COVID-19 restrictions: https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_comment.html.

The WQMP is developed and promulgated in accordance with the requirements of Federal Clean Water Act, §208. The draft update includes projected effluent limits of specific domestic dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

Deadline

All comments must be received at the TCEQ no later than **5:00 p.m. on March 21, 2023**.

How to Submit Comments

Comments must be submitted in writing to:

Maria Benitez

Texas Commission on Environmental Quality

Water Quality Division, MC 148

P.O. Box 13087

Austin, Texas 78711-3087

Comments may also be faxed to (512) 239-4420 **or** emailed to Maria Benitez at Maria.Benitez@tceq.texas.gov, but must be followed up with written comments by mail within five working days of the fax or email date or by the comment deadline, whichever is sooner.

For further information, or questions, please contact Ms. Benitez at (512) 239-6705 or by email at Maria.Benitez@tceq.texas.gov.

TRD-202300584

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: February 8, 2023



Department of State Health Services

Licensing Actions for Radioactive Materials

During the first half of December 2022, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

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

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radioactive Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: (512) 206-3760, or by e-mail to: RAMlicensing@dshs.texas.gov.

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ANGLETON	ISOTHERAPEUTICS GROUP LLC	L05969	ANGLETON	49	12/05/22
BORGER	SOLVAY SPECIALTY POLYMERS USA LLC	L06719	BORGER	02	12/13/22
DEER PARK	DEER PARK REFINING LIMITED PARTNERSHIP	L04554	DEER PARK	46	12/14/22
DENTON	TEXAS ONCOLOGY PA	L05815	DENTON	21	12/13/22
HOUSTON	MEDICAL CENTER CARDIOVASCULAR ASSOCIATION	L07032	HOUSTON	04	12/05/22
HOUSTON	ST LUKES HOSPITAL AT THE VINTAGE	L06612	HOUSTON	06	12/09/22
HOUSTON	STEWART & STEVENSON SERVICE LLC	L05267	HOUSTON	07	12/07/22
HOUSTON	ST LUKES HOSPITAL AT THE VINTAGE	L06212	HOUSTON	07	12/14/22
HOUSTON	BAKER HUGHES OILFIELD OPERATIONS LLC	L05104	HOUSTON	19	12/01/22
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L06832	HOUSTON	34	12/06/22
HOUSTON	PETNET HOUSTON LLC	L05542	HOUSTON	40	12/06/22
HOUSTON	MEMORIAL HERMANN MEDICAL GROUP	L06430	HOUSTON	51	12/02/22
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03052	HOUSTON	112	12/06/22
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L02412	HOUSTON	150	12/06/22

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

HOUSTON	AMERICAN DIAGNOSTIC TECH LLC	L05514	HOUSTON	162	12/09/22
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03772	HOUSTON	174	12/06/22
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L00439	HOUSTON	261	12/06/22
HUMBLE	CARDIOVASCULAR ASSOCIATION PLLC	L05421	HUMBLE	30	12/05/22
LONGVIEW	TEXAS ONCOLOGY PA	L05017	LONGVIEW	27	12/13/22
MIDLAND	TEXAS ONCOLOGY PA	L04905	MIDLAND	32	12/13/22
PLANO	COLUMBIA MEDICAL CENTER OF PLANO SUBSIDIARY LP	L02032	PLANO	128	12/07/22
PORT ARTHUR	TOTALENERGIES PETROCHEMICALS & REFINING USA INC	L03498	PORT ARTHUR	36	12/06/22
ROUND ROCK	SCOTT & WHITE HOSPITAL – ROUND ROCK	L06085	ROUND ROCK	34	12/05/22
SAN ANTONIO	WORLDWIDE CLINICAL TRIALS EARLY PHASE SERVICES LLC	L05723	SAN ANTONIO	12	12/13/22
SPRING	WSSM LLC	L07035	SPRING	04	12/09/22
TEXAS CITY	BLANCHARD REFINING COMPANY LLC	L06526	TEXAS CITY	28	12/08/22
THROUGHOUT TX	TEXAS ONCOLOGY PA	L07107	ABILENE	02	12/06/22
THROUGHOUT TX	DYESS-PETERSON TESTING LABORATORY INC	L01123	AMARILLO	54	12/09/22
THROUGHOUT TX	FENAGH LLC	L07124	AUSTIN	02	12/12/22
THROUGHOUT TX	ENERCON SERVICES INC	L05447	DALLAS	18	12/02/22

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

THROUGHOUT TX	ALLIANCE GEOTECHNICAL GROUP INC	L05314	DALLAS	52	12/05/22
THROUGHOUT TX	RONE ENGINEERING SERVICES LTD	L02356	DALLAS	59	12/08/22
THROUGHOUT TX	PROFESSIONAL SERVICE INDUSTRIES INC	L06332	GRAPEVINE	17	12/09/22
THROUGHOUT TX	SENTINEL INTEGRITY SOLUTIONS INC	L06735	HOUSTON	12	11/30/22
THROUGHOUT TX	VERSA INTEGRITY GROUP INC	L06669	HOUSTON	37	12/07/22
THROUGHOUT TX	HVJ ASSOCIATES INC	L03813	HOUSTON	72	11/30/22
THROUGHOUT TX	INTERTEK ASSET INTEGRITY MANAGEMENT INC	L06801	PASADENA	22	12/06/22
THROUGHOUT TX	NDS PRODUCTS INC	L00991	PASADENA	51	12/07/22
THROUGHOUT TX	IIA NUCLEAR SERVICES INC	L05278	SAN ANTONIO	23	12/12/22
THROUGHOUT TX	SOUTHWEST RESEARCH INSTITUTE	L04958	SAN ANTONIO	26	12/08/22
THROUGHOUT TX	ARIAS & ASSOCIATES INC DBA ARIAS GEOPROFESSIONALS	L04964	SAN ANTONIO	62	12/02/22
TIOGA	MID-SOUTH EQUINE SPORTS MEDICINE AND SURGERY	L07030	TIOGA	02	12/06/22

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
DEL RIO	VAL VERDE HOSPITAL CORPORATION DBA VAL VERDE REGIONAL MEDICAL CENTER	L01967	DEL RIO	42	12/05/22
HOUSTON	AVILES ENGINEERING CORPORATION	L03016	HOUSTON	36	12/07/22
HOUSTON	PRECISION RADIOTHERAPY CENTER LP	L06491	THE WOODLANDS	01	12/02/22

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
BAYTOWN	S&B FABRICATION SERVICES LTD	L07046	BAYTOWN	02	12/07/22

TRD-202300545
 Cynthia Hernandez
 General Counsel
 Department of State Health Services

Filed: February 6, 2023



Licensing Actions for Radioactive Materials

During the second half of December 2022, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

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

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radioactive Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: (512) 206-3760, or by e-mail to: RAMlicensing@dshs.texas.gov.

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ABILENE	HENDRICK MEDICAL CENTER	L02433	ABILENE	139	12/19/22
AUSTIN	ASCENSION TEXAS CARDIOVASCULAR	L06598	AUSTIN	13	12/16/22
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP DBA ST DAVIDS MEDICAL CENTER	L00740	AUSTIN	181	12/21/22
BUDA	BAYLOR SCOTT & WHITE MEDICAL CENTERS CAPITOL AREA DBA BAYLOR SCOTT & WHITE MEDICAL CENTER BUDA	L07154	BUDA	01	12/20/22
DALLAS	CARDINAL HEALTH 414 LLC DBA CARDINAL NUCLEAR PHARMACY SERVICES	L02048	DALLAS	161	12/30/22
DENTON	NORTH TEXAS CANCER CENTER LP	L05945	DENTON	18	12/27/22
EDINBURG	DOCTORS HOSPITAL AT RENAISSANCE LTD	L05761	EDINBURG	40	12/19/22
EL PASO	TEXAS ONCOLOGY PA DBA EL PASO CANCER TREATMENT CENTER	L05774	EL PASO	21	12/20/22
GRAPEVINE	MNX GLOBAL LOGISTICS CORP	L07144	GRAPEVINE	01	12/22/22
HOUSTON	CORE LABORATORIES LP	L07088	HOUSTON	003	12/22/22

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

HOUSTON	THE METHODIST HOSPITAL RESEARCH INSTITUTE DBA HOUSTON METHODIST RESEARCH INSTITUTE	L06383	HOUSTON	21	12/30/22
HOUSTON	BAKER HUGHES OILFIELD OPERATIONS LLC	L04452	HOUSTON	61	12/20/22
HOUSTON	TTG IMAGING SOLUTIONS LLC	L05775	HOUSTON	117	12/15/22
HUMBLE	RADIOMEDIX INC	L06990	HOUSTON	014	12/30/22
IRVING	BAYLOR MEDICAL CENTER AT IRVING	L02444	IRVING	124	12/21/22
LONGVIEW	EASTMAN CHEMICALS COMPANY	L00301	LONGVIEW	126	12/15/22
LUBBOCK	LUBBOCK HERITAGE HOSPITAL LLC DBA GRACE MEDICAL CENTER	L06040	LUBBOCK	12	12/27/22
LUBBOCK	LUBBOCK COUNTY HOSPITAL DISTRICT OF LUBBOCK COUNTY	L04719	LUBBOCK	174	12/28/22
ODESSA	PERMIAN PREMIER HEALTH SERVICES INC	L05628	ODESSA	06	12/16/22
ROCKWALL	ROCKWALL REGIONAL HOSPITAL LLC DBA HEALTH PRESBYTERIAN HOSPITAL ROCKWALL	L06103	ROCKWALL	12	12/28/22
SNYDER	SCURRY COUNTY HOSPITAL DISTRICT DBA DM COGDELL MEMORIAL HOSPITAL	L02409	SNYDER	37	12/30/22

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

TEXAS CITY	BLANCHARD REFINING COMPANY LL	L06526	TEXAS CITY	29	12/20/22
THROUGHOUT TX	TEXAS DEPARTMENT OF TRANSPORTATION	L00197	AUSTIN	202	12/20/22
THROUGHOUT TX	ENCON INTERNATIONAL	L04528	EL PASO	18	12/15/22
THROUGHOUT TX	ECS SOUTHWEST LLP	L07073	FORT WORTH	06	12/15/22
THROUGHOUT TX	RINER ENGINEERING INC	L06872	HOUSTON	06	12/22/22
THROUGHOUT TX	PRO-SURVE TECHNICAL SERVICES LLC	L06905	LEAGUE CITY	06	12/19/22
THROUGHOUT TX	TECHCORR USA MANAGEMENT LLC	L05972	PASADENA	134	12/15/22
THROUGHOUT TX	RABA-KISTNER INC	L01571	SAN ANTONIO	100	12/19/22
VICTORIA	CITIZENS MEDICAL CENTER	L00283	VICTORIA	110	12/21/22

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amend- ment Number	Date of Action
AUSTIN	PPD DEVELOPMENT LP	L04348	AUSTIN	27	12/16/22
DENISON	TEXOMACARE SPECIALTY PHYSICIANS	L06504	DENISON	06	12/28/22
LUBBOCK	CITY OF LUBBOCK	L01735	LUBBOCK	40	12/23/22
SUGAR LAND	TMH PHYSICIAN ASSOCIATES PLLC	L06527	SUGAR LAND	07	12/20/22

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
THROUGHOUT TX	ECOSERV PERMIAN LLC	L07020	BIG SPRING	06	12/21/22

TRD-202300538
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: February 6, 2023



Schedules of Controlled Substances

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in for this submission is not included in the print version of the Texas Register. The figure is available in the on-line version of the February 17, 2023, issue of the Texas Register.)

TRD-202300596
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: February 8, 2023



Texas Department of Insurance

Company Licensing

Application for Frankenmuth Mutual Insurance Company, a foreign fire and/or casualty company, to change its name to Frankenmuth Insurance Company. The home office is in Frankenmuth, Michigan.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202300595
 Justin Beam
 Chief Clerk
 Texas Department of Insurance
 Filed: February 8, 2023



Texas Department of Licensing and Regulation

Notice of Vacancies on Hearing Instrument Fitters and Dispensers Advisory Board

The Texas Department of Licensing and Regulation (Department) announces three vacancies on the Hearing Instrument Fitters and Dispensers Advisory Board (Board) established by 16 Texas Administrative Code §112.10. The purpose of the Hearing Instrument Fitters and Dispensers Advisory Board is to provide advice and recommendations

to the Department on technical matters relevant to the administration of this chapter. **This announcement is for:**

- one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

(A) is a citizen of the United States; and

(B) specializes in the practice of otolaryngology;

- one member who has been engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

- one public member.

The Board is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year. The Board is composed of the following members:

1. six members licensed under this chapter who have been engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

2. one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

(A) is a citizen of the United States; and

(B) specializes in the practice of otolaryngology; and

3. two members of the public.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

TRD-202300582
 Mike Arismendez
 Executive Director
 Texas Department of Licensing and Regulation
 Filed: February 8, 2023



Notice of Vacancies on the Auctioneer Advisory Board

The Texas Department of Licensing and Regulation (Department) announces seven vacancies on the Auctioneer Advisory Board (Board) established by Texas Occupations Code, Chapter 1802. The pertinent rules may be found in 16 Texas Administrative Code §67.65. The pur-

pose of the Auctioneer Advisory Board is to advise the Texas Commission of Licensing and Regulation (Commission) on educational matters, operational matters, and common practices within the auction industry. **This announcement is for:**

- **four licensed auctioneers;**
- **two public members;**
- **one member who is the administrative head, or the administrative head's designee, of any state agency or office that is selected by the Commission.**

The Board is composed of seven members appointed by the presiding officer of the Commission, with the Commission's approval. The auctioneer members appointed under Section 1802.102(a)(1) serve two-year terms that expire on September 1 and may not serve more than two consecutive terms. The composition of the board shall include:

1. four members who are licensed auctioneers;
2. one member who is the administrative head, or the administrative head's designee, of any state agency or office that is selected by the Commission; and
3. two public members.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

TRD-202300578
Mike Arismendez
Executive Director
Texas Department of Licensing and Regulation
Filed: February 8, 2023



Notice of Vacancies on the Dietitians Advisory Board

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Dietitians Advisory Board (Board) established by Texas Occupations Code, Chapter 701. The purpose of the Dietitians Advisory Board is to provide advice and recommendations to the Department on technical matters relevant to the administration of this chapter. **This announcement is for:**

- **two public members.**

The Board is composed of nine members appointed by the presiding officer of the Texas Commission of Licensing and Regulation (Commission), with the approval of the Commission. In appointing dietitian members to the advisory board, the presiding officer of the commission shall attempt to maintain balanced representation among the following primary areas of expertise included in the professional discipline of dietetics: clinical, educational, management, consultation and community. Members serve staggered six-year terms. The terms of three members begin on September 1 of each odd-numbered year. The Board is composed of the following members:

1. six licensed dietitians, each of whom has been licensed under Chapter 701 for not less than three years before the member's date of appointment; and
2. three members who represent the public.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>.

Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

TRD-202300581
Mike Arismendez
Executive Director
Texas Department of Licensing and Regulation
Filed: February 8, 2023



Notice of Vacancies on Towing and Storage Advisory Board

The Texas Department of Licensing and Regulation (Department) announces three vacancies on the Towing and Storage Advisory Board (Board) established by Texas Occupations Code, Chapter 2308 and Chapter 2303. The pertinent rules may be found in 16 Texas Administrative Code §85.650 and §86.650. The purpose of the Board is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) and the Department on technical matters relevant to the administration and enforcement of Chapter 2308 and Chapter 2303, including examination content, licensing standards, and continuing education requirements. Service as a Board member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- **one representative of a towing company operating in a county with a population of less than one million;**
- **one peace officer from a county with a population of less than one million; and**
- **one peace officer from a county with a population of one million or more.**

The Board is composed of the following nine members appointed by the presiding officer of the Commission, with the Commission's approval. Members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year. The Board is composed of the following members:

- (1) one representative of a towing company operating in a county with a population of less than one million;
- (2) one representative of a towing company operating in a county with a population of one million or more;
- (3) one representative of a vehicle storage facility located in a county with a population of less than one million;
- (4) one representative of a vehicle storage facility located in a county with a population of one million or more;
- (5) one parking facility representative;
- (6) one peace officer from a county with a population of less than one million;
- (7) one peace officer from a county with a population of one million or more;
- (8) one representative of a member insurer, as defined by Section 462.004, Insurance Code, of the Texas Property and Casualty Insurance Guaranty Association who writes automobile insurance in this state; and
- (9) one person who operates both a towing company and a vehicle storage facility.

Interested persons should complete an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by e-mailing advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

TRD-202300571

Mike Arismendez

Executive Director

Texas Department of Licensing and Regulation

Filed: February 7, 2023



Notice of Vacancy on Board of Boiler Rules

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Board of Boiler Rules (Board) established by 16 Texas Administrative Code §110.14. The purpose of the Board of Boiler Rules is to provide advice and recommendations to the commission in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and appurtenances. **This announcement is for:**

- one public member.

The Board is composed of eleven members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year. The Board is composed of the following members:

1. three members representing persons who own or use boilers in this state;
2. three members representing companies that insure boilers in this state;
3. one member representing boiler manufacturers or installers;
4. one member representing organizations that repair or alter boilers in this state;
5. one member representing a labor union; and
6. two public members.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

TRD-202300579

Mike Arismendez

Executive Director

Texas Department of Licensing and Regulation

Filed: February 8, 2023



Notice of Vacancy on Code Enforcement Officers Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Code Enforcement Officers Advisory Committee (Committee) established by 16 Texas Administrative Code §62.65. The purpose of the Code Enforcement Officers Advisory Committee is to provide advice and recommendations to the Department

on technical matters relevant to the administration of this chapter.

This announcement is for:

- one structural engineer or licensed architect.

The Committee is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year. The Committee is composed of the following members:

- (1) five registered code enforcement officers;
- (2) one structural engineer or licensed architect;
- (3) two consumers, one of which must be a certified building official; and
- (4) one person involved in the education and training of code enforcement officers.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Committee.

TRD-202300580

Mike Arismendez

Executive Director

Texas Department of Licensing and Regulation

Filed: February 8, 2023



Notice of Vacancy on Texas Tax Professional Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Texas Tax Professional Advisory Committee (Committee) established by Texas Occupation Code §1151.051. The purpose of the Texas Tax Professional Advisory Committee is to recommend to the Texas Commission of Licensing and Regulation (Commission) on rules and standards regarding technical issues relating to tax professionals; provide advice to the Commission regarding continuing education courses and curricula for registrants; provide advice to the Commission regarding the contents of any examination required by the Commission under this chapter; and educate and respond to questions from the Commission and the Department regarding issues affecting tax professionals. Service as a Board member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- one public member.

The Committee is composed of seven members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of one or two members expiring on March 1 of each odd-numbered year. The Committee is composed of the following members:

- (1) two members who are certified under this chapter as registered professional appraisers;
- (2) two members who are certified under this chapter as registered Texas collectors or registered Texas assessors; and
- (3) three members who represent the public.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>.

Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Committee.

TRD-202300583

Mike Arismendez

Executive Director

Texas Department of Licensing and Regulation

Filed: February 8, 2023



Notice of Vacancy on Weather Modification Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Weather Modification Advisory Committee (Committee) established by Agriculture Code, Title 9, Weather and Climate, Chapter 301. The purpose of the Committee is to advise the Texas Commission of Licensing and Regulation (Commission) on legislation, policies, administration, research, and other matters related to the duties, powers, or function of the Department under this chapter. Service as a Board member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- one agricultural producer.

The Committee is composed of five members appointed by the presiding officer of the Commission, with the Commission's approval. The members represent the following professional interests: businessman, engineer, atmospheric scientist, attorney and agricultural producer. Members serve at the will of the Commission.

Interested persons should complete an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Committee.

TRD-202300585

Mike Arismendez

Executive Director

Texas Department of Licensing and Regulation

Filed: February 8, 2023



Texas Parks and Wildlife Department

Notice of Proposed Real Estate Transactions

Acquisition of Land - Freestone County

Approximately 126 Acres at Richland Creek Wildlife Management Area

In a meeting on March 23, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 126 acres at Richland Creek Wildlife Management Area. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to Jason.estrella@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD

website at tpwd.texas.gov for the latest information regarding the Commission meeting.

Disposition of Land - Jasper County

Approximately 220 Acres at East Texas Conservation Center

In a meeting on March 23, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the disposition of approximately 220 acres at the East Texas Conservation Center. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to jason.estrella@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission meeting.

Acquisition of Easement - Anderson County

Approximately 0.1 Acre Cultural Conservation Easement at Big Lake Bottom WMA

In a meeting on March 23, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of an approximately 0.1 Acre Cultural Conservation Easement at Big Lake Bottom WMA. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to Jason.estrella@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission meeting.

Acquisition of Land - Goliad County

Approximately 40 Acres at Goliad State Park and Historic Site

In a meeting on March 23, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 40 acres at Goliad State Park and Historic Site. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to Jason.estrella@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission meeting.

Grant of Utility Easement - Jack County

Approximately 7.5 Acres at Fort Richardson State Park and Historic Site

In a meeting on March 23, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the grant of a utility easement to Oncor, LLC. of approximately 7.5 Acres at Fort Richardson State Park and Historic Site. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin,

Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to Jason.estrella@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission meeting.

TRD-202300565

James Murphy

General Counsel

Texas Parks and Wildlife Department

Filed: February 7, 2023

Texas Water Development Board

Applications Received January 2023

Project No. 62947, a request from Arimak Water Supply Corporation, 152 Kamira Avenue, Kerrville, Texas 78028, received on December 30, 2022, for \$1,755,000 in financing from the Drinking Water State Revolving Fund for water system improvement project.

Project No. 62950, a request from Commodore Cove Improvement District, 103 Anchor Drive, Freeport, Texas 7754, received on January 5, 2023, for \$314,696 in financing from the Drinking Water State Revolving Fund for drinking water storage tank with circulation pump.

Project No. 73935, a request from the City of Moody, 606 Avenue E., Moody, Texas 76557, received on January 6, 2023, for \$11,425,000 in financing from the Clean Water State Revolving Fund for a new wastewater treatment plant.

Project No. 73936, a request from the City of Honey Grove, 633 North 6th Street, Suite 1, Honey Grove, Texas 75446, received on January 9, 2023, for \$20,750,000 in financing from the Clean Water State Revolving Fund for a wastewater treatment plant and collection system improvement project.

Project No. 62949, a request from Orange County Water Control and Improvement District No. 1, 460 East Bolivar Street, Vidor, Texas 77662, received on January 9, 2023, for \$921,000 in financing from the Drinking Water State Revolving Fund for a water well disinfection system improvements project.

Project No. 62951, a request from the City of Gordon, 105 South Main Street, Gordon, Texas 76453, received on January 11, 2023, for \$1,962,000 in financing from the Drinking Water State Revolving Fund for water treatment and distribution improvement project.

Project No. 62952, a request from the City of Gladewater, 519 East Broadway Avenue, Gladewater, Texas 75647, received on January 11, 2023, for \$2,830,000 in financing from the Drinking Water State Revolving Fund for phase 3 drinking water system improvement project.

Project No. 73937, a request from the City of Daingerfield, 101 Linda Drive, Daingerfield, Texas 75638, received on January 11, 2023, for \$2,965,000 in financing from the Clean Water State Revolving Fund for phase 2 sanitary sewer improvement project.

Project No. 73938, a request from the City of Magnolia, 18111 Buddy Riley Boulevard, Magnolia, Texas 77354, received on January 11, 2023, for \$10,350,000 in financing from the Clean Water State Revolving Fund for the Nichols Sawmill wastewater treatment plant expansion project.

Project No. 73939, a request from the City of Wolfforth, 302 Main Street, Wolfforth, Texas 79382, received on January 11, 2023, for \$25,480,000 in financing from the Clean Water State Revolving Fund for a wastewater treatment plant project.

Project No. 73940, a request from the City of Lone Oak, 115 Town Square, Lone Oak, Texas 75453, received on January 11, 2023, for \$3,300,000 in financing from the Clean Water State Revolving Fund for a wastewater treatment plant expansion project.

Project No. 62956, a request from Silver Creek Village Water Supply Corporation, 205 Loma Vista Drive, Burnet, Texas 78611, received on January 11, 2023, for \$2,250,795 in financing from the Drinking Water State Revolving Fund for water treatment plant and system upgrade project.

Project No. 62957, a request from the City of Bay City, 1901 Fifth Street, Bay City, Texas 77414, received on January 11, 2023, for \$15,000,000 in financing from the Drinking Water State Revolving Fund for water system improvement project.

Project No. 73941, a request from the City of DeLeon, 125 South Texas Street, De Leon, Texas 76444, received on January 12, 2023, for \$1,200,000 in financing from the Clean Water State Revolving Fund for a wastewater collection system rehabilitation project.

Project No. 73942, a request from the City of Pflugerville, 100 East Main Street, Pflugerville, Texas 78660, received on January 12, 2023, for \$30,600,000 in financing from the Clean Water State Revolving Fund for the central wastewater treatment plant expansion phase II project.

Project No. 62953, a request from Grassland Water Supply Corporation, 2821 County Road 25, Tahoka, Texas 79373, received on January 12, 2023, for \$400,000 in financing from the Drinking Water State Revolving Fund for a reverse osmosis system upgrade.

Project No. 62954, a request from the City of New Home, P.O. Box 278, New Home, Texas 79383, received on January 12, 2023, for \$1,440,000 in financing from the Drinking Water State Revolving Fund for a water treatment project.

Project No. 62955, a request from Sharyland Water Supply Corporation, 321 South Shary Boulevard, Mission, Texas 78573, received on January 12, 2023, for \$40,000,000 in financing from the Drinking Water State Revolving Fund for a water system improvement project.

Project No. 73943, a request from the City of Donna, 114 South 13th Street, Donna, Texas 78537, received on January 12, 2023, for \$39,565,000 in financing from the Clean Water State Revolving Fund for a wastewater treatment plant rehabilitation and capacity upgrades project.

Project No. 62518, a request from the City of Menard, 108 East San Saba Avenue, Menard, Texas 76589, received on January 12, 2023, for \$5,775,000 in financing from the Drinking Water State Revolving Fund for improvements to water treatment plant and rehabilitation of existing wells.

Project No. 21813, a request from Bolivar Peninsula Special Utility District, 1840 Texas Highway 87, Crystal Beach, Texas 77650, received on January 12, 2023, for \$6,000,000 in financing from the Texas Water Development Fund for water line upgrade project.

Project No. 21814, a request from Greater Texoma Utility Authority on behalf of White Shed Water Supply Corporation, 5100 Airport Drive, Denison, Texas 75020, received on January 17, 2023, for \$3,520,000 in financing from the Texas Water Development Fund for water well and system improvements project.

Project No. 21815, a request from Greater Texoma Utility Authority on behalf of Gober Municipal Utility District, 5100 Airport Drive, Denison, Texas 75020, received on 18, 2023, for \$505,000 in financing from the Texas Water Development Fund for water electrical improvements project.

Project No. 62958, a request from the City of De Kalb, 110 East Grizzly Drive, De Kalb, Texas 75559, received on January 27, 2023, for \$7,175,000 in financing from the Drinking Water State Revolving Fund for water system improvement project.

Project No. 10457, a request from Presidio County, 300 Highland Street, Marfa, Texas 79843, received on January 30, 2023, for \$12,600,000 in financing from the Economically Distressed Areas Program for water and wastewater improvement projects.

Project No. 62959, a request from Oak Grove Water Supply Corporation, 6004 Ellis Lane, Kaufman, Texas 75142, received on January 30, 2023, for \$300,00 in financing from the Drinking Water State Revolving Fund for Riverbend Regional water system project.

Project No. 62960, a request from the City of Albany, P.O. Box 3248, Albany, Texas 76430-8059, received on January 30, 2023, for \$3,034,000 in financing from the Drinking Water State Revolving Fund for a water system improvement project.

Project No. 62961, a request from the City of La Joya, 701 East Expressway 83, La Joya, Texas 78560, received on January 30, 2023, for \$7,250,000 in financing from the Drinking Water State Revolving Fund for a water treatment plant expansion project.

Project No. 72022, a request from the City of La Joya, 701 East Expressway 83, La Joya, Texas 78560, received on January 30, 2023, for \$12,390,000 in additional funding from the Clean Water State Revolving Fund for the wastewater treatment plant project.

Project No. 62962, a request from the City of Mertzon, 104 South Park View Street, Mertzon, Texas 76941, received on January 30, 2023, for \$3,808,000 in financing from the Drinking Water State Revolving Fund for a water system improvement project.

Project No. 62963, a request from Laguna Madre Water District, 105 Port Road, Port Isabel, Texas 78578, received on January 30, 2023, for \$15,000,000 in funding from the Drinking Water State Revolving Fund for a water treatment plant improvement project.

Project No. 73944, a request from Harlingen Waterworks System, 134 East Van Buren Avenue, Harlingen, Texas 78550, received on January 30, 2023, for \$20,000,000 in financing from the Clean Water State Revolving Fund for a wastewater treatment plant and southeast interceptor system capacity improvement project.

Project No. 40208, a request from the City of Dallas, 1500 Marilla Street, Dallas, Texas 75201, received on January 30, 2023, for \$73,837,554 in financing from the Flood Infrastructure Fund for a modification to the Dallas floodway project.

Project No. 62964, a request from the City of Leonard, 111 W Collin Street, Leonard, Texas 75452, received on January 30, 2023, for \$8,480,000 in financing from the Drinking Water State Revolving Fund for a water distribution system improvement project.

Project No. 62965, a request from the City of Hidalgo, 704 Ramon Ayala Drive, Hidalgo, Texas 78557, received on January 30, 2023, for \$13,800,000 in financing from the Drinking Water State Revolving Fund for a 5.0/mgd water treatment plant project.

TRD-202300572

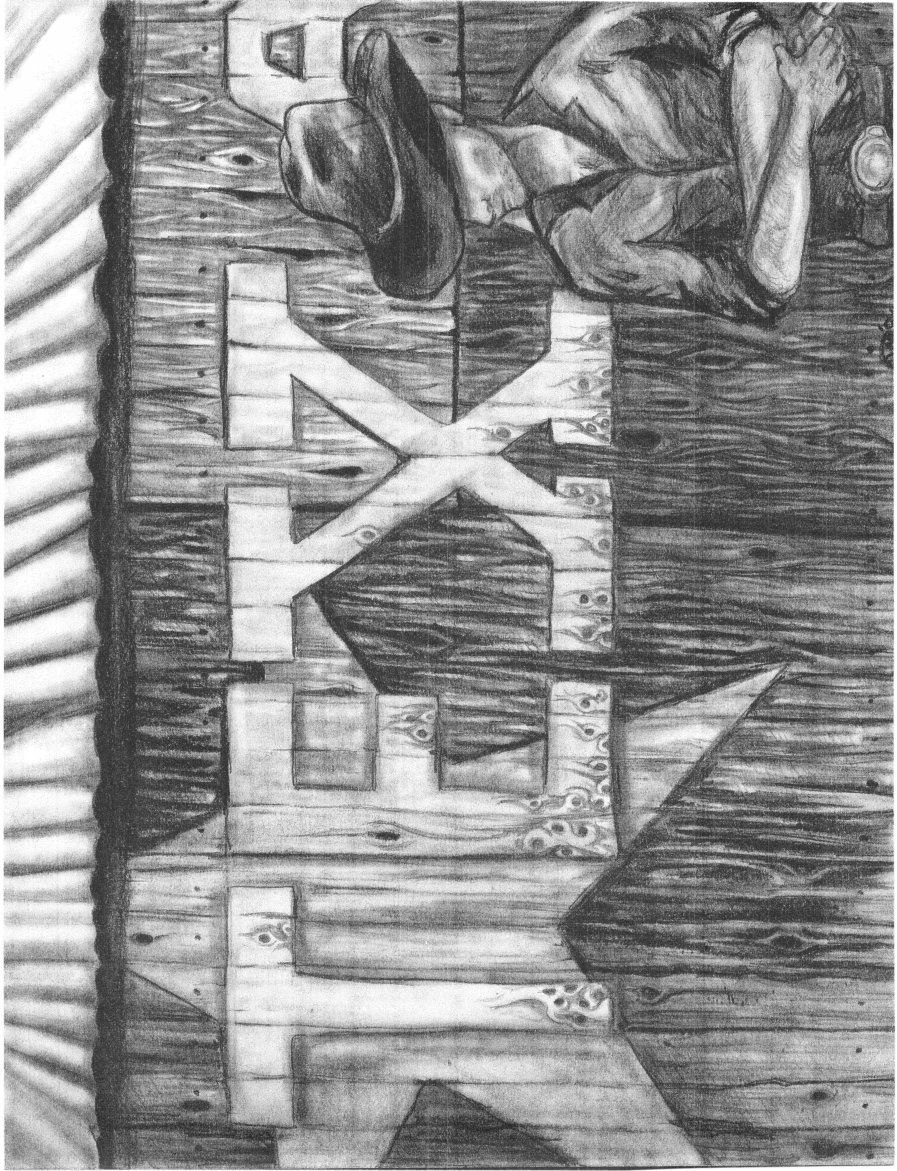
Ashley Harden

General Counsel

Texas Water Development Board

Filed: February 7, 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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LexisNexis