
TEXAS REGISTER

Volume 40 Number 24

June 12, 2015

Pages 3591 - 3730

*Rosemeree Morones
5th Grade*



School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

***Texas Register*, (ISSN 0362-4781, USPS 12-0090)**, is published weekly (52 times per year) for \$259.00 (\$382.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 701 East Water Street, Charlottesville, VA 22902.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director.

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Conklin, N.Y. and at additional mailing offices.

POSTMASTER: Send address changes to the *Texas Register*, 136 Carlin Rd., Conklin, N.Y. 13748-1531.

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 12887
Austin, TX 78711
(512) 463-5561
FAX (512) 463-5569

<http://www.sos.state.tx.us>
register@sos.texas.gov

Secretary of State –
Carlos H. Cascos

Director –
Robert Summers

Staff
Leti Benavides
Dana Blanton
Deana Lackey
Jill S. Ledbetter
Michelle Miner
Joy L. Morgan
Rachel Rigdon
Barbara Strickland
Tami Washburn

IN THIS ISSUE

ATTORNEY GENERAL

Requests for Opinions.....3597

PROPOSED RULES

TEXAS ALCOHOLIC BEVERAGE COMMISSION

ENFORCEMENT

16 TAC §35.113599

AUDITING

16 TAC §41.13599

16 TAC §41.23600

16 TAC §41.33601

16 TAC §41.43602

16 TAC §41.113602

TEXAS LOTTERY COMMISSION

ADMINISTRATION OF STATE LOTTERY ACT

16 TAC §§401.305, 401.307, 401.308, 401.312, 401.315, 401.316, 401.320, 401.3223603

16 TAC §401.3173607

TEXAS HIGHER EDUCATION COORDINATING BOARD

AGENCY ADMINISTRATION

19 TAC §1.9003614

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

RULES OF PROFESSIONAL CONDUCT

22 TAC §573.113614

22 TAC §573.233615

22 TAC §573.283616

22 TAC §573.603616

22 TAC §573.713617

22 TAC §573.763618

22 TAC §573.793618

PRACTICE AND PROCEDURE

22 TAC §575.303619

COMPTROLLER OF PUBLIC ACCOUNTS

TAX ADMINISTRATION

34 TAC §3.5983620

WITHDRAWN RULES

PUBLIC UTILITY COMMISSION OF TEXAS

SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

16 TAC §25.1973625

TEXAS ALCOHOLIC BEVERAGE COMMISSION

MARKETING PRACTICES

16 TAC §45.1013625

16 TAC §45.1013625

TEXAS LOTTERY COMMISSION

ADMINISTRATION OF STATE LOTTERY ACT

16 TAC §401.3173625

ADOPTED RULES

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ARBITRATION PROCEDURES FOR CERTAIN ENFORCEMENT ACTIONS OF THE DEPARTMENT OF AGING AND DISABILITY SERVICES REGARDING ASSISTED LIVING FACILITIES

1 TAC §§156.1, 156.3, 156.53628

1 TAC §§156.51, 156.53, 156.55, 156.57, 156.593628

1 TAC §156.1013629

1 TAC §§156.151, 156.153, 156.155, 156.157, 156.159, 156.1613629

1 TAC §§156.201, 156.203, 156.205, 156.207, 156.209, 156.211, 156.213, 156.215, 156.217, 156.219, 156.221, 156.223, 156.225, 156.227, 156.229, 156.231, 156.233, 156.2353630

1 TAC §§156.251, 156.253, 156.2553631

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

MEDICAID MANAGED CARE

1 TAC §353.6083631

PURCHASE OF GOODS AND SERVICES BY HEALTH AND HUMAN SERVICES AGENCIES

1 TAC §§391.1 - 391.3, 391.21, 391.22, 391.31, 391.35, 391.363633

1 TAC §§391.51, 391.53, 391.55, 391.573634

1 TAC §391.713634

1 TAC §§391.101, 391.103, 391.105, 391.107, 391.109, 391.121, 391.131, 391.141, 391.151, 391.161, 391.165, 391.171, 391.181, 391.1833634

1 TAC §§391.201, 391.203, 391.205, 391.211, 391.215, 391.217, 391.221, 391.223, 391.2313634

1 TAC §391.3013635

1 TAC §§391.401, 391.411, 391.451, 391.453, 391.551, 391.5523635

1 TAC §§391.701, 391.711, 391.713, 391.715, 391.716, 391.751, 391.7523635

PURCHASE OF GOODS AND SERVICES BY THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION

1 TAC §391.101, §391.1033635

1 TAC §§391.201, 391.203, 391.205, 391.207, 391.209, 391.2113636

1 TAC §391.3013636

1 TAC §§391.401, 391.403, 391.405, 391.407, 391.409.....	3636
1 TAC §§391.501, 391.503, 391.505.....	3636
1 TAC §§391.601, 391.603, 391.605.....	3637
1 TAC §§391.621, 391.623, 391.625, 391.627, 391.629, 391.631, 391.633, 391.635, 391.637	3637
1 TAC §§391.651, 391.653, 391.655, 391.657, 391.659, 391.661, 391.663, 391.665, 391.667, 391.669	3637
1 TAC §391.711	3637
PROCUREMENTS BY HEALTH AND HUMAN SERVICES COMMISSION	
1 TAC §§392.20 - 392.24	3638
1 TAC §§392.26 - 392.35	3639
1 TAC §§392.37 - 392.46	3639
1 TAC §§392.50 - 392.59	3639
1 TAC §392.100.....	3639
PURCHASE OF GOODS AND SERVICES FOR SPECIFIC HEALTH AND HUMAN SERVICES COMMISSION PROGRAMS	
1 TAC §392.1.....	3640
1 TAC §§392.101, 392.103, 392.105, 392.107, 392.109, 392.111	3640
1 TAC §§392.201, 392.203, 392.205, 392.207.....	3640
1 TAC §§392.301, 392.303, 392.305, 392.307, 392.309, 392.311, 392.313, 392.315, 392.317, 392.319, 392.321, 392.323, 392.325, 392.327, 392.329, 392.331	3640
1 TAC §§392.401, 392.403, 392.405, 392.407, 392.409, 392.411	3641
1 TAC §§392.501, 392.503, 392.505, 392.507, 392.509, 392.511	3641
1 TAC §§392.601, 392.603, 392.605, 392.607.....	3641
1 TAC §392.701.....	3642
1 TAC §392.801.....	3642
TEXAS ALCOHOLIC BEVERAGE COMMISSION	
ADMINISTRATION	
16 TAC §31.3.....	3642
16 TAC §31.11	3643
LICENSING	
16 TAC §33.2.....	3644
16 TAC §33.4.....	3644
16 TAC §33.33	3644
LEGAL	
16 TAC §37.5.....	3645
MARKETING PRACTICES	
16 TAC §45.103.....	3645
TEXAS LOTTERY COMMISSION	

ADMINISTRATION OF STATE LOTTERY ACT	
16 TAC §401.158, §401.160.....	3646
16 TAC §401.368.....	3646
16 TAC §401.369.....	3646
TEXAS STATE BOARD OF PHARMACY	
PHARMACIES	
22 TAC §291.104, §291.106.....	3646
22 TAC §291.133.....	3647
PHARMACISTS	
22 TAC §295.6, §295.9.....	3666
PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES	
22 TAC §297.3, §297.11	3667
TEXAS STATE BOARD OF EXAMINERS OF DIETITIANS	
DIETITIANS	
22 TAC §711.12.....	3667
TEXAS DEPARTMENT OF PUBLIC SAFETY	
DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES	
37 TAC §28.144.....	3668
RULE REVIEW	
Proposed Rule Reviews	
Texas Education Agency.....	3669
Texas Department of Insurance, Division of Workers' Compensa- tion	3669
Texas Lottery Commission	3669
Adopted Rule Reviews	
Texas Alcoholic Beverage Commission	3670
TABLES AND GRAPHICS	
.....	3671
IN ADDITION	
Ark-Tex Council of Governments	
Texarkana Urban Transit District Request for Proposals - Public No- tice.....	3675
Office of Consumer Credit Commissioner	
Notice of Rate Ceilings.....	3675
State Board of Dental Examiners	
Disciplinary Matrix.....	3675
Texas Commission on Environmental Quality	
Agreed Orders.....	3693

Correction of Error.....	3696	Request for Proposal - Texas Homeless Youth Survey Tool	3708
Enforcement Orders	3696	Texas Department of Insurance	
Notice of District Petition	3700	Company Licensing	3708
Notice of Public Meeting on July 14, 2015, in Lubbock, Lubbock County, Texas Concerning the Scrub-A-Dubb Barrel Company Facility	3701	Correction of Error.....	3708
Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Limited Scope Permit Major Amendment	3702	Texas Lottery Commission	
Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Major Amendment.....	3703	Instant Game Number 1668 "Win It All"	3710
Texas Ethics Commission		Instant Game Number 1696 "Texas Loteria".....	3715
List of Late Filers.....	3704	Instant Game Number 1697 "Triple Payout!"	3719
General Land Office		Notice of Public Comment Hearing.....	3723
Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program	3705	Notice of Public Comment Hearing.....	3723
Texas Health and Human Services Commission		Texas Low-Level Radioactive Waste Disposal Compact Commission	
Public Notice: Hospital Targeted Rate Increases for Potentially Preventable Events	3706	Notice of Receipt of Amendment Request for Importation of Waste and Import Agreement.....	3723
Texas Higher Education Coordinating Board		Notice of Receipt of Application for Importation of Waste and Import Agreement.....	3724
Request for Proposals - Comprehensive Classification and Compensation Study	3707	Public Utility Commission of Texas	
Texas Department of Housing and Community Affairs		Notice of Petition for Amendment to Water Certificate of Convenience and Necessity by Expedited Release.....	3724
Announcement of a Request for Proposal from Firms Interested in Providing Services of a Market Rate To Be Announced Program Administrator	3708	Supreme Court of Texas	
		In the Supreme Court of Texas	3724
		Sul Ross State University	
		Request for Proposals	3730

Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://texasattorneygeneral.gov/og/open-government>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:
<http://www.texas.gov>

...

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

THE ATTORNEY GENERAL

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

An index to the full text of these documents is available from
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. 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: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Requests for Opinions

RQ-0025-KP

Requestor:

The Honorable Sharen Wilson

Tarrant County Criminal District Attorney

401 West Belknap

Fort Worth, Texas 76196

Re: Discoverability under *Brady v. Maryland* and the Michael Morton Act of recordings of inmate telephone calls to which the criminal district attorney's office has access without a warrant (RQ-0025-KP)

Briefs requested by July 1, 2015

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

TRD-201502032

Amanda Crawford

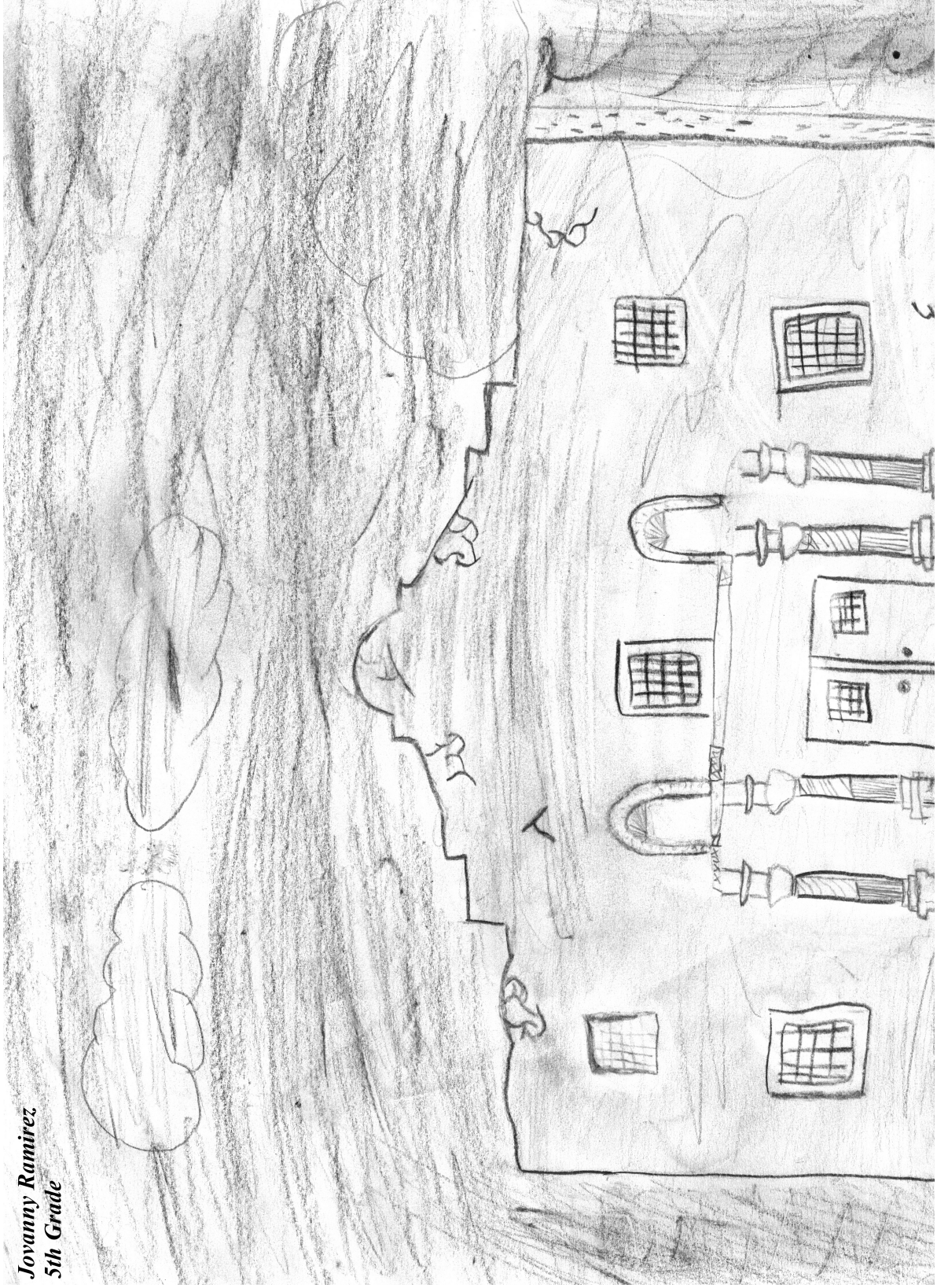
General Counsel

Office of the Attorney General

Filed: June 2, 2015



Jovanny Ramirez
5th Grade



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 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 35. ENFORCEMENT

SUBCHAPTER B. PROHIBITED EQUIPMENT

16 TAC §35.11

The Texas Alcoholic Beverage Commission proposes amendments to §35.11, relating to Bottle Capping Devices.

The proposed amendments eliminate unnecessary language.

Section 35.11 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on state or local government attributable to the amendments.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the language used in the rule will be clearer.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, July 2, 2015, at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

§35.11. *Bottle Capping Devices.*

No member of the retail [tier, including private club permittees,] or [of the] wholesale tiers [tier, except for wine bottler permittees, of the alcoholic beverage industry] may, for unlawful purposes, possess on the [member's] licensed premises a device used for capping or recapping of beverage bottles.

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 May 29, 2015.

TRD-201501975

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 206-3489



CHAPTER 41. AUDITING SUBCHAPTER A. SALES

16 TAC §41.1

The Texas Alcoholic Beverage Commission proposes amendments to §41.1, relating to Sale to Lien Holders.

The proposed amendments clarify that the administrator may designate someone to receive required notices and applications. Language in subsection (d) is clarified and a requirement is added that the lien holder must include with the application copies of any documentation in which the lien holder acquired title to the alcoholic beverages to be sold.

Section 41.1 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on state or local government attributable to the amendments.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public

will benefit because the language used in the rule will be clearer and current practices will be codified.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, July 2, 2015 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

§41.1. Sale to Lien Holders.

(a) All alcoholic beverages are subject to levy and other judicial process the same as any other personal property under the general laws of the state.

(b) Sale thereof may be to lien holders and to permittees and licensees who are privileged to purchase and sell the same.

(c) In all instances after such sale has been made, the person making such a sale shall notify the administrator or the administrator's designee, [at Austin,] giving the date of sale, the names and address of both the original owner and the purchaser, an inventory of the beverages sold and the name of the lien holder or lien holders. A lien holder who is not a licensee or permittee and who purchases the same or who procures title thereto in any other lawful manner, shall dispose of such alcoholic beverages within 30 days after acquiring title thereto, provided however, that the administrator may grant an additional time for good cause shown.

(d) As a condition precedent to making such resale, the lien holder shall apply to the administrator or the administrator's designee for permission to make such sale. The application shall show the name and address of the intended purchaser, the number of the intended purchaser's [his] license or permit, the quantity and type [amount] of beverages [and kind] to be sold and the date and manner of the sale, and shall include copies of any documentation in which the lien holder [he] procured title thereto.

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 May 29, 2015.

TRD-201501976

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 206-3489



16 TAC §41.2

The Texas Alcoholic Beverage Commission proposes amendments to §41.2, relating to Sale by Carrier.

The proposed amendments clarify that the administrator may designate someone to receive required applications. Language is clarified and a requirement is added that the carrier must include with the application documentation supporting the amount of the charges due to the carrier.

Section 41.2 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on state or local government attributable to the amendments.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the language used in the rule will be clearer and current practices will be codified.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, July 2, 2015 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

§41.2. Sale by Carrier.

(a) Any person authorized to transport alcoholic beverages [the same] may sell, in accordance with law, any alcoholic beverage which the person [he] acquires by reason of unpaid charges, to any permittee or licensee who is privileged to import and sell such alcoholic beverage.

(b) Any person contemplating such sale, shall first make application to the administrator or the administrator's designee, [at Austin,] setting out the facts regarding such shipment, the names and addresses of the consignor and consignee, the name and address of the proposed purchaser, and documentation supporting the amount of the charges due.

(c) No person authorized to transport alcoholic beverages shall sell or offer for sale any alcoholic beverages for unpaid charges except in the manner herein provided.

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 May 29, 2015.

TRD-201501977

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 206-3489



16 TAC §41.3

The Texas Alcoholic Beverage Commission proposes amendments to §41.3, relating to Sale after Cancellation or Expiration of License or Permit.

Section 41.3 currently provides procedures for the disposal of alcoholic beverages when a permit or license is cancelled. Section 41.4 of the commission's rules currently provides procedures for the disposal of inventory by a mixed beverage permittee who desires to discontinue business. The commission proposes to amend §41.3 to provide procedures for the disposal of inventory that would be applicable to all permittees and licensees when their permit or license is cancelled or expires for whatever reason. In connection with this proposal to amend §41.3, the commission is simultaneously proposing in a separate rulemaking to repeal §41.4.

Proposed amendments to §41.3(a) clarify language and expand the scope of the section to address the disposition of inventory after any permit or license is cancelled or expires.

The proposed amendment to subsection (b) allows the administrator to designate someone to approve a request to extend the period for disposition of the inventory beyond 30 days.

The proposal deletes current subsection (c), adds a new subsection (c), and adds and renumbers subsequent subsections appropriately. Proposed new subsection (c) allows a permittee or licensee to request approval to transfer inventory from a location where the permit or license is cancelled to another location for which it holds a permit or license.

Amendments to subsection (d) require the filing of a sworn transfer document for bulk disposal of alcoholic beverages, which must be approved by the administrator or the administrator's designee. Subsection (d) also provides that such a sale or transfer may not be approved if either the seller or the purchaser is delinquent under Alcoholic Beverage Code §102.32, relating to Sale of Liquor: Credit Restrictions.

The proposal moves the substance of current subsection (e) to new subsection (h). New subsection (e) provides that the transfer document required by new subsection (d) must be accompanied by a complete inventory and states what must be included in the inventory.

New subsection (f) requires the transfer document required by new subsection (d) to be signed and notarized by both the transferor and the transferee.

New subsection (g) requires that all alcoholic beverages be transferred in a single transaction unless the administrator or the administrator's designee approves multiple transactions.

New subsection (h) contains the requirement in current subsection (e) that any disposition of alcoholic beverages after the expiration or termination of a permit or license must comply with this section and adds a provision that the administrator or the administrator's designee may grant written permission otherwise.

Section 41.3 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on state or local government attributable to the amendments.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the procedures for the disposal of alcoholic beverages after a permit or license is cancelled or expires will be clearer and current practices will be codified.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, July 2, 2015 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

§41.3. *Sale after Cancellation or Expiration of License or Permit.*

(a) In the event any permit or license granted under the code is cancelled or expires, the permittee or licensee is authorized within 30 days thereafter to sell or dispose of the inventory in bulk to a permittee or licensee authorized to purchase and sell same the remainder of stock of alcoholic beverages on hand at the time of the license or permit termination [~~cancellation~~].

(b) If a necessity exists for a longer period, written permission must be procured from the administrator or the administrator's designee. The application for such permission shall specify the reasons.

(c) A holder of a license or permit who holds more than one such license or permit and who submits one to the commission for cancellation, may request approval to transfer the inventory on hand to one of its other licensed or permitted locations.

~~(e)~~ No sale or disposition of liquor or beer may be made by either a permittee or licensee after the date on which the permit or li-

license expires by reason of its own terms unless written permission is procured from the administrator.}]

(d) In all cases where alcoholic beverages are disposed of or sold in bulk as herein set out, a sworn transfer document [~~inventory signed and acknowledged by both the seller and the purchaser~~] shall be filed with the local office of the commission and is subject to approval by the administrator or the administrator's designee. Approval of the sale or transfer shall not be granted if either the seller or purchaser is delinquent under Alcoholic Beverage Code §102.32 and 16 Texas Administrative Code §45.121 at the time of the request [~~mailed to the administrator at Austin~~].

(e) The transfer document filed with the commission must show the complete inventory of alcoholic beverages on hand. The inventory shall show the quantity, brand and size of each container of alcoholic beverage and for distilled spirits it shall also show the identification stamp number affixed to each container.

(f) Both the transferor and the transferee shall sign the transfer document under oath before a notary public swearing to the correctness of the transaction.

(g) All alcoholic beverages shall be transferred in a single transaction unless, based on the circumstances, multiple transactions are approved by the administrator or the administrator's designee.

(h) No person shall dispose of any alcoholic beverages after the expiration or cancellation of a permit or license except in the manner and within the time herein specified unless written permission is procured from the administrator or the administrator's designee.

{(e) No person shall dispose of any alcoholic beverages after the expiration or termination of a permit or license except in the manner and within the time as herein specified.}

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 May 29, 2015.

TRD-201501980

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 206-3489



16 TAC §41.4

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Alcoholic Beverage Commission or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Alcoholic Beverage Commission proposes the repeal of §41.4, relating to Mixed Beverage Permittee--Voluntary Cancellation.

Section 41.4 currently provides procedures for the disposal of inventory by a mixed beverage permittee who desires to discontinue business. Section 41.3 of the commission's rules currently provides procedures for the disposal of alcoholic beverages when a permit or license is cancelled. The commission is simultaneously proposing in a separate rulemaking to amend §41.3 to provide procedures for the disposal of inventory that would be applicable to all permittees and licensees when their

permit or license is cancelled or expires for whatever reason. In connection with this proposal to amend §41.3, the commission proposes the repeal of §41.4, which would become either redundant or inconsistent.

Section 41.4 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that there is no longer a need for §41.4 (in light of the simultaneous amendment of §41.3) and that it therefore should be repealed.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed repeal will be in effect, there will be no fiscal impact on state or local government attributable to the repeal.

The proposed repeal will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed repeal will be in effect, the public will benefit because redundant or inconsistent procedures for the disposal of certain alcoholic beverages after a permit or license is cancelled or expires will be eliminated.

Comments on the proposed repeal may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed repeal on Thursday, July 2, 2015, at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed repeal is authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed repeal affects Alcoholic Beverage Code §5.31 and Government Code §2001.039.

§41.4. Mixed Beverage Permittee--Voluntary Cancellation.

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 May 29, 2015.

TRD-201501973

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 206-3489



SUBCHAPTER B. EXPORTS OF LIQUOR

16 TAC §41.11

The Texas Alcoholic Beverage Commission proposes amendments to §41.11, relating to Records in General.

Section 41.11 currently provides that permittees authorized to export wine and distilled spirits must apply to, and receive permission from, the commission for each export shipment. It also currently requires the commission to inspect each such shipment. The proposed amendments would eliminate the requirements for commission approval and inspection of each export shipment and substitute a requirement that records of such shipments be maintained for inspection or audit by the commission. The title of the section would also be changed.

Section 41.11 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on state or local government attributable to the amendments.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because wine and distilled spirits exporters will no longer be required to get approval from the commission for each export shipment and the commission will no longer be required to inspect each such shipment.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, July 2, 2015 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

§41.11. Record Requirements [Records in General].

(a) Permittees authorized to export distilled spirits and wines shall maintain copies of billing invoices and shipping documents to support any export out of the State of Texas. Supporting documentation shall include [make a sworn application in triplicate for permission for each export shipment of distilled spirits or wine on such forms as may be prescribed by the administrator and shall give all information required by such form and shall present all three copies to a representative of the commission in the district where located. The applicant shall attach to such application] an order signed by the purchaser of the

distilled spirits or wines or, in case of return to a distillery or manufacturer, a letter of authority.

(b) The [The representative of the commission will immediately inspect such shipment intended for export, checking the same with the information in the application. If such shipment is in conformity with every requirement, the] distilled spirits or wines may then be delivered to a common carrier, holding a carrier's permit, or if the applicant is the holder of a private carrier permit, such distilled spirits or wines may be transported and exported upon vehicles described in the application filed with the commission of such private carrier permit. Only common carriers holding a carrier permit and holders of a private carrier permit are privileged to transport for export distilled spirits and wines.

(c) If an export shipment of distilled spirits or wines is transported upon vehicles under a private carrier permit, the permittee must also obtain verification of the receipt of the merchandise from the state liquor authority in the state where the shipment is received. Verifications of this type must be kept on file by the permittee for inspection or audit by any representative of the commission.

(d) The permit holder [After the inspection of such export shipment by the commission's representative, he shall approve all three copies of the application. The applicant shall retain one copy and send the original and one copy to the office of the commission at Austin, Texas, as an attachment to his monthly report of distilled spirits and wines received and disposed of. To the original he] shall attach a copy of the invoice covering the shipment to the consignee and a copy of the bill of lading furnished by the carrier [permittee], or a copy of the invoice furnished by the private carrier permittee, to the monthly report of distilled spirits and wines filed with the commission. Copies of these documents shall be maintained by the permit holder for inspection or audit by any representative of the commission.

(e) No person shall export any distilled spirits or wines in any manner other than as herein specified.

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 May 29, 2015.

TRD-201501985

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 206-3489



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §§401.305, 401.307, 401.308, 401.312, 401.315, 401.316, 401.320, 401.322

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.305 ("Lotto Texas" On-Line Game Rule), §401.307 ("Pick 3" On-Line Game Rule), §401.308 ("Cash Five"

On-Line Game), §401.312 ("Texas Two Step" On-Line Game), §401.315 ("Mega Millions" On-Line Game Rule), §401.316 ("Daily 4" On-Line Game Rule), §401.320 ("All or Nothing" On-Line Game Rule), and §401.322 ("Texas Triple Chance" Lottery Game).

The purpose of the proposed amendments is to enhance and clarify the methods by which a lottery player may communicate numbers and play selections to a lottery retailer in order to purchase a Texas Lottery draw game ticket. If adopted, the proposed amendments will allow lottery retailers to accept from players two additional selection of play methods. Players may use previously-generated Texas Lottery draw game tickets (also called the Play It Again Feature). And, players may make play selections and generate a QR code through the official Texas Lottery mobile application (currently under development) that is offered and approved by the Texas Lottery. The primary reason for these proposed amendments is to improve the overall experience of lottery players and lottery retailers by increasing convenience, especially as the use of mobile technology increases within the lottery industry, and society as a whole. The Commission is authorized under Texas Government Code §466.015(c)(15)(B) to adopt rules regarding the operation of the lottery for "the convenience of players...".

The Texas Lottery understands that the introduction of new technology for use with lottery games is a sensitive topic with many members of the public, and is very mindful it is the Texas Legislature who provides the policy framework to administer the lottery. The Texas Lottery, therefore, wishes in its proposal to be very clear that the amendments proposed here will in no way enable lottery players to purchase lottery tickets or to play lottery games solely using mobile devices, or through the Internet. The Texas Lottery strongly believes that any questions regarding the sale of lottery tickets via mobile devices or the Internet are policy decisions to be determined by the Texas Legislature. In the absence of clear, express authority delegated to the Commission by the Texas Legislature, the Texas Lottery has no intention to pursue mobile-based or Internet-based lottery ticket sales. Accordingly, the Texas Lottery states here: Nothing contained within this proposal enables the sales of Texas Lottery tickets over mobile devices or the Internet. Apart from the Texas Lottery itself, licensed Texas Lottery retailers are the only source for purchase of valid Texas Lottery tickets, and those tickets must be purchased in-person at a licensed retail location using one of the approved methods of play.

The Commission brings forward these proposed amendments, specifically to 16 TAC §§401.305(c), 401.307(d), 401.308(d), 401.312(c), 401.315(d), 401.316(d), 401.320(d), and 401.322(e). In each section, amendments are proposed to define and standardize the methods of play for a Texas Lottery draw game ticket, which in each rule is the method by which a player communicates numbers and play option selections to the Texas Lottery licensed retailer (and thereby to the lottery gaming system) to obtain a valid Texas Lottery draw game ticket. Currently, for each game a Texas Lottery player may select a play by using a self-service terminal; by using a playslip to select numbers; by requesting a Quick Pick; or by requesting a retailer manually enter numbers. The proposed amendments standardize the language addressing this function across all draw game rules. Furthermore, the proposed amendments seek to add two additional methods by which a player may communicate play selections to a retailer: (1) by using a previously-generated ticket for the particular draw game; and (2) by

using a QR code generated by the official Texas Lottery Mobile Application, to be offered later this year.

Kathy Pyka, Controller, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no significant fiscal impact for state as a result of the proposed amendments. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the amendments will not have an economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Michael Anger, Director of Lottery Operations, has determined that for each year of the first five years the proposed amendments will be in effect, the anticipated public benefit will be that both Texas Lottery players and licensed retailers will experience greater convenience when utilizing the two additional play methods. In addition to play convenience, the mobile application provides players with the ability to check their lottery tickets to determine if tickets are winning or non-winning. The mobile application therefore also offers players the benefit of a new level of consumer protection.

The Commission requests comments on the proposed amendments from any interested person. Comments may be submitted to Lea Burnett, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. The Commission will hold a public hearing on this proposal on Tuesday June 30, 2015 at 10:00 a.m., at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendments are proposed under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, and in particular under §466.015(c)(15)(B); and under the authority of Texas Government Code §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.305. "Lotto Texas" On-Line Game Rule.

(a) - (b) (No change.)

(c) Plays and tickets

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

(4) A player may use a single playslip or other Texas Lottery-approved method of play to purchase the same play(s) for up to 10 consecutive drawings, to begin with the next drawing after the purchase.

(5) A player may only select [~~numbers for~~] a play [~~either~~]:

(A) by using a self-service terminal;

(B) by using a playslip to select numbers;

(C) by requesting a retailer to use Quick Pick to select numbers; [~~or~~]

(D) by requesting a retailer to manually enter numbers;[~~]~~

(E) by using a previously-generated "Lotto Texas" ticket provided by the player; or

(F) by using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(6) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually, or using a selection method that is not approved by the Texas Lottery, is not valid.

(7) An on-line retailer may only accept a request for play using a Texas Lottery-approved method of play, and [to manually enter selections or to make Quick Pick selections only] if the request is made in person.

(8) - (12) (No change.)

(d) - (h) (No change.)

§401.307. "Pick 3" On-Line Game Rule.

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

(d) Plays and tickets

(1) - (9) (No change.)

(10) A person may only select numbers for a play by:

(A) using a self-service terminal;

(B) using a playslip;

(C) requesting a retailer to use Quick Pick; ~~[or]~~

(D) requesting a retailer to manually enter numbers into an on-line terminal~~;~~

(E) using a previously-generated "Pick 3" ticket provided by the player; or

(F) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(11) A player may select the play type, base play amount, and draw date and time for a play by:

(A) using a self-service terminal;

(B) using a playslip; ~~[or]~~

(C) requesting a retailer to manually enter the selections~~;~~

(D) using a previously-generated "Pick 3" ticket provided by the player; or

(E) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(12) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually, or using a selection method that is not approved by the Texas Lottery, is not valid.

(13) An on-line retailer may only accept a request for a play using a Texas Lottery-approved method of play, and [to manually enter selections or to make quick-pick selections only] if the request is made in person.

(14) - (18) (No change.)

(e) - (h) (No change.)

§401.308. "Cash Five" On-Line Game.

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

(d) Play for Cash Five.

(1) Type of play. A Cash Five player must select five numbers in each play or allow number selection by a random number generator operated by the computer, referred to as Quick Pick. A winning play is achieved only when two, three, four, or five of the numbers selected by the player match, in any order, the five winning numbers drawn by the lottery.

(2) Method of play. The player may use playslips, or other Texas Lottery-approved method of play, to make number selections. A ticket generated using a selection method that is not approved by the Texas Lottery is not valid. A selection of a play may be made only if the request is made in person. A player may only select a play: [The on-line terminal will read the playslip and issue ticket(s) with corresponding plays. If a playslip is not available, the on-line retailer may enter the selected numbers via the keyboard. However, the retailer shall not accept telephone or mail-in requests to manually enter selected numbers. A player may leave all play selections to a random number generator operated by the computer, commonly referred to as Quick Pick.]

(A) by using a self-service terminal;

(B) by using a playslip;

(C) by using a previously-generated "Cash Five" ticket provided by the player;

(D) by requesting a retailer to use Quick Pick to select numbers;

(E) by requesting a retailer to manually enter numbers;
or

(F) by using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(3) One prize per play. The holder of a winning ticket may win only one prize per play in connection with the winning number drawn and shall be entitled only to the highest prize category won by those numbers.

(e) - (h) (No change.)

§401.312. "Texas Two Step" On-Line Game.

(a) - (b) (No change.)

(c) Plays and tickets.

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

(4) A player may use a single playslip, or other Texas Lottery-approved method of play, to purchase the same play(s) for up to 10 consecutive drawings, to begin with the next drawing after the purchase.

(5) A person may only select ~~[numbers for]~~ a play ~~[either]:~~

(A) by using a self-service terminal;

(B) by using a playslip ~~[to select numbers or the Quick Pick option];~~

(C) by requesting a retailer to use the Quick Pick option; ~~[to select numbers; or]~~

(D) by requesting a retailer to manually enter numbers~~;~~

(E) by using a previously-generated "Texas Two Step" ticket provided by the player; or

(F) by using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(6) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually, or using a selection method that is not approved by the Texas Lottery, is not valid.

(7) An on-line retailer may only accept a request for a play using a Texas Lottery-approved method of play, and ~~[to manually enter selections or to make Quick-Pick selections only]~~ if the request is made in person.

(8) - (11) (No change.)

(d) - (h) (No change.)

§401.315. "Mega Millions" On-Line Game Rule.

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

(d) Play for Mega Millions.

(1) Type of play. A Mega Millions player must select five numbers from the first field of numbers from 1 through 75 and an additional one number from the second field of numbers from 1 through 15 in each play or allow number selection by a random number generator operated by the terminal, referred to as Quick Pick.

(2) Method of play. The player may use playslips, or other Texas Lottery-approved method of play, to make number selections. A ticket generated using a selection method that is not approved by the Texas Lottery is not valid. A selection of a play may be made only if the request is made in person. A player may only select a play: [The terminal will read the playslip and issue ticket(s) with corresponding plays. If a playslip is not available or if a player is unable to complete a playslip, the retailer may enter the selected numbers via the keyboard. However, the retailer shall not accept telephone or mail-in requests to issue a ticket. The use of mechanical, electronic, computer generated or any other non-manual method of marking a playslip is prohibited. A player may leave all play selections to a random number generator operated by the terminal, referred to as Quick Pick.]

(A) by using a self-service terminal;

(B) by using a playslip;

(C) by using a previously-generated "Mega Millions" ticket provided by the player;

(D) by requesting a retailer to use Quick Pick to select numbers;

(E) by requesting a retailer to manually enter numbers;
or

(F) by using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(3) One prize per play. The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(e) - (l) (No change.)

§401.316. "Daily 4" On-Line Game Rule.

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

(d) Plays and tickets

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

(7) A person may only select numbers for a play by:

(A) using a self-service terminal;

(B) using a playslip;

(C) requesting a retailer to use Quick Pick; [ø]

(D) requesting a retailer to manually enter numbers into an on-line terminal;[-]

(E) using a previously-generated "Daily 4" ticket provided by the player; or

(F) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(8) A player may only select the play type, base play amount, and draw date and time for a play by:

(A) using a self-service terminal;

(B) using a playslip; [ø]

(C) requesting a retailer to manually enter the selections; [play type-]

(D) using a previously-generated "Daily 4" ticket provided by the player; or

(E) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(9) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually, or using a selection method that is not approved by the Texas Lottery, is not valid.

(10) An on-line retailer may only accept a request for a play using a Texas Lottery-approved method of play, and ~~[to manually enter selections or to make quick-pick selections only]~~ if the request is made in person.

(11) - (15) (No change.)

(e) - (i) (No change.)

§401.320. "All or Nothing" On-Line Game Rule.

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

(d) Plays and tickets.

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

(4) A player may use a single playslip or other Texas Lottery-approved method of play to purchase the same play(s) for up to 24 consecutive drawings, to begin with the next drawing after the purchase.

(5) A person may only select ~~[numbers for]~~ a play ~~[either]~~:

(A) by using a playslip to select numbers;

(B) by selecting a Quick Pick and allowing a random number generator operated by the terminal to select numbers; [ø]

(C) by requesting a retailer to manually enter numbers;[-]

(D) by using a self-service terminal;

(E) by using a previously-generated "All or Nothing" ticket provided by the player; or

(F) by using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(6) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually, or using a selection method that is not approved by the Texas Lottery, is not valid.

(7) An on-line retailer may only accept a request for a play using a Texas Lottery-approved method of play, and ~~[to manually enter selections or to make Quick Pick selections only]~~ if the request is made in person. ~~[A retailer shall not accept telephone or mail-in or other requests not made in person to manually enter selected numbers.]~~

(8) - (12) (No change.)

(e) - (g) (No change.)

§401.322. "Texas Triple Chance" Lottery Game.

(a) - (d) (No change.)

(e) Plays and tickets.

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

(4) A player may use a single playslip or other Texas Lottery-approved method of play to purchase the same play(s) for up to 12 consecutive drawings, to begin with the next drawing after the purchase.

(5) A person may only select ~~[numbers for]~~ a play as follows:

(A) For the first Chance, the set of 7 numbers may be selected by:

(i) using a playslip, ~~[or by]~~

(ii) selecting a Quick Pick and allowing a random number generator operated by the terminal to select numbers; ~~[or by]~~

(iii) requesting a retailer to manually enter numbers; ~~[or]~~

(iv) using a self-service terminal;

(v) using a previously-generated "Texas Triple Chance" ticket provided by the player; or

(vi) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(B) For the second and third Chances, numbers will always be automatically selected using Quick Pick, or can be chosen by using a previously-generated "Texas Triple Chance" ticket provided by the player.

(6) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually, or using a selection method that is not approved by the Texas Lottery, is not valid.

(7) An on-line retailer may only accept a request for a play using a Texas Lottery-approved method of play, and ~~[to manually enter selections for the first Chance or to make Quick Pick selections only]~~ if the request is made in person. ~~[A retailer shall not accept telephone or mail-in or other requests not made in person to manually enter selected numbers.]~~

(8) - (12) (No change.)

(f) - (h) (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 May 29, 2015.

TRD-201501965

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 344-5012



16 TAC §401.317

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.317, "Powerball®" On-Line Game Rule. The primary purpose of the proposed amendments is to make changes to the game matrix, to offer a new multiplier level to the Power Play add-on feature, and to incorporate additional conforming language needed as a result of the Texas Lottery's membership in the Multi-State Lottery Association ("MUSL"). The first drawing under these amendments is anticipated to occur on or around October 7, 2015 (subject to change by the executive director and/or MUSL).

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the amendments will not have an economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Michael Anger, Director of Lottery Operations, has determined that for each year of the first five years the proposed amendments will be in effect, the public benefit is anticipated to be the potential for larger Grand Prize amounts and slightly improved overall odds for players. Players will also have the opportunity to win prizes based on a higher level multiplier if participating in the Power Play add-on feature at advertised Grand Prize levels of \$150 million or less.

The Commission requests comments on the proposed amendments from any interested person. Comments on the proposed amendments may be submitted to Deanne Rienstra, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. The Commission will hold a public hearing on this proposal on June 30, 2015 at 11:00 a.m., at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposal in order to be considered.

These amendments are proposed under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, §466.451, which authorizes the Commission to adopt rules relating to a multi-jurisdiction lottery game, and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.317. "Powerball®" On-Line Game Rule.

(a) Powerball. Powerball is a Multi-State Lottery Association (MUSL) on-line game offered by all Lotteries that have agreed to MUSL's Powerball Group Rules, which has been opened to the participation of the twelve states now conducting the Mega Millions on-line games, and with which the Texas Lottery Commission has elected to participate under an Agreement with MUSL (hereinafter called the Reciprocal Game Agreement.) "Powerball" is authorized to be conducted by the executive director under the conditions of the [Reciprocal Game Agreement,] MUSL rules, the laws of the State of Texas, this section, and under such further instructions, directives, and procedures as the executive director may issue in furtherance thereof. In this regard, the executive director is authorized to issue such further instructions

and directives as may be necessary to conform the conduct and play of Powerball to the requirements of the MUSL rules [Reciprocal Game Agreement], if, in the opinion of the executive director, such instructions, directives, and procedures are in conformance with state law. If a conflict arises between this section and §401.304 of this chapter (relating to On-Line Game Rules (General)), this section shall have precedence. The purpose of the Powerball game is the generation of revenue for MUSL Party Lottery members and Mega Millions Party Lotteries participating under the Reciprocal Game Agreement, through the operation of a specially designed multi-jurisdiction lottery game that will award prizes to ticket holders matching specified combinations of numbers randomly selected in regularly scheduled drawings. In addition to other applicable rules contained in Chapter 401, this section and definitions apply unless the context requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the MUSL or the MUSL Powerball Group. To be clear, the authority to participate in the MUSL Powerball game is provided to the Texas Lottery by MUSL. The conduct and play of Powerball must conform to the MUSL Powerball game.

(b) Definitions.

(1) "Agent" or "retailer" means a person or entity authorized by the Texas Lottery Commission (TLC) to sell lottery Plays. [~~tickets.~~]

(2) A "Drawing" refers collectively to [means] the formal draw event for randomly [process of] selecting the winning numbers which determine the number of winners for each prize level of the Powerball game and the Power Play multiplier. [~~game.~~]

(3) "Game board", "board", "panel", or "playboard" means that area of the playslip which contains two sets of numbered squares to be marked by the player. [~~the first set containing fifty-nine (59) squares, number one (1) through fifty-nine (59), and the second set containing thirty-five (35) squares, number one (1) through thirty-five (35).~~]

(4) "Game ticket" or "ticket" means an acceptable evidence of Play, [~~play,~~] which is a ticket produced in a manner that [~~by a terminal and] meets the specifications defined in the MUSL rules or the rules of each member or participating Selling [Party] Lottery (Ticket Validation), and is a physical representation of the Play or Plays sold to the player.~~

(5) "MUSL" means the Multi-State Lottery Association, a government-benefit association wholly owned and operated by the MUSL Party [~~Member] Lotteries.~~

(6) "MUSL Board" means the governing body of the MUSL₂ which is comprised of the chief executive officer of each Party Lottery. [~~member of MUSL. It does not include participating non-members.~~]

(7) "MUSL Annuity Factor" shall mean the annuity factor as determined by the MUSL central office through a method approved by the MUSL Finance & Audit Committee and which is used as described in this rule. [~~"On-Line Lottery Game" means a lottery game which utilizes a computer system to administer plays, the type of game, and amount of Play for a specified drawing date, and in which a player either selects a combination of numbers or allows number selection by a random number generator operated by the terminal, referred to as Quick Pick. MUSL will conduct a drawing to determine the winning combination(s) in accordance with the Powerball rules and the Powerball drawing procedures.~~]

(8) "Party Lottery" means a state lottery or lottery of a political subdivision or entity that has joined MUSL and is authorized to sell the Powerball game. "Selling Lottery" shall mean a lottery autho-

ri-zed by the Product Group to sell Powerball Plays, including Party Lotteries and Licensee Lotteries. [~~jurisdiction or entity which is a member of MUSL, or is a participating lottery, participating in Powerball pursuant to the Reciprocal Game Agreement between the Mega Millions Party Lotteries and MUSL, and, in the context of these rules and the MUSL Powerball Group Rules, that has joined in selling the Powerball game or games.~~]

(9) "Play" [~~or "bet"~~] means the six (6) numbers, the first five (5) from a field of sixty-nine (69) [fifty-nine (59)] numbers and the last one (1) from a field of twenty-six (26) [thirty-five (35)] numbers, that appear on a ticket as a single lettered selection and are to be played by a player in the Powerball game.

(10) "Playslip" [~~or "bet slip"~~] means an optically readable card issued by the Texas Lottery [~~Commission] used by players of Powerball to select Plays [plays] and to elect all features. There shall be five playboards on each playslip. A playslip has no pecuniary value and shall not constitute evidence of ticket purchase or of numbers selected.~~

(11) "Powerball Group" or "Product Group" means the MUSL member group of lotteries which have joined together to offer the Powerball product pursuant to the terms of the Multi-State Lottery Agreement and the Powerball Group's rules, including the MUSL Powerball Drawing Procedures. In this rule, [~~these rules,~~] wherever either term [~~the term "Powerball Group"~~] is used it is referring to the MUSL Powerball Group.

(12) "Prize" means an amount paid to a person or entity holding a winning ticket. "Grand Prize" shall refer to the top prize in the Powerball game. "Advertised Grand Prize" shall mean the estimated annuitized Grand Prize amount as determined by the MUSL Central Office by use of the MUSL Annuity Factor and communicated through the Selling Lotteries prior to the Grand Prize Drawing. The "Advertised Grand Prize" is not a guaranteed prize amount and the actual Grand Prize amount may vary from the advertised amount. [~~"No advertised Grand Prize in a Powerball game is a guaranteed amount, and all advertised prizes, even Set Prizes, are estimated amounts."~~]

(13) "Set Prize" or "low-tier prize" means all other prizes, except the Grand Prize, [~~that are advertised to be paid by a single cash payment] and, except in instances outlined in this section, will be equal to the prize amount established by the MUSL Board for the prize level.~~

(14) "Terminal" means a device authorized by a Selling [~~Party] Lottery to function in an on-line, interactive mode with the gaming [lottery's] computer system for the purpose of issuing lottery tickets and entering, receiving, and processing lottery transactions, including purchases, validating tickets, and transmitting reports.~~

(15) "Winning Numbers" [~~numbers~~] means the numbers [six (6) numbers, the first five (5) from a field of fifty-nine (59) numbers and the last one (1) from a field of thirty-five (35) numbers,] randomly selected during a Drawing event [at each drawing,] which shall be used to determine winning for the Powerball game [~~plays] contained on a game ticket.~~

(c) Game Description.

(1) Powerball is a five (5) out of sixty-nine (69) [fifty-nine (59)] plus one (1) out of twenty-six numbers (26) [thirty-five (35)] on-line lottery game, drawn every Wednesday and Saturday, as part of the Powerball Drawing event, which pays the Grand Prize, at the election of the player made in accordance with this rule, or by a default election made in accordance with this rule, either on an annuitized pari-mutuel basis or as a cash lump sum payment of the total cash held for this prize pool on a pari-mutuel basis. Except as provided in this section, all other prizes are paid on a set cash basis. Powerball

Winning Numbers applicable to determine Powerball prizes will be determined in the Powerball Drawing event. To play Powerball, a player shall select five (5) different numbers, from one (1) through sixty-nine (69), [fifty-nine (59);] and one (1) additional number from one (1) through twenty-six (26), or request the retailer to generate a Quick Pick selection of numbers from the lottery terminal. [thirty-five (35); for input into a terminal.] The additional number may be the same as one of the first five numbers selected by the player. Plays [Tickets] can be purchased for two dollars (U.S. \$2.00), including any specific statutorily-mandated tax of a Selling [Party] Lottery to be included in the price of a Play. Plays may [lottery ticket, either from a terminal operated by an agent (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from an agent, the player may select a set of five numbers and one additional number by communicating the six (6) numbers to the agent, or by marking six (6) numbered squares in any one game board on a playslip and submitting the playslip to the agent or by requesting Quick Picks from the agent. The agent will then issue a ticket, via the terminal, containing the selected, or terminal-generated, set or sets of numbers, each of which constitutes a game play. Tickets can] be purchased from a Selling Lottery approved sales outlet in a manner as approved by the Selling Lottery and in accordance with MUSL Rules. The Drawing Procedures adopted by MUSL shall include procedures for randomly selecting the Powerball game Winning Numbers and the Power Play multiplier. [player-activated terminal by using the Quick Pick buttons or by inserting a playslip into the machine.]

(2) Claims. A ticket [(subject to the validation requirements set forth in subsection (g) of this section (Ticket Validation))] shall be the only proof of a game Play or Plays [play or plays] and is subject to the validation requirements set forth in subsection (g) of this section. The [the] submission of a winning ticket to the issuing Selling [Party] Lottery or its authorized agent shall be the sole method of claiming a prize or prizes. A playslip has no pecuniary or prize value and shall not constitute evidence of Play [ticket] purchase or of numbers selected. A terminal-produced paper receipt has no pecuniary or prize value and shall not constitute evidence of Play [ticket] purchase or of numbers selected.

(3) Cancellations Prohibited. A Play [ticket] may not be voided or canceled by returning the ticket to the selling agent or to the lottery, including tickets that are printed in error. A Selling Lottery may develop an approved method of compensating retailers for Plays that are not transferred to a player for a reason acceptable to the Selling Lottery. No Play that is eligible for a prize can [No ticket which can be used to claim a prize shall] be returned to the lottery for credit. Plays [Tickets] accepted by retailers as returned Plays [tickets] and which cannot be re-sold shall be deemed owned by the bearer thereof.

(4) Player Responsibility. It shall be the sole responsibility of the player to verify the accuracy of the game Play or Plays [play or plays] and other data printed on the ticket. The placing of Plays [plays] is done at the player's own risk through the licensed sales [on-line] agent who is acting on behalf of the player in entering the Play or Plays. [play or plays-]

(5) Entry of Plays. Plays may only be entered manually using the lottery retailer terminal touch screen or by means of a playslip provided by the Texas [Party] Lottery and hand-marked by the player or by such other means approved by the Texas [Party] Lottery. Retailers shall not permit the use of facsimiles of playslips, copies of playslips, or other materials that are inserted into the terminal's playslip reader that are not printed or approved by the Texas [Party] Lottery. Retailers shall not permit any device to be connected to a lottery terminal to enter Plays [plays], except as approved by the Texas Lottery. A ticket

generated using a selection method that is not approved by the Texas Lottery is not valid. A selection of numbers for a Play may be made only if the request is made in person. Acceptable methods of Play selection include: [Party Lottery-]

- (A) using a self-service terminal;
- (B) using a playslip;
- (C) using a previously-generated "Powerball" ticket provided by the player;
- (D) requesting a retailer to use a Quick Pick to select numbers;
- (E) requesting a retailer to manually enter numbers; or
- (F) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the Texas Lottery.

(6) Subscription sales. A subscription sales program may be offered, at the discretion of the executive director.

(d) Powerball Prize Pool.

(1) Powerball Prize Pool.

(A) The [For the MUSL Powerball Group Lotteries, the] prize pool for all prize categories shall consist of fifty percent of each Drawing [drawing] period's sales, inclusive of [including] any specific statutorily-mandated tax of a Selling [Party] Lottery to be included in the price of a Play [lottery ticket], after the prize pool accounts and prize reserve accounts are funded to the amounts set by the Product Group. Any amount remaining in the prize pool at the end of this game shall be returned to all lotteries participating in the prize pool at the end of all claim periods of all Selling [Party] Lotteries, carried forward to a replacement game, or expended in a manner as directed by the Members of the Powerball Group in accordance with jurisdiction statute.

(B) Powerball Prize Pool Accounts and Prize Reserve Accounts. An amount up to five [For the Party Lotteries which are not a member of the MUSL Powerball Group; the prize pool for all prize categories shall consist of fifty] percent (5%) of a Party Lottery's sales, [each drawing period's sales,] including any specific statutorily mandated tax of a Party Lottery to be included in the price of a Play, shall be deducted from a Party Lottery's Grand Prize Pool contribution and placed in trust in one or more Powerball prize pool accounts and prize reserve accounts held by the Product Group at any time that the prize pool accounts and Party Lottery's share of the prize reserve account(s) is below the amounts designated by the Product Group. [lottery ticket. Any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement game or expended in a manner as directed by the Powerball Group in accordance with state law.]

(i) Prize Reserve Accounts: The Product Group has established the following prize reserve accounts for the Powerball game: the Powerball Prize Reserve Account (PRA), which is used to guarantee the payment of valid, but unanticipated, Grand Prize claims that may result from a system error or other reason; and the Powerball Set Prize Reserve Account (SPRA), which is used to fund deficiencies in low-tier Powerball prize payments, subject to the limitations of the MUSL rules.

(ii) Prize Pool Accounts: The Product Group has established the following prize pool accounts for the Powerball game: the Grand Prize Pool, which is used to fund the immediate Grand Prize; the Powerball Set Prize Pool, which is used to fund the Powerball Set Prize payments; and the Powerball Set-Aside Account, which is used to guarantee payment of the minimum or starting Grand Prize. The Power Play Prize Pool and Power Play Pool Account are described in

subsection (k) of this section. The Set Prize Pool holds the temporary balances that may result from having fewer than expected winners in the Powerball Set Prize (aka low-tier prize) categories and the source of the Set Prize Pool is the Party Lottery's weekly prize contributions less actual Powerball Set Prize liability. The source of the Set-Aside Account funding shall be the prize reserve deduction until such time as the Set-Aside Account is fully funded.

(iii) Once the Powerball prize pool accounts and the Party Lottery's share of the Powerball prize reserve accounts exceed the designated amounts, the excess shall become part of the Powerball Grand Prize Pool. The Product Group, with approval of the Finance & Audit Committee, may establish a maximum balance for the Powerball prize pool accounts and the prize reserve accounts. The Product Group may determine to expend all or a portion of the funds in the Powerball prize pool accounts (except the Powerball Grand Prize pool account) and the prize reserve accounts, (1) for the purpose of indemnifying the Selling Lotteries for the payment of prizes, subject to the approval of the Board; and (2) for the payment of prizes or special prizes in the game, limited to prize pool and prize reserve contributions from lotteries participating in the special prize promotion following review and comment of the Finance & Audit Committee. The prize reserve shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve account(s) as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. A Party Lottery may contribute to its share of prize reserve accounts over time, but in the event of a draw down from the reserve account, a Party Lottery is responsible for its full percentage share of the account, whether or not it has been paid in full.

(iv) Any amount remaining in the Powerball prize pool accounts or prize reserve accounts when the Product Group declares the end of this game shall be returned to the lotteries participating in the accounts after the end of all claim periods of all Selling Lotteries, carried forward to a replacement game or otherwise expended in a manner at the election of the individual Members of the Product Group in accordance with jurisdiction statute.

(2) Expected Powerball Prize Payout Percentages. The Grand Prize payout shall be determined on a pari-mutuel basis. Except as otherwise provided in this section, all other prizes awarded shall be paid as single payment set cash prizes with the following expected prize payout percentages:

Figure: 16 TAC §401.317(d)(2)

[Figure: 16 TAC §401.317(d)(2)]

(A) The prize money allocated to the Powerball Grand Prize category shall be divided equally by the number of Plays [plays] winning the Powerball Grand Prize. [If sales proceeds are not sufficient to pay a Grand Prize, the Commission shall use funds from other authorized sources, including the State Lottery Account as identified in Government Code, §466.355.]

(B) Powerball Set Prize Pool Carried Forward. For Party [the MUSL Powerball Group] Lotteries, the Powerball Set Prize Pool (for single payment cash prizes of \$1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Powerball Set Prizes awarded in the current draw. [If the total of the Set Prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the Set Prizes, then the amount needed to fund the Set Prizes, including the Power Play prizes, awarded shall be drawn first from the amount allocated to the Set Prizes, and carried forward from previous draws, if any, and second from the Powerball Group's Set Prizes Reserve Account, if available, not to exceed forty million dollars (\$40,000,000.00) per drawing.]

(C) Pari-Mutuel Powerball Prize Determinations. Except as otherwise provided, if the total of the Powerball Set Prizes (as multiplied by the respective Power Play multiplier, if applicable) awarded in a Drawing exceeds the percentage of the prize pool allocated to the Powerball Set Prizes, then the amount needed to fund the Powerball Set Prizes, including Power Play prizes, awarded shall be drawn first from the amount allocated to the Powerball Set Prizes, and carried forward from previous draws, if any; second from the SPRA, if available, not to exceed forty million dollars (\$40,000,000.00) per Drawing; and, third from other amounts as agreed to by the Product Group in their sole discretion.

~~[(C) For the Party Lotteries which are not a member of the MUSL Powerball Group, the prize pool percentage allocated to the Set Prizes (the cash prizes of \$1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Set Prizes awarded in the current draw. If the total of the Set Prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the Set Prizes, then the amount needed to fund the Set Prizes awarded shall be drawn from the amount allocated to the Set Prizes and carried forward from previous draws, if any.]~~

(D) If, after these sources are depleted, there are not sufficient funds to pay the Set Prizes awarded, including Power Play Prizes, then the highest Set Prize shall become a pari-mutuel prize. If the amount of the highest Set Prize, when paid on a pari-mutuel basis, drops to or below the next highest Set Prize and there are still not sufficient funds to pay the remaining Set Prizes awarded, then the next highest Set Prize, including Power Play prizes, shall become a pari-mutuel prize. This procedure shall continue down through all Set Prize levels, if necessary, until all Set Prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning Plays in proportion to their respective prize percentages. Powerball Set Prizes and Power Play prizes will be reduced by the same percentage.

(E) By agreement, the Licensee Lotteries shall independently calculate their Set Prize pari-mutuel prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts.

~~[(E) The Party Lotteries which are not a member of the MUSL Powerball Group shall independently calculate their set pari-mutuel prize amounts. Both groups, the non-member Party Lotteries and the MUSL Powerball Group, shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts.]~~

(e) Probability of Powerball Winning Plays. The following table sets forth the probability of winning Plays [plays] and the probable distribution of winning Plays [plays] in and among each prize category, based upon the total number of possible combinations in Powerball. The Set Prize Amount shall be the prizes set for all Selling Lotteries unless prohibited or limited by a jurisdiction's statute or judicial requirements.

Figure: 16 TAC §401.317(e)

[Figure: 16 TAC §401.317(e)]

(f) Powerball Prize Payment.

(1) Powerball Grand Prizes. The advertised Grand Prize in a Powerball game is not a guaranteed amount; it is an estimated amount, and all advertised prizes, even advertised Set Prizes, are estimated amounts. At the time of ticket purchase, a player must [person may] select a payment option of either a single cash value payment [the option for payment of the cash value] or annuitized payments of a share

of the Grand Prize if the Play is a winning Play. If no selection is made, payment option will be as described in the chart below:

Figure: 16 TAC §401.317(f)(1)

(A) A player's selection of the payment option at the time of purchase from the Texas Lottery is final and cannot be revoked, withdrawn, or otherwise changed.

~~[(A) If no payment option is selected—With the exception of a ticket purchase using the GT Mini terminal, which has no default, the default payment option, where an option is not chosen by the player, will be the cash value option.]~~

~~(B) [Selection of the option for payment of the cash value or annuitized payments of a share of the Grand Prize if the play is a winning play is a selection made at the time of purchase and is final and cannot be revoked, withdrawn, or otherwise changed.] Shares of the Grand Prize shall be determined by dividing the cash available in the Grand Prize Pool equally among all winning Plays [plays] of the Grand Prize. A player(s) who elects a cash value option payment shall be paid his/her share(s) in a single cash payment. The annuitized option prize shall be determined by multiplying the winning Play's [play's] share of the Grand Prize Pool by the annuity factor established in accordance with Texas law and the rules of the Texas Comptroller of Public Accounts. The MUSL Annuity Factor will not be used for Texas Lottery players. [The annuity factor is determined by the best total securities price obtained through a competitive bid of qualified, pre-approved brokers made after it is determined that the prize is to be paid as an annuity prize.] Neither MUSL nor any Party Lottery shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL.~~

~~(C) In certain instances announced by the Powerball Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to paragraph (6) of this subsection.~~

~~(D) If individual shares of the cash held to fund an annuity is less than \$250,000, the Powerball Group, in its sole discretion, may elect to pay the winners their share of the cash held in the Grand Prize Pool. All annuitized prizes shall be paid annually in thirty (30) payments with the initial payment being made in cash, to be followed by twenty-nine (29) payments funded by the annuity.~~

~~(E) All annuitized prizes shall be paid annually in thirty (30) graduated payments, as provided by the MUSL rules, (increasing each year) at a rate as determined by the MUSL Product Group. Prize payments may be rounded down to the nearest one thousand dollars (\$1,000). [Annual payments after the initial payment shall be made by the lottery on the anniversary date or if such date falls on a non-business day, then the first business day following the anniversary date of the selection of the jackpot winning numbers.]~~

~~(F) Funds for the initial payment of an annuitized prize or the lump sum cash prize shall be made available by MUSL for payment by the Selling [Party] Lottery no earlier than the fifteenth calendar day (or the next banking day if the fifteenth day is a holiday) following the Drawing. [drawing.] If necessary, when the due date for the payment of a prize occurs before the receipt of funds in the prize pool trust sufficient to pay the prize, the transfer of funds for the payment of the full lump sum cash amount may be delayed pending receipt of funds from the Selling [party] lotteries. The identification of the securities to fund the annuitized prize shall be at the sole discretion of the State of Texas. If the State of Texas purchases the securities, or holds the prize payment annuity for a Powerball prize won in this state, the prize winner will have no recourse on the MUSL or any other Party Lottery for payment of that prize.~~

(2) Payment of Prize Payments upon the Death of a Prize Winner. In the event of the death of a prize winner, payments may be made in accordance with §401.310 of this chapter (relating to Payment of Prize Payments Upon Death of Prize Winner), otherwise, payment of prize payments will be made to the estate of a deceased prize winner in accordance with Texas Government Code §466.406.

(3) Powerball [Low-Tier Cash] Prize Payments. All prizes shall be paid through the Selling Lottery that sold the winning Play(s). All low-tier cash prizes (all prizes except the Grand Prize) shall be paid in cash or warrants in accordance with Texas statutes and these rules. ~~[through the Party Lottery which sold the winning ticket(s).] A Selling [Party] Lottery may begin paying low-tier cash prizes after receiving authorization to pay from the MUSL central office.~~

(4) Powerball Prizes Rounded. Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first cash payment to the winner or winners. Prizes other than the Grand Prize, which, under this section, may become single-payment, pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next Drawing. ~~[drawing.]~~

(5) Powerball Prize Rollover. If the Grand Prize is not won in a Drawing, ~~[drawing,]~~ the prize money allocated for the Grand Prize shall roll over and be added to the Grand Prize Pool for the following Drawing. ~~[drawing.]~~

(6) Funding of Guaranteed Powerball Prizes. The Powerball Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between Drawings ~~[drawings]~~ or make other changes in the allocation of prize money where the Powerball Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand Prize amount between Drawings ~~[drawings]~~ is offered by the Powerball Group, then the Grand Prize shares shall be determined as follows:~~[-]~~

~~(A) If there are multiple Grand Prize winning Plays [plays] during a single Drawing, [drawing,] each selecting the annuitized option prize, then a winning Play's [play's] share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winning Plays. [plays-]~~

~~(B) If there are multiple Grand Prize winning Plays [plays] during a single Drawing [drawing] and at least one of the Grand Prize ticket holders has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize.~~

~~(C) If there are multiple Grand Prize winning Plays during a single Drawing, and no claimant of the Grand Prize [during a single drawing] has elected the annuitized option prize, then the amount of cash in the Grand Prize Pool shall be an amount equal to the guaranteed annuitized amount divided by the MUSL Annuity Factor. [average annuity factor of the most recent three best quotes provided by MUSL's pre-approved qualified brokers submitting quotes. In no case, shall quotes be used which are more than two weeks old, and if less than three quotes are submitted, then MUSL shall use the average of all quotes submitted.] Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in the Powerball Group Rules. Minimum guaranteed prizes or increases may be waived if the alternate funding~~

mechanism set out in subsection ~~(d)(2)(D)~~ ~~[(d)(2)(B)]~~ of this section becomes necessary.

(7) Limited to Highest Powerball Prize Won. The holder of a winning Play [ticket] may win only one prize per Play [board] in connection with the Winning Numbers [winning numbers] drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(8) Powerball Prize Claim Period. Prizes must be claimed no later than 180 days after the draw date.

(g) Ticket Validation. To be a valid Play [ticket] and eligible to receive a prize, a Play's ticket shall satisfy all the requirements established by the Texas Lottery [Commission] for validation of winning tickets sold through its computer gaming [on-line] system and any other validation requirements adopted by the Powerball Group, ~~and~~ the MUSL Board, and published as the Confidential MUSL Minimum Game Security Standards. The MUSL and the Selling [Party] Lotteries shall not be responsible for tickets which are altered in any manner.

(h) Ticket Responsibility.

(1) Signature. Until such time as a signature is placed upon a ticket in the area designated for signature, a ticket shall be owned by the bearer of the ticket. When a signature is placed on the ticket in the place designated, the person whose signature appears in such area shall be the owner of the ticket and shall be entitled (subject to the validation requirements in subsection (g) of this section (Ticket Validation) and state or district law) to any prize attributable thereto.

(2) Multiple Claimants. The issue of multiple claimants shall be handled in accordance with Texas Government Code Chapter 466 and §401.304 of this chapter.

(3) Stolen Tickets. The Powerball Group, the MUSL and the Party Lotteries shall not be responsible for lost or stolen tickets.

(4) Prize Claims. Prize claim procedures shall be governed by the rules of the Commission as set out in §401.304 of this subchapter and any internal procedures used by the Texas Lottery [Commission]. The MUSL and the Party Lotteries shall not be responsible for prizes that are not claimed following the proper procedures as determined by the Selling [selling] lottery.

(i) Ineligible Players.

(1) A Play [ticket] or share for a MUSL game issued by the MUSL or any of its Selling [Party] Lotteries shall not be purchased by, and a prize won by any such Play [ticket] or share shall not be paid to:

(A) a MUSL employee, officer, or director;

(B) a contractor or consultant under agreement with the MUSL to review the MUSL audit and security procedures;

(C) an employee of an independent accounting firm under contract with MUSL to observe drawings or site operations and actually assigned to the MUSL account and all partners, shareholders, or owners in the local office of the firm; or

(D) an immediate family member (parent, stepparent, child, stepchild, spouse, or sibling) of an individual described in subparagraphs (A), (B), and (C) of this paragraph and residing in the same household.

(2) Those persons designated by a Selling [Party] Lottery's law as ineligible to play its games shall also be ineligible to Play the MUSL game in that Selling [Party] Lottery's jurisdiction.

(j) Applicable Law. In purchasing a Play, as evidenced by a ticket, the purchaser agrees to comply with and abide by all applicable

laws, rules, regulations, procedures, and decisions of the Selling [Party] Lottery where the ticket was purchased.

(k) Powerball Special Game Rules: Powerball Power Play.

(1) Power Play Description. The Powerball Power Play is a limited extension of the Powerball game and is conducted in accordance with the Powerball game rules and other lottery rules applicable to the Powerball game except as may be amended herein. Power Play will begin at a time announced by the Selling [Party] Lottery and will continue until discontinued by the lottery. Power Play will offer to the owners of a qualifying Play [play] a chance to increase the amount of any of the eight Low-Tier [lump sum] Set Prizes (the Low-Tier [lump sum] prizes normally paying \$4 to \$1,000,000) won in a Power Play Drawing [drawing held during Power Play]. The Grand Prize [jackpot] is not a Set Prize and will not be increased.

(2) Qualifying Play. A qualifying Play [play] is any single Powerball Play [play] for which the player pays an extra dollar for the Power Play option Play [play] and which is recorded at the Selling [Party] Lottery's [central] computer gaming system as a qualifying Play [play].

(3) Prizes to be Increased. Except as provided in these rules, a qualifying Play [play] which wins one of the seven lowest [lump sum] Set Prizes (excluding the Match 5 + 0) will be multiplied by the number drawn, either two (2), three (3), four (4), ~~or~~ five (5), or ten (10), in a separate random Power Play Drawing [drawing] announced during the official Powerball drawing show. The Powerball Group may announce prior to a drawing that the "ten (10)" multiplier will not be available for Drawings in which the advertised Grand Prize amount is above a specified amount, but the "ten (10)" multiplier shall at a minimum be available for all drawings in which the advertised annuitized Grand Prize amount is one hundred fifty million dollars (\$150,000,000.00) or less. The announced Match 5+0 prize, for players selecting the Power Play option, shall be paid two million dollars (\$2,000,000.00) unless a higher limited promotional dollar amount is announced by the Powerball Group.

Figure: 16 TAC §401.317(k)(3)

[Figure: 46 TAC §401.317(k)(3)]

(4) Prize Pool.

(A) Power Play Prize Pool. In Drawings where the "ten (10)" multiplier is available, the [The] prize pool for all prize categories shall consist of up to forty-nine and nine hundred sixty-nine thousandths [thirty-six one hundredths] percent (49.969%) [(49.36%)] of each Drawing [drawing] period's sales, including any specific statutorily mandated tax of a Selling [Party] Lottery to be included in the price of a lottery Play. In drawings where the "ten (10)" multiplier is not available, the prize pool for all prize categories shall consist of up to forty-five and nine hundred thirty-four thousandths percent (45.934%) of each Drawing period's sales, including any specific statutorily mandated tax of a Selling Lottery to be included in the price of a lottery ticket. The Power Play Prize Pool shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Power Play prizes awarded in the current draw and held in the Power Play Pool Account [ticket].

~~[(i)]~~ For the MUSL Powerball Group Lotteries, the Power Play Prize Pool shall continue to be carried forward to subsequent draws if all or a portion of it is not needed to pay the Power Play prizes awarded in the current draw and held in the Power Play Pool Account.]

~~[(ii)]~~ For the Party Lotteries which are not a member of the MUSL Powerball Group, any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement

game or expended in a manner as directed by the Powerball Group in accordance with state law.}]

(B) Power Play Pool Account. In Drawings where the "ten (10)" multiplier is available, an additional thirty-one thousandths of a percent (0.31%) of sales, including any specific statutorily mandated tax of a Selling Lottery to be included in the price of a lottery Play, may be collected and placed in trust in the Power Play Pool account, for the purpose of paying Power Play prizes. In drawings where the "ten (10)" multiplier is not available, four and sixty-six hundredths percent (4.066%) of sales, including any specific statutorily mandated tax of a Selling Lottery to be included in the price of a lottery Play, may be collected and placed in trust in the Power Play Pool account, for the purpose of paying Power Play prizes. Any amount remaining in the Power Play Pool account when the Powerball Group declares the end of this game shall be returned to the lotteries participating in the account after the end of all claim periods of all Selling Lotteries, carried forward to a replacement game, or otherwise expended in a manner at the election of the individual Members of the Product Group in accordance with jurisdiction statute.

(C) [(B)] Expected Prize Payout. Except as provided in this section, all prizes awarded shall be paid as single payment cash prizes. [lump sum Set Prizes.] Instead of the Powerball Set Prize amounts, qualifying winning Plays of Power Play [plays] will pay the amounts shown in paragraph (3) of this subsection.

[(C)] In certain rare instances, the Powerball Set Prize amount may be less than the amount shown in Figure: 16 TAC §401.317(d)(2). In such case, the eight lowest Power Play prizes will be changed to an amount announced after the draw. For example, if the Match 4+1 Powerball Set Prize amount of \$50,000 [\$40,000] becomes \$25,000 [\$5,000] under the rules of the Powerball game, and a 5X [5x] Power Play Multiplier is drawn, then a Power Play winning Play [play] prize amount would win \$125,000. [\$25,000.]

(D) Probability of Power Play Numbers Being Drawn. The following table sets forth the probability of the various Power Play numbers being drawn during a single Powerball Power Play Drawing. [drawing.] The Powerball Group may elect to run limited promotions that may modify the multiplier features. Power Play does not apply to the Powerball Grand Prize. Except as provided in subparagraph (C) of this paragraph, a Power Play Match 5 + 0 prize is set at two million dollars (\$2,000,000.00), regardless of the multiplier selected. Figure: 16 TAC §401.317(k)(4)(D) [Figure: 16 TAC §401.317(k)(4)(D)]

(5) Limitations on Payment of Power Play Prizes.

(A) Prize Pool Carried Forward. The prize pool percentage allocated to the Power Play Set Prizes shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Set Prizes awarded in the current draw.

(B) Pari-Mutuel Prizes--All Prize Amounts. If

[(i)] [For MUSL Powerball Group Lotteries, if] the total of the original Powerball Set Prizes and the Power Play Prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the Set Prizes, then the amount needed to fund the Set Prizes (including the Power Play prize amounts) awarded shall first come from the amount allocated to the Set Prizes and carried forward from previous draws, if any, [and] second from the Powerball Group's Set Prizes Reserve Account, if available, not to exceed forty million dollars (\$40,000,000.00) per drawing, and third from other amounts as agreed to by the Powerball Group in their sole discretion.

[(ii)] For the Party Lotteries which are not members of the MUSL Powerball Group, if the total of the original Powerball

Set Prizes and the Power Play Prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the Set Prizes, then the amount needed to fund the Set Prizes (including the Power Play prize amounts) awarded shall be the amount allocated to the Set Prizes and carried forward from previous draws, if any.}]

(C) If, after these sources are depleted, there are not sufficient funds to pay the Set Prizes awarded (including Power Play prize amounts), then the highest Set Prize (including the Power Play prize amounts) shall become a pari-mutuel prize. If the amount of the highest Set Prize, when paid on a pari-mutuel basis, drops to or below the next highest Set Prize and there are still not sufficient funds to pay the remaining Set Prizes awarded, then the next highest Set Prize, including the Power Play prize amount, shall become a pari-mutuel prize. This procedure shall continue down through all Set Prizes levels, if necessary, until all Set Prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this section shall be divided among the winning Plays [plays] in proportion to their respective prize percentages. Powerball and Power Play prizes will be reduced by the same percentage. By agreement, the Licensee Lotteries shall independently calculate their set pari-mutuel prize amounts, including the Power Play prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts. [In rare instances, where the Powerball Set Prize amount may be funded but the money available to pay the full Power Play prize amount may not be available due to an unanticipated number of winning plays, the Powerball Group may announce pari-mutuel shares of the available pool for the Power Play payment only.]

[(D)] The Party Lotteries which are not members of the MUSL Powerball Group shall independently calculate the set pari-mutuel prize amounts, including the Power Play prize amounts. Both groups, the non-member Party Lotteries and the MUSL Powerball Group, shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently calculated prize amounts.]

(6) Prize Payment.

(A) Prize Payments. All Power Play prizes shall be paid in a single payment [one lump sum] through the Selling [Party] Lottery that sold the winning Play(s). [ticket(s).] A Selling [Party] Lottery may begin paying Power Play prizes after receiving authorization to pay from the MUSL central office.

(B) Prizes Rounded. Prizes, which, under these rules, may become pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next Drawing. [drawing.]

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 May 29, 2015.

TRD-201501983

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 344-5012



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER AA. SICK LEAVE POOL

19 TAC §1.900

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new §1.900 concerning a Sick Leave Pool for Board Employees. Such proposed rule is consistent with Texas Government Code Chapter 661, Leave, Subchapter A, State Employee Sick Leave Pool.

Mr. William Franz, General Counsel, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Franz has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering this section will be compliance with the provisions of the aforementioned Chapter 661 and particularly §661.002(c). There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to William Franz, General Counsel, P.O. Box 12788, Austin, Texas 78711, (512) 427-6166, william.franz@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Subchapter A, General Provisions.

The new section affects Texas Government Code, §661.002.

§1.900. Sick Leave Pool for Board Employees.

(a) The Texas Higher Education Coordinating Board values its employees and, pursuant to Texas Government Code Chapter 661, Leave, Subchapter A, State Employee Sick Leave Pool, an agency sick leave pool shall be administered to assist employees and their immediate families in dealing with catastrophic illnesses or injuries that force employees to exhaust all of their available leave. The eligibility of the agency's employees to withdraw time from the sick leave pool and any concomitant obligations assumed by employees in order to receive such leave, shall be as set forth in the Board's policies.

(b) The sick leave pool program shall be administered by the Commissioner of Higher Education or his or her designee.

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 June 1, 2015.

TRD-201501994

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 427-6114



TITLE 22. EXAMINING BOARDS

PART 24. TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

CHAPTER 573. RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER B. SUPERVISION OF PERSONNEL

22 TAC §573.11

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.11, concerning Responsibility for Unlicensed Employees.

Section 573.11 currently only applies to employees of a veterinarian. The Board proposes this amendment to apply to volunteers working with a veterinarian. Specifically, the amendment makes a veterinarian responsible for the actions of a volunteer or employee, including another licensee, that occur within the scope of that individual's employment or volunteer work with the veterinarian. The amendment further provides that if a licensed veterinarian acting under the supervision or employment of another veterinarian violates a law, regulation or board rule, by virtue of the protocols required by the supervising or employing veterinarian, then both veterinarians are subject to discipline by the Board.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to clarify and standardize the rules regarding a licensee's responsibility for individuals working or volunteering under their control or employment and to better protect the public by ensuring that the licensee owning the relevant clinic is responsible for the veterinary services provided within the practice of the clinic.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses, and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail at vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer

the chapter; §801.151(b), which states that the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession; §801.151(c), which states that the Board shall adopt rules to provide for the regulation of veterinary technicians; and §801.151(d), which states that the Board may adopt rules regarding the work of a person who works under the supervision of a veterinarian.

No other statutes, articles, or codes are affected by the proposal.

§573.11. Responsibility for [Unlicensed] Employees and Volunteers.

(a) A veterinarian shall be responsible for any acts a non-veterinarian employee or volunteer commits within the scope of the employee's employment or scope of the volunteer's work with the veterinarian.

(b) A licensed veterinary technician supervising an unlicensed employee of a veterinarian shall be responsible for any acts committed by that unlicensed employee of a veterinarian related to the practice of veterinary medicine.

(c) If a licensed veterinary technician acting under supervision or employment of a veterinarian violates a law, regulation or board rule, both the veterinarian and the licensed veterinary technician are subject to discipline by the Board.

(d) If a licensed veterinarian acting under supervision or employment of another licensed veterinarian violates a law, regulation, or board rule, by virtue of the protocols required by the supervising or employing veterinarian, then both veterinarians are subject to discipline by the Board.

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 June 1, 2015.

TRD-201501989

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

22 TAC §573.23

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.23, concerning Board Certified Specialists.

The Board amends §573.23 to require board certified specialists to make information verifying their certification or recognition as a specialist available to the Board, Board staff, and the public. The information must be available upon request. Verifying a specialist's certification can often be difficult. Requiring the specialist to make such information available allows both the Board and the public to better verify a specialist veterinarian's qualifications.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result

of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to better protect the public by ensuring that the public can verify a veterinarian's credentials.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses, and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail at vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter; §801.151(b), which states that the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession; and §801.151(c)(1), which states that the Board may adopt rules to protect the public.

No other statutes, articles, or codes are affected by the proposal.

§573.23. Board Certified Specialists.

(a) Standard of Care for Specialist. Specialists are held to a higher standard of care than non-specialist veterinarians, notwithstanding §573.22 of this title (relating to Professional Standard of Care).

(b) Complaints against Specialists. Board investigations of complaints alleging substandard care by a Specialist in his/her area of specialty will include consultations with one or more Specialists licensed by the Board practicing the same specialty on the species involved in the complaint. The Board, at its sole discretion, may consult with Specialists from outside of Texas. If the Board determines an informal conference is warranted, both complainant and respondent may, at their own expense, present oral or written commentary by a Specialist practicing the same specialty on the species involved in the complaint.

(c) Verification of Specialist Status. Specialists must make information verifying their certification or recognition as a specialist available to the Board, Board staff, and the public. This information must be available upon request.

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 June 1, 2015.

TRD-201501990

Loris Jones
Executive Assistant
Texas Board of Veterinary Medical Examiners
Earliest possible date of adoption: July 12, 2015
For further information, please call: (512) 305-7563



22 TAC §573.28

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.28, concerning Observance of Confidentiality.

Currently, §573.28 allows a veterinarian, without authorization by the client, to disclose information contained in a rabies certificate to a governmental entity only for purposes related to the protection of public health and safety. The Board proposes this amendment to also permit the disclosure of information regarding communicable diseases for the protection of public health and safety.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to better protect the public by ensuring that licensees are permitted to provide information to governmental entities concerning communicable diseases that pose a threat to public health and safety.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter; §801.151(b), which states that the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession; and §801.151(c)(1), which states that the Board may adopt rules to protect the public.

No other statutes, articles, or codes are affected by the proposal.

§573.28. *Observance of Confidentiality.*

(a) A veterinarian shall not violate the confidential relationship between the veterinarian and a client.

(b) Except as provided in subsection (c) of this section, a veterinarian shall not disclose any information concerning the veterinarian's care for an animal except:

(1) on written or oral authorization or other form of waiver executed by the client;

(2) on receipt by the veterinarian of an appropriate court order or subpoena; or

(3) as necessary to substantiate and collect on a debt incurred by a client for veterinary services.

(c) A veterinarian may, without authorization by the client, disclose information contained in a rabies certificate or any information regarding communicable diseases to a governmental entity only for purposes related to the protection of public health and safety.

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

Filed with the Office of the Secretary of State on June 1, 2015.

TRD-201501991

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



SUBCHAPTER G. OTHER PROVISIONS

22 TAC §573.60

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.60, concerning Prohibition Against Treatment of Humans.

Currently, §573.60 provides that a veterinarian shall not provide care or treatment of humans including dispensing prescription medication for personal use by a human. The Board proposes this amendment to clarify the current interpretation of this rule. Specifically, the amendment adds that a veterinarian shall not prescribe prescription medication, in addition to dispensing it, and that personal use includes personal use by the veterinarian and/or another human.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, as this amendment is the current interpretation of the rule by the Board, the anticipated public benefit will be to clarify the rules regarding the prohibition against licensees' treating other humans or themselves and to better protect the public by ensuring that licensees are not providing such medical care or prescription medications to humans, including themselves.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule.

There is thus no adverse impact expected for small or micro businesses and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter; §801.151(b), which states that the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession; and §801.151(c)(1), which states that the Board may adopt rules to protect the public.

No other statutes, articles, or codes are affected by the proposal.

§573.60. Prohibition Against Treatment of Humans.

A veterinarian shall not provide care and treatment of humans including prescribing and/or dispensing prescription medication for personal use by the veterinarian and/or another [a] human. A veterinarian may render first aid or emergency care to a human if such action is without expectation of compensation in response to an emergency or disaster situation.

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 June 1, 2015.

TRD-201501992

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



22 TAC §573.71

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.71, concerning Operation of Temporary Limited-Service Veterinary Services.

The Board proposes the amendment to remove the ability for a veterinarian to notify the Board of the operation of temporary limited-service veterinary services by facsimile. This type of notification has become difficult for staff to maintain as it is generally duplicative of notices received via electronic transmission or mail. The Board will continue to accept notification by electronic transmission or mail.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as

proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to facilitate the Board's ability to accurately and efficiently maintain notifications of the operation of temporary limited-service veterinary services.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses, and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail at vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter.

No other statutes, articles, or codes are affected by the proposal.

§573.71. Operation of Temporary Limited-Service Veterinary Services.

(a) Requirements for operation. Veterinarians operating temporary limited service clinics shall:

(1) maintain sanitary conditions at the clinic site, including, but not limited to, removal of animal solid waste and sanitizing/disinfecting of urine and solid waste sites;

(2) provide injections with sterile disposable needles and syringes;

(3) utilize a non-porous table for examining and/or injecting small animals;

(4) maintain biologics and injectable medications between temperature ranges of 35 to 45 degrees Fahrenheit;

(5) perform and complete blood and fecal examinations before dispensing relevant federal legend medications;

(6) maintain rabies vaccination records and treatment records for five years, indexed alphabetically by the client's last name and by vaccination tag numbers, if issued; and

(7) provide clients with a printed form that contains the identity of the administering veterinarian and the address of the places where the records are to be maintained.

(b) Required notification to the Board prior to operation. Before any temporary limited-service clinic may be operated, the veterinarian is required to provide notification to the Board office at least 48 hours before the clinic begins operation. Notice must include the veterinarian's full name, license number, and daytime phone number; the date the clinic will be held, the specific location of where the clinic will be held, and times of operation; and the permanent address where records for the clinic will be kept. Notice may be by [~~facsimile~~] electronic transmission[~~;~~] or mail. Mailed notice will be considered to have

met the notification requirement if the written notice is postmarked at least five days prior to the operation of the clinic.

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 June 1, 2015.

TRD-201501993

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



22 TAC §573.76

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.76, concerning Notification of Licensee Addresses.

Section 573.76 provides which addresses licensees must report to the Board. The Board proposes this amendment to clarify the address that a veterinary with a relief practice must provide to the Board. Specifically, the amendment requires a relief veterinarian to provide the address of the clinic where he or she conducts the largest percentage of his or her work. If the relief veterinarian does not have one clinic location where most of his or her work exists, then the relief veterinarian must use the physical address of one of the locations where he or she works. If the relief veterinarian is not actively working, then he or she may provide his or her physical residence address. The Board further proposes this amendment to clarify that any reference to a physical address in this rule may not include a post office box address. This amendment ensures that the Board is able to conduct proper inspections of licensees.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to clarify and standardize the rules regarding professional conduct and allow the Board staff to conduct proper and timely inspections of licensees.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses, and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail to vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days follow-

ing publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter; §801.151(b), which states that the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession; and §801.151(c)(1), which states that the Board may adopt rules to protect the public.

No other statutes, articles, or codes are affected by the proposal.

§573.76. *Notification of Licensee Addresses.*

(a) Each licensee shall report to the Board the licensee's:

- (1) name and license number;
- (2) clinic or practice name;
- (3) physical business address;
- (4) mailing address;
- (5) residence address;
- (6) business telephone number; and
- (7) residence and/or cellular telephone number.

(b) A mailing address may be a post office box number. A physical business address shall be a physical location and shall not be a post office box number. If a remote practice location does not have a physical business address, the licensee must provide as the physical business address sufficient directions as to how the practice location may be found.

(c) A relief veterinarian's physical business address shall be the physical business address where [veterinarian shall not be required to provide a clinic or practice name or a physical business address unless] the relief veterinarian regularly conducts the largest percentage of his or her relief work at one clinic. If the relief veterinarian does not have one clinic where he or she conducts the largest percentage of his or her work, then the relief veterinarian shall use the physical address of one of the locations where he or she works. If the relief veterinarian is not actively working, then the relief veterinarian may use his or her physical residence address, which shall not be a post office box number.

(d) A licensee shall notify the Board of any change of items required under subsection (a) of this section not later than the 60th day after the change takes place.

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 June 1, 2015.

TRD-201501995

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



22 TAC §573.79

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §573.79, concerning Maintenance of Sanitary Premises.

Section 573.79 provides that licensees must maintain their offices/clinics/hospitals in a clean and sanitary condition. The Board proposes this amendment to clarify current interpretation that licensees must maintain the offices/clinics/hospitals in which they work in clean and sanitary conditions and not just those offices/clinics/hospitals that they personally own.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to clarify and standardize the rules regarding professional conduct and to better protect the public by ensuring that all licensees are responsible for the conditions of their workplace.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses, and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail to vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter; §801.151(b), which states that the Board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession; and §801.151(c)(1), which states that the Board may adopt rules to protect the public.

No other statutes, articles, or codes are affected by the proposal.

§573.79. Maintenance of Sanitary Premises.

Licensees must maintain their offices/clinics/hospitals and the offices/clinics/hospitals in which they work in a clean and sanitary condition without any accumulation of trash, debris, or filth. Such premises shall be maintained in full compliance with all health requirements of the city or county in which located and in conformity with the health laws of the State of Texas; further, they shall use properly sterilized instruments and clean supplies.

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 June 1, 2015.

TRD-201501996

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



CHAPTER 575. PRACTICE AND PROCEDURE

22 TAC §575.30

The Texas Board of Veterinary Medical Examiners (Board) proposes an amendment to §575.30, concerning Contested Case Hearing at SOAH.

Section 575.30 currently provides the process and procedures for contested case hearings before the State Office of Administrative Hearings ("SOAH"). The Board proposes this amendment to clarify its current practice and procedures. Specifically, once a case is filed with SOAH, the investigation file becomes the legal file as the investigation is complete.

Nicole Oria, Executive Director, has determined that for each year of the first five years that the rule is in effect, there will be no impact on revenue to either state or local government as a result of the proposed rule. Ms. Oria has also determined that there will be no increase or reduction in costs to either state or local government as a result of enforcing or administering the rule as proposed. Ms. Oria has further determined that the amendment to the rule will have no impact on local employment.

Ms. Oria has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to clarify and standardize the rules regarding the process and procedures for contested cases before SOAH.

Ms. Oria has determined that there will not be any economic cost to persons required to comply with the amended rule. There is thus no adverse impact expected for small or micro businesses, and no anticipated difference in cost of compliance between small and large businesses.

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any member of the public. A written statement should be mailed or delivered to Loris Jones, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942 by facsimile (FAX) to (512) 305-7574 or by e-mail vet.board@tbvme.state.tx.us. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendment is proposed under the authority of the Veterinary Licensing Act, Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter.

No other statutes, articles, or codes are affected by the proposal.

§575.30. Contested Case Hearing at SOAH.

(a) If a licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title (relating to Cease and Desist Procedures) declines to sign a proposed agreed order or cease and desist order, or if the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title fails to respond timely to a proposed agreed order or cease and desist order, or if the Board rejects

a proposed agreed order, the board staff may proceed with the filing of a contested case with the State Office of Administrative Hearings (SOAH). At least ten (10) days prior to a scheduled hearing, the notice of hearing shall be served on the licensee or applicant for licensure as set out in subsection (g)(1) of this section. Except in cases of temporary suspension, a notice of hearing shall be filed only after notice of the facts or conduct alleged to warrant the intended action has been sent to the licensee's, applicant for licensure's, or unlicensed person's address of record and the licensee, applicant for licensure, or unlicensed person has an opportunity to show compliance with the law for the retention of a license as provided in §2001.054 of the APA, and §801.408 of the Veterinary Licensing Act. Once a contested case is filed with SOAH, the case file is no longer considered the investigation file but rather the legal case file.

(b) SOAH hearings of contested cases shall be conducted in accordance with the Act, the APA, SOAH rules, and board rules. In the event of a conflict, the Act shall prevail over any other statute or rule, the APA shall prevail over SOAH rules, and SOAH rules shall prevail over the rules of the Board, except when board rules provide the Board's interpretation of the Act. If SOAH rules are silent on an issue addressed by this subchapter, the provisions of this subchapter shall be applied.

(c) The administrative law judge (ALJ) has the authority under SOAH rules, Chapter 155, to issue orders, to regulate the conduct of the proceeding, rule on motions, establish deadlines, clarify the scope of the proceeding, schedule and conduct prehearing and posthearing conferences for any purpose related to any matter in the case, set out additional requirements for participation in the case, and take any other steps conducive to a fair and efficient process in the contested case, including referral of the case to a mediated settlement conference or other appropriate alternative dispute resolution procedure as provided by Chapter 2003 of the Government Code.

(d) All documents are to be filed at SOAH after it acquires jurisdiction. Copies of all documents filed at SOAH shall be contemporaneously filed with the Board.

(e) Because of the often voluminous nature of the records properly received into evidence by the ALJ, the party introducing such documentary evidence should paginate each exhibit and/or flag pertinent pages in each exhibit in order to expedite the hearing and the decision-making process.

(f) In accordance with the provisions of the APA, §2001.058(e), a party may file an interlocutory or interim appeal to the Board requesting that the Board vacate or modify an order issued by an ALJ.

(g) Notice of SOAH hearing: continuance and default.

(1) The Board shall provide notice of the time, date, and place of the hearing to the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title. The notice shall include the requirements set forth in §2001.052 of the APA. The Board shall send notice of a contested case hearing before SOAH to the licensee's, applicant for licensure's, or unlicensed person's last known address as evidenced by the records of the Board. Respondent is presumed to have received proper and timely notice three (3) days after the notice is sent to the last known address as evidenced by the records of the Board. Notice shall be given by first class mail, certified or registered mail, or by personal service.

(2) If the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title fails to timely enter an appearance or answer the notice of hearing, the Board is entitled to a continuance at the time of the hearing. If the licensee, applicant for

licensure, or unlicensed person fails to appear at the time of the hearing, the Board may move either for dismissal of the case from the SOAH docket, or request that the ALJ issue a default proposal for decision in favor of the Board.

(3) Proof that the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title has evaded proper notice of the hearing may also be grounds for the Board to request dismissal of the case or issuance of a default proposal for decision in favor of the Board.

(h) If a party submitted proposed findings of fact, the proposal for decision shall include a ruling on each proposed finding by the ALJ, including a statement as to why any proposed finding was not included in the proposal for decision.

(i) After receiving the ALJ's findings of fact and conclusions of law in the proposal for decision, the Board shall rule on the merits of the charges and enter an order. The Board by order may find that a violation has occurred and impose disciplinary action, or find that no violation has occurred. The Board shall promptly advise the complainant of the Board's action.

(j) If the licensee, applicant for licensure, or unlicensed person in accordance with §575.40 of this title fails to appear for the contested case hearing at the designated time and place, the ALJ may enter an order dismissing the case on the basis of default and the Board may informally dispose of the case.

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 June 1, 2015.

TRD-201501997

Loris Jones

Executive Assistant

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 305-7563



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION SUBCHAPTER V. FRANCHISE TAX

34 TAC §3.598

The Comptroller of Public Accounts proposes new §3.598, concerning margin: tax credit for certified rehabilitation of certified historic structures.

This section implements House Bill 500, Section 14, 83rd Legislature, 2013, effective January 1, 2015, which amended Tax Code, Chapter 171, to add new Subchapter S, to create a franchise tax credit for the certified rehabilitation of a certified historic structure in Texas.

This section provides requirements for establishing a tax credit related to a certified rehabilitation of a certified historic structure under Tax Code, Chapter 171, Subchapter S.

Subsection (a) provides the effective date of the provisions in this section as established in House Bill 500.

Subsection (b) provides definitions for certain terms used throughout the section. Paragraph (1) defines the term "audited cost report" with the same meaning that term is given in Tax Code, §171.904(c)(1). The "audited cost report" is issued by a certified public accountant, as defined by Occupation Code, §901.002, and provides the itemized eligible costs and expenses incurred by the entity for purposes of calculating the credit for rehabilitation of a certified historic structure. Paragraph (2) defines the term "certificate of eligibility" as the certification issued by the Texas Historical Commission under Tax Code, §171.904. The definitions of the terms "certified historic structure," "certified rehabilitation," "commission," and "eligible costs and expenses," in paragraphs (3), (4), (5), and (6), respectively, are taken directly from Tax Code, §171.901. Paragraph (7) defines "placed-in-service date" as the date specified in the certificate of eligibility issued by the commission and is used to determine the date the comptroller will recognize that the credit is earned and may be established with the comptroller. Paragraph (8) defines the term "year" as a calendar year, the meaning assigned by Tax Code, §101.003 (Definitions).

Subsection (c) identifies the qualifications for the credit pursuant to Tax Code, §171.903. Such qualifications include a placed in service date on or after September 1, 2013, an ownership interest in the certified historic structure in the year during which the structure is placed in service, and total eligible costs and expenses exceeding \$5,000. These criteria will be evaluated first by the commission to determine whether an entity qualifies for the issuance of a certificate of eligibility.

Subsection (d) identifies the requirements to establish the credit with the comptroller. Paragraph (1) identifies the documentation to be provided to establish the credit. The forms required to establish the credit with the comptroller's office include: the Texas Franchise Tax Historic Structure Credit Registration; the certificate of eligibility issued by the commission, confirming the property is a certified historic structure, the rehabilitation qualifies as a certified rehabilitation, and the date the structure was first placed in service after the rehabilitation; and an audited cost report issued by a certified public accountant, as defined by Occupations Code, §901.002, that itemizes the eligible costs and expenses incurred by the entity in the certified rehabilitation of the certified historic structure. Paragraph (2) addresses when a credit may be established with the comptroller's office. An entity may establish a credit by submitting all required documentation listed in paragraph (1) on or with the report for the period for which the credit is claimed, as provided by the statute. The comptroller is also allowing an entity to establish a credit by submitting all required documentation upon the commission's certification of the structure, to accommodate entities that are not subject to the franchise tax and do not file reports and for those entities intending to sell, assign, or allocate the credit to another entity. A credit may not be claimed, sold, assigned, or allocated until the credit is established with the comptroller's office. Paragraph (4) makes clear that determinations on whether items qualify as eligible costs and expenses for purposes of the audited cost report is the responsibility of the certified public accountant pursuant to Tax Code, §171.904(c)(1) and not the comptroller.

Subsection (e) identifies the amount of the credit available pursuant to Tax Code, §171.905.

Subsection (f) explains how an entity claims the credit. Paragraph (1) states that the first report on which an entity may claim

the credit is based on the structure's placed-in-service date. The first report the credit may be claimed is the report based on the accounting period the rehabilitated structure is placed in service. The comptroller is providing a placed-in-service date of January 1, 2014, for structures placed in service between September 1, 2013, and December 31, 2013, because the credit is not effective until January 1, 2015. This allows a full five-year carryforward for the credit associated with these structures. Paragraph (2) requires an entity to file the Texas Franchise Tax Historic Structure Credit Certificate with any report on which a credit is claimed. The comptroller is not requiring an entity to file a copy of the Certificate of Eligibility each time a report is filed because the Certificate of Eligibility has already been submitted to the comptroller by the entity when the entity established the credit. The comptroller instead requires the entity claiming the credit to submit the Texas Franchise Tax Historic Structure Credit Certificate initially issued by the comptroller when the credit was established, indicating the amount of credit available to claim. Once an entity claims a credit on a tax report, the comptroller will reissue the Texas Franchise Tax Historic Structure Credit Certificate indicating the reduced credit amount, if any credit remains. Paragraph (3) allows a combined group to claim the credit for a member entity that has established the credit.

Subsection (g) explains the carryforward of the credit permitted under Tax Code, §171.906. Paragraph (1) establishes that the credit may be carried forward for a period of five years and clarifies when the five-year carryforward begins. The five-year carryforward begins the year following the year after the certified historic structure is placed in service. Paragraph (2) defines a "carryforward" based on Tax Code, §171.906(b). Paragraph (3) provides that the sale, assignment, or allocation of the credit in accordance with subsection (h) does not extend the carryforward period.

Finally, subsection (h) sets out requirements related to the sale, assignment, or allocation of the credit to one or more entities, permitted under Tax Code, §171.908. Paragraph (1) provides that there is no limit to the number of times all or part of a credit may be sold or assigned, subject to any other limitations in this section. Paragraph (2) describes allocation of the credit as provided by Tax Code, §171.908(d). Although Tax Code, §171.908(d) states "notwithstanding the requirements of this subchapter," the comptroller interprets the notification provisions of Tax Code, §171.908(b) to apply to allocations. If the comptroller's office is to administer this credit uniformly and in accordance with the credit amount and carryforward limitations set out in this section, an entity allocating a credit must be required to file a Texas Franchise Tax Sale, Assignment, or Allocation of Historic Structure Credit form, as required in this section for a sale or assignment of a credit. Paragraph (3)(A) and (B)(i) identifies the documents required to be provided to the recipient and submitted to the comptroller upon the sale, assignment or allocation of the credit pursuant to Tax Code, §171.908. Paragraph (3)(B)(ii) also requires the entities to submit the Texas Franchise Tax Historic Structure Credit Certificate. Once the transaction is processed, the comptroller issues the recipient the Texas Franchise Tax Historic Structure Credit Certificate indicating the amount of the credit received and reissues, if any credit remains, the Texas Franchise Tax Historic Structure Credit Certificate to the original owner of the credit. Paragraphs (4) and (5) incorporate the provisions in Tax Code, §171.908(c) regarding the period for which a credit may be claimed.

Tom Currah, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Currah also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be by providing detailed guidance for entities wishing to establish a franchise tax credit for certified rehabilitation of certified historic structures. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Teresa G. Bostick, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2, and also Tax Code, §171.909, which requires the comptroller to adopt rules necessary to implement Tax Code, Chapter 171, Subchapter S.

The new section implements Tax Code, Chapter 171, Subchapter S, Tax Credit for Certified Rehabilitation of Certified Historical Structures.

§3.598. Margin: Tax Credit for Certified Rehabilitation of Certified Historic Structures.

(a) Effective date. The provisions of this section apply to franchise tax reports originally due on or after January 1, 2015.

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

(1) Audited cost report--A report issued by a certified public accountant, as defined by Occupations Code, §901.002, that itemizes the eligible costs and expenses incurred by the entity in the certified rehabilitation of the certified historic structure.

(2) Certificate of eligibility--The certification issued by the commission in accordance with Tax Code, §171.904.

(3) Certified historic structure--A property in this state that is:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under Government Code, §442.006, or as a state archeological landmark under Natural Resources Code, Chapter 191; or

(C) certified by the commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a local district certified by the United States Department of the Interior in accordance with 36 Code of Federal Regulations, Section 67.9.

(4) Certified rehabilitation--The rehabilitation of a certified historic structure that the commission has certified as meeting the

United States secretary of the interior's Standards for Rehabilitation as defined in 36 Code of Federal Regulations, Section 67.7.

(5) Commission--The Texas Historical Commission.

(6) Eligible costs and expenses--Qualified rehabilitation expenditures, as defined by Internal Revenue Code, Section 47(c)(2), incurred by the entity establishing the credit. See also 13 TAC §13.1.

(7) Placed-in-service date--The date specified on the certificate of eligibility issued by the commission. See also 13 TAC §13.1

(8) Year--A calendar year, as assigned by Tax Code, §101.003.

(c) Qualifications for credit. An entity may qualify for a credit for eligible costs and expenses incurred by the entity in the rehabilitation of a certified historic structure provided in this section if:

(1) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(2) the entity has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation;

(3) the total amount of eligible costs and expenses incurred by the entity exceeds \$5,000; and

(4) the entity received a Certificate of Eligibility from the commission.

(d) Establishing the credit.

(1) Required documentation. The entity that incurred the eligible costs and expenses in the certified rehabilitation of a certified historic structure must submit the following documentation to the comptroller to establish the credit:

(A) a Texas Franchise Tax Historic Structure Credit Registration, or any successor to the form promulgated by the comptroller, which includes an attestation of the total eligible costs and expenses incurred by the entity on the rehabilitation of the certified historic structure;

(B) a Certificate of Eligibility issued by the commission. The certificate must confirm:

(i) the property to which the eligible costs and expenses relate is a certified historic structure;

(ii) the rehabilitation qualifies as a certified rehabilitation; and

(iii) the date the certified historic structure was first placed in service after the rehabilitation; and

(C) an audited cost report.

(2) Submission of documentation. The documentation required in paragraph (1) of this subsection may be submitted to the comptroller:

(A) on or with the franchise tax report for the period for which the tax credit is claimed; or

(B) upon receipt of the Certificate of Eligibility issued by the commission.

(3) The burden of establishing eligibility for the credit is on the entity incurring the eligible costs and expenses.

(4) The comptroller will rely on the audited cost report. It is the responsibility of the certified public accountant hired by the entity

claiming the credit to make a determination on whether items qualify as eligible costs and expenses.

(5) The credit must be established within the statute of limitations based on the due date of the first report on which the credit may be claimed under subsection (f)(1) of this section.

(6) Texas Franchise Tax Historic Structure Credit Certificate. Upon receipt of the required documentation, the comptroller will issue to the entity that incurred the eligible costs and expenses a Texas Franchise Tax Historic Structure Credit Certificate indicating the entity as the owner of the credit and the amount of credit available to that entity.

(e) Amount of credit.

(1) The total amount of the credit that may be claimed with respect to the certified rehabilitation of a single certified historic structure may not exceed 25% of the total eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure. For purposes of approving the credit, the comptroller will rely on the audited cost report provided by the entity that requested the credit.

(2) The total credit claimed for a report, including the amount of any carryforward under subsection (g) of this section, may not exceed the amount of franchise tax due for the report after any other applicable tax credits.

(3) Eligible costs and expenses may only be counted once in determining the amount of the credit available, and more than one entity may not claim a credit for the same eligible costs and expenses.

(f) Claiming the credit.

(1) The first report on which the credit may be claimed is the report based on the accounting period during which the rehabilitated structure is placed in service. Rehabilitated historic structures placed in service between September 1, 2013, and December 31, 2013, are considered to be placed in service January 1, 2014, for purposes of this paragraph only. For example, a 2015 report with an accounting year of January 1 through December 31, 2014, may claim a credit for historic structures placed in service within the 2014 accounting year.

(2) An entity shall file with every report on which the credit is claimed the Texas Franchise Tax Historic Structure Credit Certificate issued to the entity by the comptroller, or any successor to the form promulgated by the comptroller.

(3) The reporting entity for a combined group may claim the credit for each member entity that has established a credit under this section.

(4) The burden of establishing the value of the credit is on the entity claiming the credit.

(g) Carryforward.

(1) If an entity is eligible for a credit that exceeds the limitations under subsection (e)(2) of this section, the entity may carry the unused credit forward and apply the credit to the tax imposed by this chapter in any of the succeeding five report years following the first report year after the certified historic structure is placed in service.

(2) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the limitation under subsection (e)(2) of this section.

(3) The sale, assignment, or allocation of a credit in accordance with subsection (h) of this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed.

(4) For example, for a structure placed in service in 2014, a credit may be claimed on the 2015 report and the credit carryforward may be applied to the following five consecutive reports: the 2016, 2017, 2018, 2019, and 2020 reports. The credit expires after the 2020 report.

(h) Sale, assignment, or allocation of credit.

(1) Sale or assignment. An entity that incurs eligible costs and expenses may sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities, and any entity to which all or part of the credit is sold or assigned may sell or assign all or part of the credit to another entity. There is no limit on the total number of transactions for the sale or assignment of all or part of the total credit authorized under this section, however, collectively, all transfers are subject to the maximum total limits provided by subsection (e) of this section.

(2) Allocation. A credit earned or purchased by, or assigned to, a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed under this subchapter in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit must be subject to the tax imposed under this chapter.

(3) Documentation.

(A) An entity that sells, assigns, or allocates a credit under this section to another entity shall provide a copy of the certificate of eligibility, together with the audited cost report, to the recipient of the credit.

(B) An entity that sells, assigns, or allocates a credit under this section and the entity to which the credit is sold, assigned, or allocated shall jointly submit:

(i) written notice of the sale, assignment, or allocation to the comptroller on a Texas Franchise Tax Sale, Assignment or Allocation of Historic Structure Credit form, or any successor to the form promulgated by the comptroller, not later than the 30th day after the date of the sale, assignment, or allocation. The notice must include the date of the sale, assignment, or allocation; the amount of the credit sold, assigned, or allocated; the names and federal identification numbers of the entity that sold, assigned, or allocated the credit or part of the credit and of the entity to which the credit or part of the credit was sold, assigned, or allocated; and the amount of the credit owned by the selling, assigning, or allocating entity before the sale, assignment, or allocation, and the amount the selling, assigning, or allocating entity retained, if any, after the sale, assignment, or allocation; and

(ii) Texas Franchise Tax Historical Structure Credit Certificate.

(C) Until the required documentation under subparagraph (B) of this paragraph is received by the comptroller's office, the recipient entity will not be allowed to claim the credit.

(4) Carryforwards. The sale, assignment, or allocation of a credit in accordance with this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed.

(5) Limitation. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit.

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 June 1, 2015.

TRD-201501999

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: July 12, 2015

For further information, please call: (512) 475-0387



WITHDRAWN RULES

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

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER I. TRANSMISSION AND DISTRIBUTION

DIVISION 1. OPEN-ACCESS COMPARABLE TRANSMISSION SERVICE FOR ELECTRIC UTILITIES IN THE ELECTRIC RELIABILITY COUNCIL OF TEXAS

16 TAC §25.197

Proposed new §25.197, published in the November 28, 2014, issue of the *Texas Register* (39 TexReg 9309), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501974



PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 45. MARKETING PRACTICES SUBCHAPTER D. ADVERTISING AND PROMOTION--ALL BEVERAGES

16 TAC §45.101

The Texas Alcoholic Beverage Commission withdraws the proposed repeal of §45.101, which appeared in the February 13, 2015, issue of the *Texas Register* (40 TexReg 675).

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501986

Martin Wilson
Assistant General Counsel
Texas Alcoholic Beverage Commission
Effective date: May 29, 2015
For further information, please call: (512) 206-3489



16 TAC §45.101

The Texas Alcoholic Beverage Commission withdraws proposed new §45.101, which appeared in the February 13, 2015, issue of the *Texas Register* (40 TexReg 676).

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501987

Martin Wilson
Assistant General Counsel
Texas Alcoholic Beverage Commission
Effective date: May 29, 2015
For further information, please call: (512) 206-3489



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §401.317

The Texas Lottery Commission withdraws proposed amendments to §401.317 which appeared in the December 26, 2014, issue of the *Texas Register* (39 TexReg 10134).

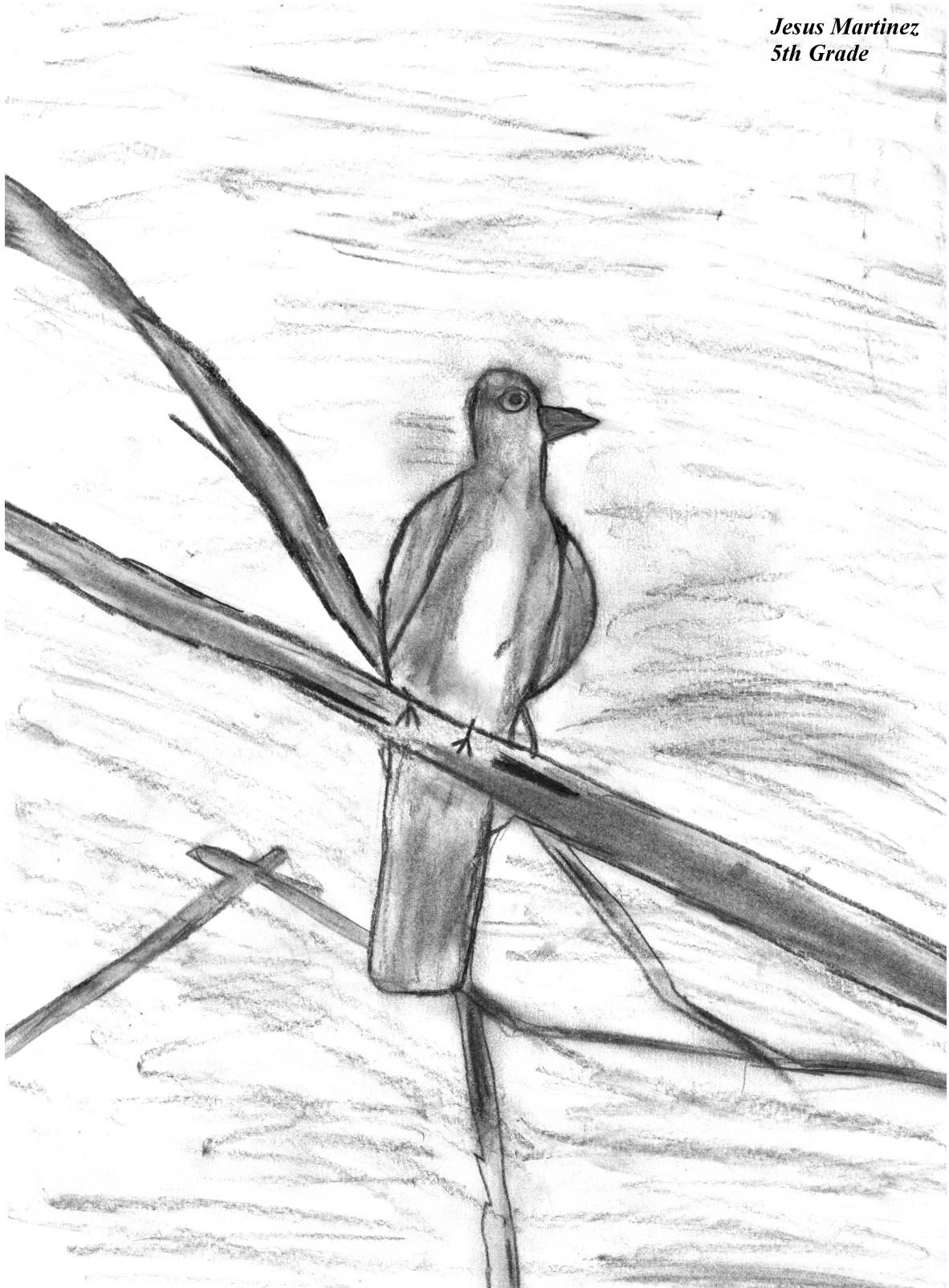
Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501982

Bob Biard
General Counsel
Texas Lottery Commission
Effective date: May 29, 2015
For further information, please call: (512) 344-5012



Jesus Martinez
5th Grade



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 7. STATE OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 156. ARBITRATION PROCEDURES FOR CERTAIN ENFORCEMENT ACTIONS OF THE DEPARTMENT OF AGING AND DISABILITY SERVICES REGARDING ASSISTED LIVING FACILITIES

The State Office of Administrative Hearings (SOAH) adopts new 1 TAC Chapter 156, Arbitration Procedures for Certain Enforcement Actions of the Department of Aging and Disability Services Regarding Assisted Living Facilities, consisting of Subchapter A, §§156.1, 156.3, and 156.5, concerning general information; Subchapter B, §§156.51, 156.53, 156.55, 156.57, and 156.59, concerning election and initiation of arbitration; Subchapter C, §156.101, concerning filing and service of documents; Subchapter D, §§156.151, 156.153, 156.155, 156.157, 156.159, and 156.161, concerning selection of arbitrator and costs; Subchapter E, §§156.201, 156.203, 156.205, 156.207, 156.209, 156.211, 156.213, 156.215, 156.217, 156.219, 156.221, 156.223, 156.225, 156.227, 156.229, 156.231, 156.233, and 156.235, concerning arbitration proceedings; and Subchapter F, §§156.251, 156.253, and 156.255, concerning arbitration order. Subchapter A, §156.5; Subchapter B, §156.53; Subchapter D, §156.153 and §156.161; Subchapter E, §§156.205, 156.207, and 156.223; and Subchapter F, §156.251 are adopted with changes to the proposed text, as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9437). Subchapter A, §156.1 and §156.3; Subchapter B, §§156.51, 156.55, 156.57 and 156.59; Subchapter C, §156.101; Subchapter D, §§156.151, 156.155, 156.157, and 156.159; Subchapter E, §§156.201, 156.203, 156.209, 156.211, 156.213, 156.215, 156.217, 156.219, 156.221, 156.225, 156.227, 156.229, 156.231, 156.233, and 156.235; Subchapter F, §156.253 and §156.255 are adopted without changes to the proposed text and will not be republished.

The new chapter is being adopted pursuant to the 83rd Legislative Session, H.B. 33, which added Health and Safety Code Chapter 247, Subchapter E, which authorizes arbitrations in certain disputes involving the Department of Aging and Disability Services and assisted living facilities.

New Subchapter A entitled General Information contains §§156.1, 156.3, and 156.5. These sections set out SOAH's rules concerning definitions; construction of this chapter; and other SOAH rules of procedure. Section 156.5 is adopted with changes. The changes are nonsubstantive. In §156.5 (relating

to Other SOAH Rules of Procedure), SOAH's rule 1 TAC 155, Subchapter A, §155.7 (relating to Computation of Time) was added to the list as paragraph (1), and the list was renumbered to conform to the addition of the rule.

New Subchapter B entitled Election and Initiation of Arbitration contains §§156.51, 156.53, 156.55, 156.57, and 156.59. These sections set out SOAH's rules concerning opportunity to elect arbitration; notice of election of arbitration; initiation of arbitration; jurisdictional challenges; and changes of claim. Section 156.53 is adopted with changes. The changes are nonsubstantive. In §156.53(a)(1) and (b)(1) the words "the Health and Human Services Appeals Division" was replaced with "DADS or its designee." In §153.53(a)(1)(C) the word "an" was added between the words conduct and arbitration. In §156.53(d)(7) - (9), the word "and" was deleted at the end of the sentence in paragraph (7), a semicolon and the word "and" was added to the end of the sentence in paragraph (8), and paragraph (9) was added.

New Subchapter C is entitled Filing and Service of Documents and contains §156.101. This section sets out SOAH's rule concerning filing and service of documents. No changes have been made to this subchapter as proposed.

New Subchapter D entitled Selection of Arbitrator and Costs contains §§156.151, 156.153, 156.155, 156.157, 156.159, and 156.161. These sections set out SOAH's rules concerning selection of arbitrator; notice to and acceptance of appointment by arbitrator who is not a SOAH judge; vacancies; qualifications of arbitrators; duties of the arbitrator; and cost of arbitration. Section 156.153 and §156.161 are adopted with changes. The changes in §156.153 and 156.161 are substantive in that it changes a set amount of money (\$1,000) to generic terminology to allow for changes in the statute. In §156.153(b) the word "current" was added before the words "Code of Ethics..." and the reference to the year 2004 was deleted in that same sentence. In §156.161(a) and (c) the references to the money amount of \$1,000 per day was replaced with the words "the statutory daily maximum."

New Subchapter E entitled Arbitration Proceedings contains §§156.201, 156.203, 156.205, 156.207, 156.209, 156.211, 156.213, 156.215, 156.217, 156.219, 156.221, 156.223, 156.225, 156.227, 156.229, 156.231, 156.233, and 156.235. These sections set out SOAH's rules concerning exchange and filing of information; preliminary conference; discovery; stenographic record; electronic record; interpreters; communication of parties with arbitrator; date, time, and place of hearing; representation; attendance required; public hearings and confidential material; order of proceedings; control of proceedings; evidence; witnesses; exclusion of witnesses; evidence by affidavit; and evidence filed after the hearing. Sections 156.205, 156.207, and 156.223 are adopted with changes. The changes are nonsubstantive, except for in §156.205, where there is a

time limit imposed for deposition testimony and in §156.207 where there is a requirement added that any transcript that is prepared shall also be provided to the arbitrator. In §156.205 in the first sentence the word "typically" is deleted, and where the sentence ends in a period a comma is added and the word "except" is added after the comma. In the second sentence a comma is added after the word "merits" and the words "unless otherwise ordered by the arbitrator" are added after the comma to complete the sentence. In the third sentence the words "Responses to" are deleted. A fourth sentence is added that gives a time limit for deposition testimony that may be overruled by the arbitrator. In §156.207 a sentence is added to the end of the paragraph that requires that a copy of any transcript prepared at the arbitration shall be provided to the arbitrator. In §156.223(b) the word "parties" in the last sentence is deleted and replaced with the word "party."

New Subchapter F entitled Arbitration Order contains §§156.251, 156.253, and 156.255. These sections set out SOAH's rules concerning the order; effect of the order; and clerical error. Section 156.251 is adopted with changes. The changes are nonsubstantive. In §156.251(e) the words "the Health and Human Services Appeals Division" was replaced with "DADS or its designee."

No comments were received during the 30-day comment period.

SUBCHAPTER A. GENERAL INFORMATION

1 TAC §§156.1, 156.3, 156.5

Statutory Authority

The new sections are adopted under Health and Safety Code, §247.083, which requires SOAH to adopt rules for arbitration procedures after consulting with DADS; Government Code, §2001.004, which requires agencies to adopt rules of practice setting forth the nature and requirements of formal and informal procedures; and Government Code, §2003.050, which authorize SOAH to establish procedural rules for its hearings.

The new sections affect Health and Safety Code, Chapter 247, and Government Code, Chapters 2001 and 2003. No other statutes, articles, or codes are affected.

§156.5. *Other SOAH Rules of Procedure.*

Unless specific applicable procedures are set out in this chapter, other SOAH rules of procedure found at Chapter 155 of this title (relating to Rules of Procedure), Chapter 157 of this title (relating to Temporary Administrative Law Judges), and Chapter 161 of this title (relating to Requests for Records) may apply in arbitration proceedings under this chapter. The rules that specifically apply include:

- (1) 1 TAC 155, Subchapter A, §155.7 (relating to Computation of Time);
- (2) 1 TAC 155, Subchapter C, §155.101 (relating to Filing Documents);
- (3) 1 TAC 155, Subchapter C, §155.103 (relating to Service of Documents on Parties);
- (4) 1 TAC 155, Subchapter D, §155.151 (relating to Assignment of Judges to Cases);
- (5) 1 TAC 155, Subchapter D, §155.153 (relating to Powers and Duties);
- (6) 1 TAC 155, Subchapter E, §155.201 (relating to Representation of Parties);

(7) 1 TAC 155, Subchapter I, §155.405 (relating to Participation by Telephone or Videoconference);

(8) 1 TAC 155, Subchapter I, §155.417 (relating to Stipulations);

(9) 1 TAC 155, Subchapter I, §155.425 (relating to Procedure at Hearing);

(10) 1 TAC 155, Subchapter I, §155.431 (relating to Conduct and Decorum);

(11) 1 TAC 155, Subchapter J, §155.503 (relating to Dismissal Proceedings);

(12) 1 TAC 157, §157.1 (relating to Temporary Administrative Law Judges); and

(13) 1 TAC 161, §161.1 (relating to Charges for Copies of Public Records).

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 May 28, 2015.

TRD-201501919

Thomas H. Walston

General Counsel

State Office of Administrative Hearings

Effective date: June 17, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 475-4931



SUBCHAPTER B. ELECTION AND INITIATION OF ARBITRATION

1 TAC §§156.51, 156.53, 156.55, 156.57, 156.59

Statutory Authority

The new sections are adopted under Health and Safety Code, §247.083, which requires SOAH to adopt rules for arbitration procedures after consulting with DADS; Government Code, §2001.004, which requires agencies to adopt rules of practice setting forth the nature and requirements of formal and informal procedures; and Government Code, §2003.050, which authorize SOAH to establish procedural rules for its hearings.

The new sections affect Health and Safety Code, Chapter 247, and Government Code, Chapters 2001 and 2003. No other statutes, articles, or codes are affected.

§156.53. *Notice of Election of Arbitration.*

(a) Pursuant to Code §247.082(b), in an enforcement lawsuit filed in court:

(1) An affected facility may elect arbitration by filing a notice of election to arbitrate with the court in which the lawsuit is pending and sending copies to the office of the attorney general and to DADS or its designee.

(A) The notice of election must be filed no later than the tenth day after the date on which the answer is due or the date on which the answer is filed with the court, whichever is earlier.

(B) If a civil penalty is requested by an amended or supplemental pleading in a lawsuit, the affected facility must file its notice of election of arbitration not later than the tenth day after the date on

which the amended or supplemental pleading is served on the affected facility or the facility's counsel.

(C) If the election of arbitration is challenged, the parties shall seek a prompt ruling from the court on the challenge. If a court finds SOAH has jurisdiction to conduct an arbitration, the Health and Human Services Appeal Division shall immediately file the court's order and the notice of election of arbitration at SOAH and request the arbitration be processed in the usual manner.

(2) DADS may elect arbitration by filing the election with the court in which the lawsuit is pending and by notifying the facility of the election not later than the date on which the facility may elect arbitration under paragraph (1) of this subsection.

(b) In an administrative enforcement proceeding originally docketed at SOAH:

(1) An affected facility may elect arbitration by filing a notice of election to arbitrate with the docket clerk at SOAH no later than the tenth day after receiving notice of hearing that complies with the requirements of the Administrative Procedure Act. A copy of this election shall be sent to DADS's representative of record in the relevant action and to DADS or its designee.

(2) DADS may elect arbitration under this chapter by filing a notice of election with the docket clerk at SOAH no later than the date that the facility may elect arbitration under paragraph (1) of this subsection and sending a copy of the notice of election to the facility's representative of record in the relevant action.

(c) The date of filing shall be the date affixed upon a notice of election by a date-stamp utilized by the docket clerk at the court for judicial proceedings, or by the docket clerk of SOAH for administrative proceedings.

(d) The notice of election shall include a written statement that contains:

(1) the nature of the action that is being submitted to arbitration, as listed in this Subchapter, §156.51(a) (relating to Opportunity to Elect Arbitration);

(2) a brief description of the factual and/or legal controversy, including an estimate of the amount of any penalties sought;

(3) an estimate of the length of the arbitration hearing on the merits and the extensiveness of the record necessary to determine the matter;

(4) the remedy sought;

(5) a statement that the facility has not been the subject of an arbitration order within the previous five years;

(6) any special information that should be considered in selecting an arbitrator;

(7) if a hearing location other than Austin is requested, an explanation for requesting that location;

(8) the name, title, address, and telephone number of a designated contact person for the party who will be paying the costs of the arbitration; and

(9) a statement that arbitration is not otherwise prohibited by the Code.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501920

Thomas H. Walston

General Counsel

State Office of Administrative Hearings

Effective date: June 17, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 475-4931

◆ ◆ ◆
SUBCHAPTER C. FILING AND SERVICE OF DOCUMENTS

1 TAC §156.101

Statutory Authority

The new section is adopted under Health and Safety Code, §247.083, which requires SOAH to adopt rules for arbitration procedures after consulting with DADS; Government Code, §2001.004, which requires agencies to adopt rules of practice setting forth the nature and requirements of formal and informal procedures; and Government Code, §2003.050, which authorize SOAH to establish procedural rules for its hearings.

The new section affects Health and Safety Code, Chapter 247, and Government Code, Chapters 2001 and 2003. No other statutes, articles, or codes are affected.

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 May 28, 2015.

TRD-201501921

Thomas H. Walston

General Counsel

State Office of Administrative Hearings

Effective date: June 17, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 475-4931

◆ ◆ ◆
SUBCHAPTER D. SELECTION OF ARBITRATOR AND COSTS

1 TAC §§156.151, 156.153, 156.155, 156.157, 156.159, 156.161

Statutory Authority

The new sections are adopted under Health and Safety Code, §247.083, which requires SOAH to adopt rules for arbitration procedures after consulting with DADS; Government Code, §2001.004, which requires agencies to adopt rules of practice setting forth the nature and requirements of formal and informal procedures; and Government Code, §2003.050, which authorize SOAH to establish procedural rules for its hearings.

The new sections affect Health and Safety Code, Chapter 247, and Government Code, Chapters 2001 and 2003. No other statutes, articles, or codes are affected.

§156.153. Notice to and Acceptance of Appointment by Arbitrator who is not a SOAH Judge.

(a) Notice of the appointment of the arbitrator shall be sent to the arbitrator by SOAH, together with a copy of this chapter and an acceptance form for the arbitrator to sign and return. The signed acceptance of the arbitrator shall be filed with SOAH prior to the first pre-hearing conference or other meeting of the parties to the arbitration.

(b) The acceptance of the arbitrator shall state that the arbitrator is qualified and willing to serve as arbitrator in accordance with this chapter, and with the current Code of Ethics for Arbitrators in Commercial Disputes issued by the American Bar Association and the American Arbitration Association. It shall also state that the arbitrator foresees no difficulty in completing the arbitration according to the schedule set out in this chapter.

(c) A potential arbitrator must not accept appointment in or continue handling any matter in which the arbitrator believes or perceives that participation as an arbitrator would be a conflict of interest or create the impression of a conflict. The duty to disclose is a continuing obligation throughout the arbitration process.

(d) Upon objection of a party to the continued service of an arbitrator, the chief judge shall provide the arbitrator and all parties an opportunity to respond. After consideration of these responses, the chief judge shall determine whether the arbitrator should be disqualified and shall inform the parties of his/her decision, which shall be conclusive.

§156.161. *Cost of Arbitration.*

(a) An arbitrator's fees and expenses shall not exceed the statutory daily maximum for case preparation, pre-hearing conferences, hearings, preparation of the order, and any other required post-hearing work. Rates charged for less than one day must bear a reasonable relationship to the daily maximum.

(b) There may also be incidental expenses connected with an arbitration proceeding which may be charged in addition to the arbitrator's fees and expenses. If a party requests that an arbitration hearing be held outside of Austin, and the arbitrator agrees to hold the arbitration in that location, incidental expenses would include the cost of renting a room for the hearing and the arbitrator's travel expenses.

(c) SOAH charges fees for the services provided by SOAH arbitrators at the hourly rate approved in the General Appropriations Act, but the total amount charged for a SOAH arbitrator's services in an arbitration proceeding conducted under these rules shall not exceed the statutory daily maximum.

(d) The party electing arbitration must pay the cost of the arbitration.

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 May 28, 2015.

TRD-201501922

Thomas H. Walston
General Counsel

State Office of Administrative Hearings

Effective date: June 17, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 475-4931



SUBCHAPTER E. ARBITRATION
PROCEEDINGS

1 TAC §§156.201, 156.203, 156.205, 156.207, 156.209, 156.211, 156.213, 156.215, 156.217, 156.219, 156.221, 156.223, 156.225, 156.227, 156.229, 156.231, 156.233, 156.235

Statutory Authority

The new sections are adopted under Health and Safety Code, §247.083, which requires SOAH to adopt rules for arbitration procedures after consulting with DADS; Government Code, §2001.004, which requires agencies to adopt rules of practice setting forth the nature and requirements of formal and informal procedures; and Government Code, §2003.050, which authorizes SOAH to establish procedural rules for its hearings.

The new sections affect Health and Safety Code, Chapter 247, and Government Code, Chapters 2001 and 2003. No other statutes, articles, or codes are affected.

§156.205. *Discovery.*

Discovery is not allowed in a proceeding under this chapter, except by agreement with the other party or by order of the arbitrator upon a showing of good cause. Any discovery will be completed no later than 14 days before the opening of the arbitration hearing on the merits, unless otherwise ordered by the arbitrator. Discovery should not be filed with SOAH or the arbitrator unless there is a related dispute which must be resolved by the arbitrator. No more than four hours of deposition testimony may be taken by either party, unless otherwise ordered by the arbitrator.

§156.207. *Stenographic Record.*

An official stenographic record of the proceeding is not required, but DADS or the facility may make a stenographic record. The party that makes the stenographic record shall pay the expense of having the record made. A copy of any transcript prepared at the request of a party shall be provided to the arbitrator.

§156.223. *Order of Proceedings.*

(a) Opening statements. The arbitrator may ask each party to make an opening statement to clarify the issues involved.

(b) The complaining party shall then present evidence to support its claim. The defending party shall then present evidence to support its claim. Witnesses for each party shall answer questions propounded by the other party and the arbitrator.

(c) The arbitrator has the discretion to vary this procedure but shall afford a full and equal opportunity to all parties for the presentation of any material and relevant evidence within the time frames set by the arbitrator.

(d) Exhibits offered by either party may be received in evidence by the arbitrator.

(e) The parties may make closing statements as they desire, but the record may not remain open for written briefs unless ordered by the arbitrator. If the arbitrator requests briefs the arbitration hearing shall be deemed "closed" on the date that the last requested brief is filed.

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 May 28, 2015.

TRD-201501923

Thomas H. Walston
General Counsel
State Office of Administrative Hearings
Effective date: June 17, 2015
Proposal publication date: December 5, 2014
For further information, please call: (512) 475-4931



SUBCHAPTER F. ARBITRATION ORDER

1 TAC §§156.251, 156.253, 156.255

Statutory Authority

The new sections are adopted under Health and Safety Code, §247.083, which requires SOAH to adopt rules for arbitration procedures after consulting with DADS; Government Code, §2001.004, which requires agencies to adopt rules of practice setting forth the nature and requirements of formal and informal procedures; and Government Code, §2003.050, which authorize SOAH to establish procedural rules for its hearings.

The new sections affect Health and Safety Code, Chapter 247, and Government Code, Chapters 2001 and 2003. No other statutes, articles, or codes are affected.

§156.251. Order.

(a) The arbitrator may enter any order consistent with state and federal law applicable to a dispute described in Subchapter B of this chapter, §156.51 (relating to Opportunity to Elect Arbitration).

(b) The order shall be entered no later than the 60th day after the close of the arbitration hearing.

(c) The arbitrator shall base the order on the facts established in the arbitration proceeding, including stipulations of the parties; and on the state and federal statutes and formal rules and regulations, as properly applied to those facts.

(d) The order must:

- (1) be in writing;
- (2) be signed and dated by the arbitrator; and

(3) include a list of stipulations on uncontested issues and a statement of the arbitrator's decisions on all contested issues. If requested by either of the parties, the decision shall contain findings of fact and conclusions of law on controverted issues.

(e) The arbitrator shall file a copy of the order with SOAH and DADS or its designee and send a copy to the parties.

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 May 28, 2015.

TRD-201501924
Thomas H. Walston
General Counsel
State Office of Administrative Hearings
Effective date: June 17, 2015
Proposal publication date: December 5, 2014
For further information, please call: (512) 475-4931



PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

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

1 TAC §353.608

The Texas Health and Human Services Commission (HHSC) adopts amendments to §353.608, concerning Minimum Payment Amounts to Qualified Nursing Facilities, without changes to the proposed text as published in the April 3, 2015, issue of the *Texas Register* (40 TexReg 1930) and will not be republished.

Background and Justification

In 2012, HHSC adopted Texas Administrative Code (TAC) Title 1, §355.314 (relating to Supplemental Payments to Non-State Government-Owned Nursing Facilities) to create a nursing facility (NF) upper payment limit (UPL) supplemental payment program. Eligible NFs could apply to participate in this program and, if approved, the NFs could receive supplemental payments based on the difference between the amount paid through fee-for-service Medicaid and the amount Medicare would have paid for those same services. As with other supplemental payment programs operated by HHSC, the non-federal share of the supplemental Medicaid payment is funded through intergovernmental transfers (IGTs) provided by the non-state governmental entities that own the participating NFs. Payments have been made under the NF UPL program since October 2013.

Beginning March 1, 2015, NF services were "carved-in" to managed care. In other words, the capitated payment HHSC makes to Medicaid managed care organizations (MCOs) includes funds for NF services provided by NFs contracted with the MCOs. As a result of the carve-in, HHSC was prohibited from continuing the NF UPL program.

In an effort to continue a certain level of funding to the NF UPL participants, HHSC created a new minimum payment to eligible NFs to be made through the MCOs. This new minimum payment was established through the adoption of §353.608, effective November 1, 2014, and amended effective March 1, 2015. HHSC now adopts a further amendment to §353.608.

Addition of a third eligibility period. Participation in the NF minimum payment amounts program (MPAP) is limited to NFs where a non-state governmental entity holds the license and is a party to the NF's Medicaid provider enrollment agreement with the State. Due to the lead time required to calculate, adopt and implement capitation rates, NFs must be identified significantly prior to the effective date of the capitation rates. For September 1, 2015, capitation rates, the list of qualified NFs was required to be finalized by March 15, 2015. To comply with this deadline, §353.608(e)(3)(A) indicates that, for Eligibility Period Two (September 1, 2015 - August 31, 2016), a NF may only be eligible if its contract is assigned by the Texas Department of Aging and Disability Services (DADS) to a non-state governmental entity by February 28, 2015, with an effective date of March 1, 2015, or earlier.

The NF MPAP is growing dramatically. When the NF UPL program was implemented, there were 29 non-state government-owned NFs. For the March through August 2015 MPAP eligibility period (Eligibility Period One), there are 108 non-state government-owned NFs. For the September 2015 through August 2016 eligibility period (Eligibility Period Two), there were 158 changes

of ownership (CHOWs) in process where the outgoing owner was a private entity and the incoming owner was a public entity.

Due to the unprecedented number of CHOW applications submitted for Eligibility Period Two and the fact that the majority of those applications were incomplete when submitted, there was a large backlog of CHOW applications at DADS. Only a portion of these applications were able to be processed by the February 28, 2015, cut-off date for Eligibility Period Two. Without further action on HHSC's part, these NFs would not be eligible for the NF MPAP for any part of Eligibility Period Two (state fiscal year 2016).

In order to allow these remaining NFs an opportunity to participate in the MPAP for some portion of state fiscal year 2016 while still ensuring that capitation rate calculations are based on a finalized list of participating NFs, HHSC plans to conduct a mid-year capitation rate review for capitation rates to be effective December 1, 2015, and adopts an amendment to §353.608 to add a third eligibility period, Eligibility Period Two-A. Eligibility Period Two-A will cover December 1, 2015, through August 31, 2016.

Eligibility for Eligibility Period Two-A will be limited to NFs that submitted CHOW applications to DADS by February 1, 2015, that were not processed by the February 28, 2015, cut-off date for Eligibility Period Two because they were incomplete when submitted.

Comments

The 30-day comment period ended May 4, 2015. During this period, HHSC received no comments regarding the proposed amendment to this rule.

Statutory Authority

The amendment is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance (Medicaid) payments under Texas Human Resources Code Chapter 32. The adopted changes implement Texas Government Code, Chapter 531, and Texas Human Resources Code Chapter 32. No other statutes, articles, or codes are affected by this adoption.

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 June 1, 2015.

TRD-201501988

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 21, 2015

Proposal publication date: April 3, 2015

For further information, please call: (512) 424-6900



CHAPTER 391. PURCHASE OF GOODS AND SERVICES BY HEALTH AND HUMAN SERVICES AGENCIES

The Texas Health and Human Services Commission (HHSC) adopts the repeal of Chapter 391, Purchase of Goods and Services by Health and Human Services Agencies, consisting of Subchapter A, General, §§391.1 - 391.3, 391.21, 391.22, 391.31, 391.35, and 391.36; Subchapter B, Responsibilities of the Health and Human Services Commission, §§391.51, 391.53, 391.55, and 391.57; Subchapter C, Responsibilities of the Health and Human Services Agencies, §391.71; Subchapter D, Purchase of Goods and Services, §§391.101, 391.103, 391.105, 391.107, 391.109, 391.121, 391.131, 391.141, 391.151, 391.161, 391.165, 391.171, 391.181, and 391.183; Subchapter E, Cooperative Purchasing Methods, §§391.201, 391.203, 391.205, 391.211, 391.215, 391.217, 391.221, 391.223, and 391.231; Subchapter J, Protest Procedures, §391.301; Subchapter M, Miscellaneous Requirements, §§391.401, 391.411, 391.451, 391.453, 391.551, and 391.552; and Subchapter S, Recordkeeping and Audit Requirements, §§391.701, 391.711, 391.713, 391.715, 391.716, 391.751, and 391.752. HHSC also adopts new Chapter 391, Purchase of Goods and Services by the Texas Health and Human Services Commission. The new chapter contains Subchapter A, Introduction, consisting of §391.101 and §391.103; Subchapter B, Contracts, consisting of §§391.201, 391.203, 391.205, 391.207, 391.209, and 391.211; Subchapter C, Exceptions, consisting of §391.301; Subchapter D, Protests, consisting of §§391.401, 391.403, 391.405, 391.407, and 391.409; Subchapter E, Standards of Conduct for Vendors and HHSC Procurement and Contracting Personnel, consisting of §§391.501, 391.503, and 391.505; Subchapter F, Negotiation and Mediation of Certain Contract Claims Against HHSC, Division 1, General, consisting of §§391.601, 391.603, and 391.605; Division 2, Negotiation, consisting of §§391.621, 391.623, 391.625, 391.627, 391.629, 391.631, 391.633, 391.635, and 391.637; Division 3, Mediation, consisting of §§391.651, 391.653, 391.655, 391.657, 391.659, 391.661, 391.663, 391.665, 391.667, and 391.669; and Subchapter G, Historically Underutilized Businesses, consisting of §391.711. Section 391.405 is adopted with changes to the proposed text as published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2043) and is republished. All other sections are adopted without changes and will not be republished.

Background and Justification

A key principle of House Bill 2292, 78th (Regular) Texas Legislature, was consolidating administrative services in HHSC. The consolidation was intended in large part to eliminate redundant administrative and support services to achieve cost savings and efficiency. This tenet is clearly captured in §531.0055(d), Texas Government Code, which states that the "commission shall plan an efficient and effective centralized system of administrative support services for health and human services agencies." Section 531.0055(d) adds that "administrative support services" includes, but is not limited to, strategic planning and evaluation, audit, legal, human resources, information resources, purchasing, contract management, financial management, and accounting services."

Since 2003, HHSC has taken major steps to implement the Legislature's vision, particularly in the areas of contracts and procurements. In 2006, through HHS Circular C-014, HHSC estab-

lished the HHS Office of System and Support Services (SSS). One of the SSS divisions was Enterprise Contract and Procurement Services (ECPS) within the Office of Business and Regional Services. Under the authority granted by Circular C-014, ECPS created the ECPS Procurement Manual.

Some months later, and in compliance with §2155.144 of the Texas Government Code, Circular C-016 authorized each HHS agency to create its own rules, policies, and procedures to carry out its delegated procurement and contracting authority so long as the system complied with the ECPS Procurement Manual. The interaction between ECPS and the HHS agencies created by HHS Circular C-016 improved. These operations, however, did not achieve all of the efficiencies envisioned by the Legislature or HHSC's executive leadership. For example, even though HHS system-wide contract and procurement rules are housed in Title 1, Part 15, Chapter 391 of the Texas Administrative Code (TAC), each HHS agency still has separate contract and procurement rules that are specific to each entity.

In October 2014, the Sunset Advisory Commission issued a report titled "Health and Human Services Commission and System Issues." A key finding of the staff report was that the vision of HB 2292 was incomplete. According to the report, the problem is not with the concept of consolidation. Instead, the "problem is with the nature of the system itself, and the incompleteness of its set up." One of the recommendations related to contract and procurement advised "HHSC to better define and strengthen its role in both procurement and contract monitoring by completing and maintaining certain statutorily required elements; strengthening monitoring of contracts at HHSC; improving assistance to system agencies; and focusing high-level attention to system contracting."

HHSC is proactively working toward implementing these recommendations of the Sunset Advisory Commission. The HHS system-wide contract and procurement rules contained in Chapter 391 were created in the year 2000--three years before HB 2292--and were not updated until now. Chapter 391 did not capture the existing HHS system structure, the relationship among HHS agencies, or the operational realities of the new system.

The main goal of the new Chapter 391 is to clarify the contracting and procurement requirements for all health and human services agencies. Chapter 391 provides a clear template for HHSC contracting requirements for vendors and the public at large. HHSC proposed new Chapter 392 in the April 17, 2015, issue of the *Texas Register* (40 TexReg 2139), which lists the program specific exceptions to the general rule described by Chapter 391. The new Chapter 392 is also adopted in this issue of the *Texas Register*.

One critical objective of the adopted rules is to fortify the ethics provisions associated with contracting and procurements. HHSC strives to ensure that agency personnel maintain the highest standard of conduct in the performance of their duties. In 2007, pursuant to Texas Government Code §572.051(c), HHS enacted Circular C-025 and created the HHS Ethics Policy. This policy "requires HHS employees to do more than the law requires and less than the law allows." Similarly, in HHS Circular C-031, the HHS Contract Council assigns a subcommittee to create a standardized computer-based training (CBT) on ethics for all HHS agency staff involved in the contracting life cycle. Accordingly, new employees, including inter-agency transfers involved in these functions, must complete the HHS Ethics CBT within 60 days of their employment dates. The most recent

step to strengthen accountability is reflected in Circular C-046. Circular C-046 defines and clarifies the delegation of signature authority for all goods and services by establishing and linking the authority to authorize contracts to specific dollar values.

In addition to these major steps taken to solidify ethical standards, HHSC clarifies and enhances the restrictions on vendors and HHSC procurement personnel in Chapter 391. All parties that contract with HHSC must understand that the enterprise will conduct its contract and procurement business strictly in line with the eventually adopted ethics rules.

Overall, the changes ensure that procurement of goods and services effectively support HHSC Enterprise's mission, operations, and programs. Likewise, these changes will strengthen accountability, improve efficiency, and translate into better services for our stakeholders.

COMMENTS

The 30-day comment period ended May 11, 2015. During this period, HHSC received comments from one individual.

A summary of comments and HHSC's responses follow.

Comment: One commenter requested a change to proposed §391.405(a) so that a protestant has 10 business days after the protestant knows, or should have known, of the occurrence that is the basis for the protest. The proposed seven calendar days is shorter than the ten business days that a governmental entity has to respond to a public information request.

Response: HHSC agrees with the comment and has changed the requirement in §391.405(a) accordingly. This change aligns the protest deadline with that utilized by the Texas Attorney General.

SUBCHAPTER A. GENERAL

1 TAC §§391.1 - 391.3, 391.21, 391.22, 391.31, 391.35, 391.36

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501925

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER B. RESPONSIBILITIES OF THE HEALTH AND HUMAN SERVICES COMMISSION

1 TAC §§391.51, 391.53, 391.55, 391.57

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501926

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER C. RESPONSIBILITIES OF THE HEALTH AND HUMAN SERVICES AGENCIES

1 TAC §391.71

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501927

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER D. PURCHASE OF GOODS AND SERVICES

1 TAC §§391.101, 391.103, 391.105, 391.107, 391.109, 391.121, 391.131, 391.141, 391.151, 391.161, 391.165, 391.171, 391.181, 391.183

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501928

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER E. COOPERATIVE PURCHASING METHODS

1 TAC §§391.201, 391.203, 391.205, 391.211, 391.215, 391.217, 391.221, 391.223, 391.231

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501929

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER J. PROTEST PROCEDURES

1 TAC §391.301

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501930

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER M. MISCELLANEOUS REQUIREMENTS

1 TAC §§391.401, 391.411, 391.451, 391.453, 391.551, 391.552

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501931

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER S. RECORDKEEPING AND AUDIT REQUIREMENTS

1 TAC §§391.701, 391.711, 391.713, 391.715, 391.716, 391.751, 391.752

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501932

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



CHAPTER 391. PURCHASE OF GOODS AND SERVICES BY THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION

SUBCHAPTER A. INTRODUCTION

1 TAC §391.101, §391.103

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501933

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER B. CONTRACTS

1 TAC §§391.201, 391.203, 391.205, 391.207, 391.209, 391.211

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501934

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER C. EXCEPTIONS

1 TAC §391.301

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501935

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER D. PROTESTS

1 TAC §§391.401, 391.403, 391.405, 391.407, 391.409

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

§391.405. Filing of a Protest.

(a) HHSC must receive a protest, in writing, no later than ten working days after the protestant knows, or should have known, of the occurrence of the act or omission by HHSC that is the basis for the protest.

(b) A protestant must submit a protest to the: Deputy Executive Commissioner for Enterprise Contracting Operations; Texas Health and Human Services Commission; Brown-Heatly Building; 4900 N. Lamar Blvd.; Austin, TX 78751-2316.

(c) A protest must be sworn and must contain:

(1) a specific identification of the statutory or regulatory provision that the protestant alleges has been violated;

(2) a specific description of each act alleged to have violated the statutory or regulatory provision identified in the protest;

(3) a precise statement of the relevant facts;

(4) a statement of any issues of law or fact that the protestant contends must be resolved;

(5) a statement of the argument and authorities that the protestant offers in support of the protest; and

(6) a statement that copies of the protest have been mailed or delivered to any other interested party known to the protestant.

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 May 28, 2015.

TRD-201501936

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER E. STANDARDS OF CONDUCT FOR VENDORS AND HHSC PROCUREMENT AND CONTRACTING PERSONNEL

1 TAC §§391.501, 391.503, 391.505

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government

Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501937

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER F. NEGOTIATION AND MEDIATION OF CERTAIN CONTRACT CLAIMS AGAINST HHSC DIVISION 1. GENERAL

1 TAC §§391.601, 391.603, 391.605

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501938

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



DIVISION 2. NEGOTIATION

1 TAC §§391.621, 391.623, 391.625, 391.627, 391.629, 391.631, 391.633, 391.635, 391.637

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical

assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501939

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



DIVISION 3. MEDIATION

1 TAC §§391.651, 391.653, 391.655, 391.657, 391.659, 391.661, 391.663, 391.665, 391.667, 391.669

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501940

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER G. HISTORICALLY UNDERUTILIZED BUSINESSES

1 TAC §391.711

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective

tive and effective centralized system of administrative support services.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501942

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 424-6900



CHAPTER 392. PROCUREMENTS BY HEALTH AND HUMAN SERVICES COMMISSION

The Texas Health and Human Services Commission (HHSC) adopts the repeal of Chapter 392, Procurements by Health and Human Services Commission, consisting of Subchapter B, Negotiation and Mediation of Certain Contract Claims Against Health and Human Services Commission, Division 1, General, §§392.20 - 392.24; Division 2, Negotiation, §§392.26 - 392.35; Division 3, Mediation, §§392.37 - 392.46; Subchapter C, Protest Procedures for Certain Health and Human Services Commission Purchases, §§392.50 - 392.59; and Subchapter J, Historically Underutilized Businesses, §392.100. HHSC also adopts new Chapter 392, Purchase of Goods and Services for Specific Health and Human Services Commission Programs. The chapter contains Subchapter A, Purpose and Applicability, consisting of §392.1; Subchapter B, Early Childhood Intervention (ECI) Services, consisting of §§392.101, 392.103, 392.105, 392.107, 392.109, and 392.111; Subchapter C, Autism Program, consisting of §§392.201, 392.203, 392.205, and 392.207; Subchapter D, DARS Contract Management Requirement, consisting of §§392.301, 392.303, 392.305, 392.307, 392.309, 392.311, 392.313, 392.315, 392.317, 392.319, 392.321, 392.323, 392.325, 392.327, 392.329, and 392.331; Subchapter E, Contract Management for DSHS Facilities and Central Office, consisting of §§392.401, 392.403, 392.405, 392.407, 392.409, and 392.411; Subchapter F, Contract Management for Substance Abuse Programs, consisting of §§392.501, 392.503, 392.505, 392.507, 392.509, and 392.511; Subchapter G, Contracting with Providers for Certain DSHS Programs, consisting of §§392.601, 392.603, 392.605, and 392.607; Subchapter H, DFPS Contracted Services, consisting of §392.701; and Subchapter I, DARS Contracts for Deaf and Hard of Hearing Services, consisting of §392.801. This new Chapter 392 includes contracting and procurement policies for specific programs by the Department of Assistive and Rehabilitative Services (DARS), the Department of Family and Protective Services (DFPS), and the Department of State Health Services (DSHS). Adopted Chapter 392 will not be republished as no changes were made to the proposed text as published in the April 17, 2015, issue of the *Texas Register* (40 TexReg 2139).

Background and Justification

A key principle of HB 2292, 78th (Regular Session) Texas Legislature, was consolidating administrative services in HHSC. The

consolidation was intended in large part to eliminate redundant administrative and support services to achieve cost savings and efficiency. This tenet is clearly captured in §531.0055(d), Texas Government Code, which states that the "commission shall plan an efficient and effective centralized system of administrative support services for health and human services agencies." Section 531.0055(d) adds that "administrative support services" includes, but is not limited to, strategic planning and evaluation, audit, legal, human resources, information resources, purchasing, contract management, financial management, and accounting services."

As part of a process aimed at clarifying and streamlining the contracting and procurement processes for HHS agencies, HHSC now adopts the repeal of Chapter 392. Chapter 392 contained rules regarding claims for breach of contract, contract protests, and historically underutilized businesses. Those subjects were moved to the adopted new Chapter 391.

HHSC also adopts an entirely new Chapter 392. The goal of the new Chapter 392 is to provide a single chapter within the Texas Administrative Code for the HHS programs that cannot be easily placed within the general HHSC rules in Chapter 391. The new Chapter 392 contains procurement and contracting rules for specific programs overseen by the Department of Assistive and Rehabilitative Services (DARS), the Department of Family and Protective Services (DFPS), and the Department of State Health Services (DSHS). Procurement and Contracting rules for specific programs overseen by the Department of Aging and Disability Services (DADS) will be added at a later date.

Again, adopted Chapter 391 is meant to be the baseline for contracting and procurement at all HHS agencies. In turn, new Chapter 392 provides the program-specific exceptions to Chapter 391.

COMMENTS

The 30-day comment period ended May 11, 2015. During this period, HHSC received no comments.

SUBCHAPTER B. NEGOTIATION AND MEDIATION OF CERTAIN CONTRACT CLAIMS AGAINST HEALTH AND HUMAN SERVICES COMMISSION DIVISION 1. GENERAL

1 TAC §§392.20 - 392.24

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501943

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



DIVISION 2. NEGOTIATION

1 TAC §§392.26 - 392.35

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501944

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



DIVISION 3. MEDIATION

1 TAC §§392.37 - 392.46

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501945

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER C. PROTEST PROCEDURES FOR CERTAIN HEALTH AND HUMAN SERVICES COMMISSION PURCHASES

1 TAC §§392.50 - 392.59

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501946

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER J. HISTORICALLY UNDERUTILIZED BUSINESSES

1 TAC §392.100

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate

contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501947

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



CHAPTER 392. PURCHASE OF GOODS AND SERVICES FOR SPECIFIC HEALTH AND HUMAN SERVICES COMMISSION PROGRAMS

SUBCHAPTER A. PURPOSE AND APPLICABILITY

1 TAC §392.1

STATUTORY AUTHORITY

New §392.1 is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501948

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER B. EARLY CHILDHOOD INTERVENTION (ECI) SERVICES

1 TAC §§392.101, 392.103, 392.105, 392.107, 392.109, 392.111

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501949

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER C. AUTISM PROGRAM

1 TAC §§392.201, 392.203, 392.205, 392.207

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501950

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER D. DARS CONTRACT MANAGEMENT REQUIREMENT

1 TAC §§392.301, 392.303, 392.305, 392.307, 392.309, 392.311, 392.313, 392.315, 392.317, 392.319, 392.321, 392.323, 392.325, 392.327, 392.329, 392.331

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501951

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER E. CONTRACT MANAGEMENT FOR DSHS FACILITIES AND CENTRAL OFFICE

1 TAC §§392.401, 392.403, 392.405, 392.407, 392.409, 392.411

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501952

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER F. CONTRACT MANAGEMENT FOR SUBSTANCE ABUSE PROGRAMS

1 TAC §§392.501, 392.503, 392.505, 392.507, 392.509, 392.511

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501953

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2015

Proposal publication date: April 17, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER G. CONTRACTING WITH PROVIDERS FOR CERTAIN DSHS PROGRAMS

1 TAC §§392.601, 392.603, 392.605, 392.607

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501954

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: June 17, 2015
Proposal publication date: April 17, 2015
For further information, please call: (512) 424-6900



SUBCHAPTER H. DFPS CONTRACTED SERVICES

1 TAC §392.701

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501955
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: June 17, 2015
Proposal publication date: April 17, 2015
For further information, please call: (512) 424-6900



SUBCHAPTER I. DARS CONTRACTS FOR DEAF AND HARD OF HEARING

1 TAC §392.801

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.033(d), which requires HHSC to implement an effective and effective centralized system of administrative support services. The rules are consistent with Texas Government Code §531.0055, which allows HHSC to consolidate contract management and other administrative functions for all enterprise agencies.

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 May 28, 2015.

TRD-201501956
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: June 17, 2015
Proposal publication date: April 17, 2015
For further information, please call: (512) 424-6900



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 31. ADMINISTRATION

16 TAC §31.3

The Texas Alcoholic Beverage Commission adopts amendments to §31.3, relating to Petition for Adoption of a Rule, with changes to the proposed text as published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2057).

The amendments require that the name of the person or entity on whose behalf a petition for rulemaking is filed must be identified if it is different from the person filing the petition. The amendments also clarify that, pursuant to Government Code §2001.021(c), a rulemaking will be initiated if the commission fails to act on a petition within 60 days of the date it was received.

The amendments extend from six months to one year the period within which the administrator may choose not to bring to the commission a repetitive petition (i.e., a petition that is the same as one previously considered by the commission).

Subsection (d) is changed from the proposed version to reflect that one commissioner could not act on behalf of the commission regarding a petition for rulemaking. Therefore, the subsection is amended to clarify that, unless otherwise provided in this section, the administrator will present to the full commission any petition that complies with the requirements of this section.

Section 31.3 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

No comments were received by the commission.

The amendments are adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code; by Government Code §2001.021, which requires the commission to have a rule regarding petitions for rulemaking; and by Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules.

§31.3. Petition for the Adoption of a Rule.

(a) Purpose. This section provides procedures for any interested person (petitioner) to request the Alcoholic Beverage Commission (commission) to adopt a rule.

(b) Content of Petition.

(1) The petition must be in writing. No form is required but all information must be provided, or a reason why required information cannot be provided given.

(2) The petition must contain the following:

(A) petitioner's name, address, organization or affiliation, if any, and the name of the person or entity on whose behalf the petition is filed, if different from the person submitting the petition;

(B) a plain and brief statement about why a rule or change in an existing rule is needed, required, or desirable, including the public good to be served and any effect on those who would be required to comply with the rule;

(C) an estimate of the fiscal impact on state and local government as a result of enforcing or administering the proposed rule, an estimate of the economic impact on persons required to comply with the proposed rule, whether there may be an effect on local employment, and the facts, assumptions and methodology used to prepare estimates and impacts required by this subparagraph;

(D) a statement on the commission's authority to adopt the proposed rule;

(E) the proposed text of a new rule, or proposed changes to an existing rule; and

(F) a list of individuals, organizations or affiliations that may be interested or affected by the proposed rule, if known.

(c) Submission. A petition is submitted on the date it is received by the Administrator. The petition must be addressed to the Administrator, Texas Alcoholic Beverage Commission, and mailed to P.O. Box 13127, Austin, Texas 78711-3127, or hand delivered to the Administrator at commission headquarters in Austin, Texas.

(d) Review. The Administrator will review the petition for compliance with the requirements of this section. If all requirements of this section are met, the Administrator will bring the petition to the commission, except as provided otherwise in this section.

(e) Decision to Deny or Accept. The commission will deny a petition for rulemaking, or accept, in whole or in part, a petition for rulemaking within 60 days from the date the petition is submitted. If the commission neither denies nor accepts the petition within 60 days from the date it is submitted, agency staff will initiate the rulemaking process under Chapter 2001, Subchapter B, of the Government Code. In such case, agency staff may redraft the proposed text to conform to style and format requirements for the agency's rules.

(1) The Administrator will notify the petitioner in writing if the petition is denied and state the reason or reasons for the denial.

(2) The commission will refer an accepted petition to agency staff to initiate the rulemaking process under Chapter 2001, Subchapter B, of the Government Code. Agency staff may redraft the proposed text to conform to style, format and policy decisions of the agency.

(f) Repetitive petitions. The Administrator may refuse to bring a petition for rulemaking to the commission if, within the preceding year, the commission has considered a previously submitted petition for the same rule.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501959

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 206-3489



16 TAC §31.11

The Texas Alcoholic Beverage Commission adopts amendments to §31.11, relating to Resolution and Information on Complaints, with changes to the proposed text as published in the in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2058).

The amendment provides that the commission will notify the complainant of the resolution of a complaint upon request. Alcoholic Beverage Code §5.53(a) requires the commission to have a rule clearly defining the agency's complaint process from the time the complaint is received until it is resolved. Subsections (d) and (e) are changed from the published proposal to reflect the new address of the commission's website.

Section 31.11 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

No comments were received by the commission.

The amendment is adopted pursuant to: Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code; Alcoholic Beverage Code §5.53(a), which requires the commission to have a rule clearly defining the agency's complaint process; and Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules.

§31.11. Resolution and Information on Complaints.

(a) The commission investigates all complaints. The time and resources allocated to an investigation will be based on facts stated in the complaint. Complaints alleging conduct that presents a serious risk to the public health and safety will be given priority.

(b) If an investigation results in a finding that a provision of the Texas Alcoholic Beverage Code (Code) or commission rules have been or may have been violated, the commission may proceed with an action to cancel, suspend, or refuse to issue a permit or license under Chapters 11 and 61 of the Code, and the complainant will be informed if contact information is provided and if the complainant requests to be informed.

(c) If an investigation results in a finding that no violation of the Code or commission rules has occurred, the complainant will be informed of this result if contact information has been provided.

(d) General information and the nature and disposition of complaints can be accessed on the Texas Alcoholic Beverage Commission (TABC) public website at www.tabc.texas.gov.

(e) The public can access the violation history of a license or permit issued by the commission on the TABC public website at www.tabc.texas.gov.

(f) Information about a specific complaint against an individual or entity holding a license, permit or certificate issued by the commission may be obtained by filing a request under the Texas Public

Information Act (TPIA). Some information in a complaint or investigation of a complaint may not be subject to disclosure under the TPIA.

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 May 28, 2015.

TRD-201501960

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 206-3489



CHAPTER 33. LICENSING

SUBCHAPTER A. APPLICATION PROCEDURES

16 TAC §33.2

The Texas Alcoholic Beverage Commission adopts amendments to §33.2, relating to Application and Fee Payment Procedures, without changes to the proposed text as published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2059).

The amendments reflect that all fees and surcharges for the issuance of permits and licenses are now payable directly to the commission and not to the county. Additionally, the amendments recognize that the application process for certificates is likewise subject to specification by the administrator, with payments due to the commission at the time of the application.

Section 33.2 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

No comments were received by the commission.

The amendments are adopted pursuant to: Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code; and Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules.

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

Filed with the Office of the Secretary of State on May 28, 2015.

TRD-201501961

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 17, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 206-3489



16 TAC §33.4

The Texas Alcoholic Beverage Commission adopts amendments to §33.4, relating to Manufacturer's Warehouse License Fee, without changes to the proposed text as published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2060).

The amendments reflect that all fees and surcharges for the issuance of permits and licenses are now payable directly to the commission and not to the county.

Section 33.4 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

No comments were received by the commission.

The amendments are adopted pursuant to: Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code; and Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules.

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

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501962

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 18, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 206-3489



SUBCHAPTER C. LICENSE AND PERMIT ACTION

16 TAC §33.33

The Texas Alcoholic Beverage Commission adopts amendments to §33.33, relating to Notification Requirements, without changes to the proposed text as published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2060).

The section as amended requires the holder of a license, permit, or certificate to maintain a current e-mail address on file with the commission. The section as amended requires that a change to a mailing address must be filed with the commission within seven business days of the change. By deleting the commission's general mailing address in subsection (b)(1), the commission recognizes that the change of address notifications may be filed by license and permit holders at the commission's district offices, as well as at the commission's headquarters. Certificate holders will continue to file changes of address by mail with the Seller/Server Training Division at the commission's headquarters. Subsection (c) clarifies that notices sent by the commission will be sent to the last known mailing address that has actually been filed with the commission.

Section 33.33 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

No comments were received by the commission.

The amendments are adopted pursuant to: Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code; and Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules.

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

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501963

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 18, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 206-3489



CHAPTER 37. LEGAL SUBCHAPTER A. RULES OF PRACTICE

16 TAC §37.5

The Texas Alcoholic Beverage Commission adopts amendments to §37.5, relating to Population in Certain Counties, without changes to the proposed rule text as published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2061). The amendments include changing the title of the section to Determining Population.

Section 37.5 as amended eliminates references to specific rules, applies to all of the commission's rules, and adopts the wording of Code Construction Act §311.005(3).

Section 37.5 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

No comments were received by the commission.

The amendments are adopted pursuant to: Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code, and Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules.

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

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501969

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 18, 2015

Proposal publication date: April 10, 2015

For further information, please call: (512) 206-3489



CHAPTER 45. MARKETING PRACTICES SUBCHAPTER D. ADVERTISING AND PROMOTION--ALL BEVERAGES

16 TAC §45.103

The Texas Alcoholic Beverage Commission adopts amendments to §45.103, relating to On-Premises Promotions, without changes to the proposed text as published in the February 13, 2015, issue of the *Texas Register* (40 TexReg 677).

The amendments apply the same public safety restrictions of the section, which were previously applicable only to retailers, to all permittees and licensees who are authorized to sell or serve alcoholic beverages for on-premises consumption.

In addition to retailers, the Legislature has authorized on-premises consumption by wineries (see Alcoholic Beverage Code (Code) §16.01(a)(5)(A) and (a)(8)), certain distillers (see Code §§14.01(a)(7) and (8), 14.04(a) and 14.05(a)), certain brewers (see Code §12.052) and certain manufacturers (see Code §62.122). Also, some members of the manufacturing tier are authorized to conduct samplings or dispense alcoholic beverages for free where alcoholic beverages are served rather than sold for on-premises consumption.

The commission received comments from Texans Standing Tall stating that the proposed amendments, that are now adopted, are consistent with Alcohol Policy Institute policies regarding price-related promotions, which are considered best practices to combat underage drinking and binge drinking.

The amendments are adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

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

Filed with the Office of the Secretary of State on May 29, 2015.

TRD-201501970

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 18, 2015

Proposal publication date: February 13, 2015

For further information, please call: (512) 206-3489



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §401.158 (Suspension or Revocation of License), §401.160 (Standard Penalty Chart), and §401.368 (Instant Ticket Vending Machines) and the repeal of §401.369 (Online Self-Service Terminals) without changes to the proposed text as published in the April 24, 2015, issue of the *Texas Register* (40 TexReg 2227).

The purpose of the amendments and the repeal is to conform language to reflect the current equipment profile of self-service lottery vending machines deployed in support of lottery ticket sales. All self-service lottery vending machines which are currently used in lottery operations dispense both instant game tickets and draw game lottery tickets. The amendments also clarify that all equipment is deployed with remote shutoff technology provided to retailers to allow for the control of sales transactions. The amendments also clarify the role of the retailer in assisting players with failed purchase transactions on the self-service lottery vending machines.

The Commission received no written comments from any groups, associations or individuals during the public comment period.

SUBCHAPTER B. LICENSING OF SALES AGENTS

16 TAC §401.158, §401.160

The amendments are adopted under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery; and under the authority of Texas Government Code §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This adoption implements Texas Government Code, Chapter 466.

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 May 29, 2015.

TRD-201501978

Bob Biard

General Counsel

Texas Lottery Commission

Effective date: June 18, 2015

Proposal publication date: April 24, 2015

For further information, please call: (512) 344-5012



SUBCHAPTER E. RETAILER RULES

16 TAC §401.368

The following amendments are adopted under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery; and under the authority of Texas Government Code §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This adoption implements Texas Government Code, Chapter 466.

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 May 29, 2015.

TRD-201501979

Bob Biard

General Counsel

Texas Lottery Commission

Effective date: June 18, 2015

Proposal publication date: April 24, 2015

For further information, please call: (512) 344-5012



16 TAC §401.369

The following repeal is adopted under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery; and under the authority of Texas Government Code §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This adoption implements Texas Government Code, Chapter 466.

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 May 29, 2015.

TRD-201501981

Bob Biard

General Counsel

Texas Lottery Commission

Effective date: June 18, 2015

Proposal publication date: April 24, 2015

For further information, please call: (512) 344-5012



TITLE 22. EXAMINING BOARDS

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 291. PHARMACIES

SUBCHAPTER F. NON-RESIDENT PHARMACY (CLASS E)

22 TAC §291.104, §291.106

The Texas State Board of Pharmacy adopts amendments to §291.104 concerning Operational Standards and §291.106 concerning Pharmacies Compounding Sterile Preparations (Class E-S). The amendments are adopted without changes to the proposed text as published in the March 27, 2015, issue of the *Texas Register* (40 TexReg 1786).

The amendments clarify the requirements for Class E pharmacies; and update the patient counseling and prescription transfer requirements to be consistent with other sections.

No comments were received.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by the amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

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

Filed with the Office of the Secretary of State on May 22, 2015.

TRD-201501889

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Effective date: June 11, 2015

Proposal publication date: March 27, 2015

For further information, please call: (512) 305-8028



SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

22 TAC §291.133

The Texas State Board of Pharmacy adopts amendments to §291.133, concerning Pharmacies Compounding Sterile Preparations. The amendments are adopted with changes to the proposed text as published in the March 27, 2015, issue of the *Texas Register* (40 TexReg 1788).

The amendments add a definition for compounding personnel; clarify the in-process checks and evaluation of aseptic technique procedures; require media-fill tests for the most challenging or stressful conditions; and update requirements to be consistent with USP 797 requirements. The Board made changes to the proposed language to clarify the requirements for in-process and final checks.

Comments were received as follows: The Texas Society of Health-System Pharmacists recommended that the requirements regarding chemotherapy gloves be amended to read: "When preparing hazardous preparations, the compounder shall double glove or shall use single gloves ensuring that the gloves are sterile powder-free chemotherapy-rated gloves." The Board agrees with the comment and made the recommended change. Hartley-Medical recommended that the requirement for pharmacies to use sterile 70% IPA based surgical hand scrub be changed to require a waterless alcohol-based surgical hand scrub. The Board agrees with the comment and made the recommended change.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by the amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.133. *Pharmacies Compounding Sterile Preparations.*

(a) Purpose. Pharmacies compounding sterile preparations, prepackaging pharmaceutical products, and distributing those products shall comply with all requirements for their specific license classification and this section. The purpose of this section is to provide standards for the:

(1) compounding of sterile preparations pursuant to a prescription or medication order for a patient from a practitioner in Class A-S, Class B, Class C-S, and Class E-S pharmacies;

(2) compounding, dispensing, and delivery of a reasonable quantity of a compounded sterile preparation in Class A-S, Class B, Class C-S, and Class E-S pharmacies to a practitioner's office for office use by the practitioner;

(3) compounding and distribution of compounded sterile preparations by a Class A-S pharmacy for a Class C-S pharmacy; and

(4) compounding of sterile preparations by a Class C-S pharmacy and the distribution of the compounded preparations to other Class C or Class C-S pharmacies under common ownership.

(b) Definitions. In addition to the definitions for specific license classifications, the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Airborne particulate cleanliness class--The level of cleanliness specified by the maximum allowable number of particles per cubic meter of air as specified in the International Organization of Standardization (ISO) Classification Air Cleanliness (ISO 14644-1). For example:

(A) ISO Class 5 (formerly Class 100) is an atmospheric environment that contains less than 3,520 particles 0.5 microns in diameter per cubic meter of air (formerly stated as 100 particles 0.5 microns in diameter per cubic foot of air);

(B) ISO Class 7 (formerly Class 10,000) is an atmospheric environment that contains less than 352,000 particles 0.5 microns in diameter per cubic meter of air (formerly stated as 10,000 particles 0.5 microns in diameter per cubic foot of air); and

(C) ISO Class 8 (formerly Class 100,000) is an atmospheric environment that contains less than 3,520,000 particles 0.5 microns in diameter per cubic meter of air (formerly stated as 100,000 particles 0.5 microns in diameter per cubic foot of air).

(3) Ancillary supplies--Supplies necessary for the preparation and administration of compounded sterile preparations.

(4) Ante-area--An ISO Class 8 or better area where personnel may perform hand hygiene and garbing procedures, staging of components, order entry, labeling, and other high-particulate generating activities. It is also a transition area that:

(A) provides assurance that pressure relationships are constantly maintained so that air flows from clean to dirty areas; and

(B) reduces the need for the heating, ventilating and air conditioning (HVAC) control system to respond to large disturbances.

(5) Aseptic Processing--A mode of processing pharmaceutical and medical preparations that involves the separate sterilization of the preparation and of the package (containers-closures or packaging material for medical devices) and the transfer of the preparation into the container and its closure under at least ISO Class 5 conditions.

(6) Automated compounding device--An automated device that compounds, measures, and/or packages a specified quantity of individual components in a predetermined sequence for a designated sterile preparation.

(7) Batch--A specific quantity of a drug or other material that is intended to have uniform character and quality, within specified limits, and is produced during a single preparation cycle.

(8) Batch preparation compounding--Compounding of multiple sterile preparation units, in a single discrete process, by the same individual(s), carried out during one limited time period. Batch preparation/compounding does not include the preparation of multiple sterile preparation units pursuant to patient specific medication orders.

(9) Beyond-use date--The date or time after which the compounded sterile preparation shall not be stored or transported or begin to be administered to a patient. The beyond-use date is determined from the date or time the preparation is compounded.

(10) Biological Safety Cabinet, Class II--A ventilated cabinet for personnel, product or preparation, and environmental protection having an open front with inward airflow for personnel protection, downward HEPA filtered laminar airflow for product protection, and HEPA filtered exhausted air for environmental protection.

(11) Buffer Area--An ISO Class 7 area where the primary engineering control area is physically located. Activities that occur in this area include the preparation and staging of components and supplies used when compounding sterile preparations.

(12) Clean room--A room in which the concentration of airborne particles is controlled to meet a specified airborne particulate cleanliness class. Microorganisms in the environment are monitored so that a microbial level for air, surface, and personnel gear are not exceeded for a specified cleanliness class.

(13) Component--Any ingredient intended for use in the compounding of a drug preparation, including those that may not appear in such preparation.

(14) Compounding--The preparation, mixing, assembling, packaging, or labeling of a drug or device:

(A) as the result of a practitioner's prescription drug or medication order based on the practitioner-patient-pharmacist relationship in the course of professional practice;

(B) for administration to a patient by a practitioner as the result of a practitioner's initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice;

(C) in anticipation of prescription drug or medication orders based on routine, regularly observed prescribing patterns; or

(D) for or as an incident to research, teaching, or chemical analysis and not for sale or dispensing, except as allowed under §562.154 or Chapter 563 of the Occupations Code.

(15) Compounding Aseptic Isolator--A form of barrier isolator specifically designed for compounding pharmaceutical ingredients or preparations. It is designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer processes. Air exchange into the isolator from the surrounding environment shall not occur unless it has first passed through a microbial retentive filter (HEPA minimum).

(16) Compounding Aseptic Containment Isolator--A compounding aseptic isolator designed to provide worker protection from exposure to undesirable levels of airborne drug throughout the compounding and material transfer processes and to provide an aseptic environment for compounding sterile preparations. Air exchange with the surrounding environment should not occur unless the air is first passed through a microbial retentive filter (HEPA minimum) system capable of containing airborne concentrations of the physical size and state of the drug being compounded. Where volatile hazardous drugs

are prepared, the exhaust air from the isolator should be appropriately removed by properly designed building ventilation.

(17) Compounding Personnel--A pharmacist, pharmacy technician, or pharmacy technician trainee who performs the actual compounding; a pharmacist who supervises pharmacy technicians or pharmacy technician trainees compounding sterile preparations, and a pharmacist who performs an intermediate or final verification of a compounded sterile preparation.

(18) Critical Area--An ISO Class 5 environment.

(19) Critical Sites--A location that includes any component or fluid pathway surfaces (e.g., vial septa, injection ports, beakers) or openings (e.g., opened ampuls, needle hubs) exposed and at risk of direct contact with air (e.g., ambient room or HEPA filtered), moisture (e.g., oral and mucosal secretions), or touch contamination. Risk of microbial particulate contamination of the critical site increases with the size of the openings and exposure time.

(20) Device--An instrument, apparatus, implement, machine, contrivance, implant, in-vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

(21) Direct Compounding Area--A critical area within the ISO Class 5 primary engineering control where critical sites are exposed to unidirectional HEPA-filtered air, also known as first air.

(22) Disinfectant--An agent that frees from infection, usually a chemical agent but sometimes a physical one, and that destroys disease-causing pathogens or other harmful microorganisms but may not kill bacterial and fungal spores. It refers to substances applied to inanimate objects.

(23) First Air--The air exiting the HEPA filter in a unidirectional air stream that is essentially particle free.

(24) Hazardous Drugs--Drugs that, studies in animals or humans indicate exposure to the drugs, have a potential for causing cancer, development or reproductive toxicity, or harm to organs.

(25) Hot water--The temperature of water from the pharmacy's sink maintained at a minimum of 105 degrees F (41 degrees C).

(26) HVAC--Heating, ventilation, and air conditioning.

(27) Immediate use--A sterile preparation that is not prepared according to USP 797 standards (i.e., outside the pharmacy and most likely not by pharmacy personnel) which shall be stored for no longer than one hour after completion of the preparation.

(28) IPA--Isopropyl alcohol (2-propanol).

(29) Labeling--All labels and other written, printed, or graphic matter on an immediate container of an article or preparation or on, or in, any package or wrapper in which it is enclosed, except any outer shipping container. The term "label" designates that part of the labeling on the immediate container.

(30) Media-Fill Test--A test used to qualify aseptic technique of compounding personnel or processes and to ensure that the processes used are able to produce sterile preparation without microbial contamination. During this test, a microbiological growth medium such as Soybean-Casein Digest Medium is substituted for the actual drug preparation to simulate admixture compounding. The issues to consider in the development of a media-fill test are the following: media-fill procedures, media selection, fill volume, incubation, time and temperature, inspection of filled units, documentation, interpretation of results, and possible corrective actions required.

(31) Multiple-Dose Container--A multiple-unit container for articles or preparations intended for potential administration only and usually contains antimicrobial preservatives. The beyond-use date for an opened or entered (e.g., needle-punctured) multiple-dose container with antimicrobial preservatives is 28 days, unless otherwise specified by the manufacturer.

(32) Negative Pressure Room--A room that is at a lower pressure compared to adjacent spaces and, therefore, the net flow of air is into the room.

(33) Office use--The administration of a compounded drug to a patient by a practitioner in the practitioner's office or by the practitioner in a health care facility or treatment setting, including a hospital, ambulatory surgical center, or pharmacy in accordance with Chapter 562 of the Act, or for administration or provision by a veterinarian in accordance with §563.054 of the Act.

(34) Pharmacy Bulk Package--A container of a sterile preparation for potential use that contains many single doses. The contents are intended for use in a pharmacy admixture program and are restricted to the preparation of admixtures for infusion or, through a sterile transfer device, for the filling of empty sterile syringes. The closure shall be penetrated only one time after constitution with a suitable sterile transfer device or dispensing set, which allows measured dispensing of the contents. The pharmacy bulk package is to be used only in a suitable work area such as a laminar flow hood (or an equivalent clean air compounding area).

(35) Prepackaging--The act of repackaging and relabeling quantities of drug products from a manufacturer's original container into unit dose packaging or a multiple dose container for distribution within a facility licensed as a Class C pharmacy or to other pharmacies under common ownership for distribution within those facilities. The term as defined does not prohibit the prepackaging of drug products for use within other pharmacy classes.

(36) Preparation or Compounded Sterile Preparation--A sterile admixture compounded in a licensed pharmacy or other health-care-related facility pursuant to the order of a licensed prescriber. The components of the preparation may or may not be sterile products.

(37) Primary Engineering Control--A device or room that provides an ISO Class 5 environment for the exposure of critical sites when compounding sterile preparations. Such devices include, but may not be limited to, laminar airflow workbenches, biological safety cabinets, compounding aseptic isolators, and compounding aseptic containment isolators.

(38) Product--A commercially manufactured sterile drug or nutrient that has been evaluated for safety and efficacy by the U.S. Food and Drug Administration (FDA). Products are accompanied by full prescribing information, which is commonly known as the FDA-approved manufacturer's labeling or product package insert.

(39) Positive Control--A quality assurance sample prepared to test positive for microbial growth.

(40) Positive Pressure Room--A room that is at a higher pressure compared to adjacent spaces and, therefore, the net airflow is out of the room.

(41) Quality assurance--The set of activities used to ensure that the process used in the preparation of sterile drug preparations lead to preparations that meet predetermined standards of quality.

(42) Quality control--The set of testing activities used to determine that the ingredients, components (e.g., containers), and final compounded sterile preparations prepared meet predetermined requirements with respect to identity, purity, non-pyrogenicity, and sterility.

(43) Reasonable quantity--An amount of a compounded drug that:

(A) does not exceed the amount a practitioner anticipates may be used in the practitioner's office or facility before the beyond use date of the drug;

(B) is reasonable considering the intended use of the compounded drug and the nature of the practitioner's practice; and

(C) for any practitioner and all practitioners as a whole, is not greater than an amount the pharmacy is capable of compounding in compliance with pharmaceutical standards for identity, strength, quality, and purity of the compounded drug that are consistent with United States Pharmacopoeia guidelines and accreditation practices.

(44) Segregated Compounding Area--A designated space, either a demarcated area or room, that is restricted to preparing low-risk level compounded sterile preparations with 12-hour or less beyond-use date. Such area shall contain a device that provides unidirectional airflow of ISO Class 5 air quality for preparation of compounded sterile preparations and shall be void of activities and materials that are extraneous to sterile compounding.

(45) Single-dose container--A single-unit container for articles or preparations intended for parenteral administration only. It is intended for a single use. A single-dose container is labeled as such. Examples of single-dose containers include pre-filled syringes, cartridges, fusion-sealed containers, and closure-sealed containers when so labeled.

(46) SOPs--Standard operating procedures.

(47) Sterilizing Grade Membranes--Membranes that are documented to retain 100% of a culture of 10⁷ microorganisms of a strain of *Brevundimonas* (*Pseudomonas*) *diminuta* per square centimeter of membrane surface under a pressure of not less than 30 psi (2.0 bar). Such filter membranes are nominally at 0.22-micrometer or 0.2-micrometer nominal pore size, depending on the manufacturer's practice.

(48) Sterilization by Filtration--Passage of a fluid or solution through a sterilizing grade membrane to produce a sterile effluent.

(49) Terminal Sterilization--The application of a lethal process, e.g., steam under pressure or autoclaving, to sealed final preparation containers for the purpose of achieving a predetermined sterility assurance level of usually less than 10⁻⁶ or a probability of less than one in one million of a non-sterile unit.

(50) Unidirectional Flow--An airflow moving in a single direction in a robust and uniform manner and at sufficient speed to reproducibly sweep particles away from the critical processing or testing area.

(51) USP/NF--The current edition of the United States Pharmacopoeia/National Formulary.

(c) Personnel.

(1) Pharmacist-in-charge.

(A) General. The pharmacy shall have a pharmacist-in-charge in compliance with the specific license classification of the pharmacy.

(B) Responsibilities. In addition to the responsibilities for the specific class of pharmacy, the pharmacist-in-charge shall have the responsibility for, at a minimum, the following concerning the compounding of sterile preparations:

(i) developing a system to ensure that all pharmacy personnel responsible for compounding and/or supervising the compounding of sterile preparations within the pharmacy receive appropriate education and training and competency evaluation;

(ii) determining that all personnel involved in compounding sterile preparations obtain continuing education appropriate for the type of compounding done by the personnel;

(iii) supervising a system to ensure appropriate procurement of drugs and devices and storage of all pharmaceutical materials including pharmaceuticals, components used in the compounding of sterile preparations, and drug delivery devices;

(iv) ensuring that the equipment used in compounding is properly maintained;

(v) developing a system for the disposal and distribution of drugs from the pharmacy;

(vi) developing a system for bulk compounding or batch preparation of drugs;

(vii) developing a system for the compounding, sterility assurance, quality assurance, and quality control of sterile preparations; and

(viii) if applicable, ensuring that the pharmacy has a system to dispose of hazardous waste in a manner so as not to endanger the public health.

(2) Pharmacists.

(A) General.

(i) A pharmacist is responsible for ensuring that compounded sterile preparations are accurately identified, measured, diluted, and mixed and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed.

(ii) A pharmacist shall inspect and approve all components, drug preparation containers, closures, labeling, and any other materials involved in the compounding process.

(iii) A pharmacist shall review all compounding records for accuracy and conduct in-process and final checks and verification of calculations to ensure that errors have not occurred in the compounding process.

(iv) A pharmacist is responsible for ensuring the proper maintenance, cleanliness, and use of all equipment used in the compounding process.

(v) A pharmacist shall be accessible at all times, 24 hours a day, to respond to patients' and other health professionals' questions and needs.

(B) Prior to September 1, 2015 - initial training and continuing education.

(i) All pharmacists who compound sterile preparations for administration to patients or supervise pharmacy technicians and pharmacy technician trainees compounding sterile preparations shall:

(I) complete through a single course, a minimum of 20 hours of instruction and experience in the areas listed in paragraph (4)(D) of this subsection. Such training may be obtained through:

(-a-) completion of a structured on-the-job didactic and experiential training program at this pharmacy which provides 20 hours of instruction and experience. Such training may not be transferred to another pharmacy unless the pharmacies are under common ownership and control and use a common training program; or

(-b-) completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE accredited provider which provides 20 hours of instruction and experience;

(II) possess knowledge about:

(-a-) aseptic processing;

(-b-) quality control and quality assurance as related to environmental, component, and finished preparation release checks and tests;

(-c-) chemical, pharmaceutical, and clinical properties of drugs;

(-d-) container, equipment, and closure system selection; and

(-e-) sterilization techniques.

(ii) The required experiential portion of the training programs specified in this subparagraph must be supervised by an individual who has already completed training as specified in this paragraph or paragraph (3) of this subsection.

(iii) All pharmacists engaged in compounding sterile preparations shall obtain continuing education appropriate for the type of compounding done by the pharmacist.

(C) Effective September 1, 2015 - initial training and continuing education.

(i) All pharmacists who compound sterile preparations or supervise pharmacy technicians and pharmacy technician trainees compounding sterile preparations shall comply with the following:

(I) complete through a single course, a minimum of 20 hours of instruction and experience in the areas listed in paragraph (4)(D) of this subsection. Such training shall be obtained through completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE accredited provider;

(II) complete a structured on-the-job didactic and experiential training program at this pharmacy which provides sufficient hours of instruction and experience in the facility's sterile compounding processes and procedures. Such training may not be transferred to another pharmacy unless the pharmacies are under common ownership and control and use a common training program; and

(III) possess knowledge about:

(-a-) aseptic processing;

(-b-) quality control and quality assurance as related to environmental, component, and finished preparation release checks and tests;

(-c-) chemical, pharmaceutical, and clinical properties of drugs;

(-d-) container, equipment, and closure system selection; and

(-e-) sterilization techniques.

(ii) The required experiential portion of the training programs specified in this subparagraph must be supervised by an individual who is actively engaged in performing sterile compounding and is qualified and has completed training as specified in this paragraph or paragraph (3) of this subsection.

(iii) In order to renew a license to practice pharmacy, during the previous licensure period, a pharmacist engaged in sterile compounding shall complete a minimum of:

(I) two hours of ACPE-accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of

this subsection if the pharmacist is engaged in compounding low and medium risk sterile preparations; or

(II) four hours of ACPE-accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if the pharmacist is engaged in compounding high risk sterile preparations.

(3) Pharmacy technicians and pharmacy technician trainees.

(A) General. All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) Prior to September 1, 2015 - initial training and continuing education. In addition to specific qualifications for registration, all pharmacy technicians and pharmacy technician trainees who compound sterile preparations for administration to patients shall:

(i) have initial training obtained either through completion of:

(I) a single course, a minimum of 40 hours of instruction and experience in the areas listed in paragraph (4)(D) of this subsection. Such training may be obtained through:

(-a-) completion of a structured on-the-job didactic and experiential training program at this pharmacy which provides 40 hours of instruction and experience. Such training may not be transferred to another pharmacy unless the pharmacies are under common ownership and control and use a common training program; or

(-b-) completion of a course sponsored by an ACPE accredited provider which provides 40 hours of instruction and experience; or

(II) a training program which is accredited by the American Society of Health-System Pharmacists. Individuals enrolled in training programs accredited by the American Society of Health-System Pharmacists may compound sterile preparations in a licensed pharmacy provided the:

(-a-) compounding occurs only during times the individual is assigned to a pharmacy as a part of the experiential component of the American Society of Health-System Pharmacists training program;

(-b-) individual is under the direct supervision of and responsible to a pharmacist who has completed training as specified in paragraph (2) of this subsection; and

(-c-) supervising pharmacist conducts periodic in-process checks as defined in the pharmacy's policy and procedures; and

(-d-) supervising pharmacist conducts a final check.

(ii) acquire the required experiential portion of the training programs specified in this subparagraph under the supervision of an individual who has already completed training as specified in paragraph (2) of this subsection or this paragraph.

(C) Effective September 1, 2015 - initial training and continuing education.

(i) Pharmacy technicians and pharmacy technician trainees may compound sterile preparations provided the pharmacy technicians and/or pharmacy technician trainees are supervised by a pharmacist who has completed the training specified in paragraph (2) of this subsection, conducts in-process and final checks, and affixes his or her initials to the appropriate quality control records.

(ii) All pharmacy technicians and pharmacy technician trainees who compound sterile preparations for administration to patients shall:

(I) have initial training obtained either through completion of:

(-a-) a single course, a minimum of 40 hours of instruction and experience in the areas listed in paragraph (4)(D) of this subsection. Such training shall be obtained through completion of a course sponsored by an ACPE accredited provider which provides 40 hours of instruction and experience; or

(-b-) a training program which is accredited by the American Society of Health-System Pharmacists.

(II) and

(-a-) complete a structured on-the-job didactic and experiential training program at this pharmacy which provides sufficient hours of instruction and experience in the facility's sterile compounding processes and procedures. Such training may not be transferred to another pharmacy unless the pharmacies are under common ownership and control and use a common training program; and

(-b-) possess knowledge about:

(-1-) aseptic processing;

(-2-) quality control and quality assurance as related to environmental, component, and finished preparation release checks and tests;

(-3-) chemical, pharmaceutical, and clinical properties of drugs;

(-4-) container, equipment, and closure system selection; and

(-5-) sterilization techniques.

(iii) Individuals enrolled in training programs accredited by the American Society of Health-System Pharmacists may compound sterile preparations in a licensed pharmacy provided the:

(I) compounding occurs only during times the individual is assigned to a pharmacy as a part of the experiential component of the American Society of Health-System Pharmacists training program;

(II) individual is under the direct supervision of and responsible to a pharmacist who has completed training as specified in paragraph (2) of this subsection; and

(III) supervising pharmacist conducts periodic in-process checks as defined in the pharmacy's policy and procedures; and

(IV) supervising pharmacist conducts a final check.

(iv) The required experiential portion of the training programs specified in this subparagraph must be supervised by an individual who is actively engaged in performing sterile compounding, is qualified and has completed training as specified in paragraph (2) of this subsection or this paragraph.

(v) In order to renew a registration as a pharmacy technician, during the previous registration period, a pharmacy technician engaged in sterile compounding shall complete a minimum of:

(I) two hours of ACPE accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if the pharmacy technician is engaged in compounding low and medium risk sterile preparations; or

(II) four hours of ACPE accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if pharmacy technician is engaged in compounding high risk sterile preparations.

(4) Evaluation and testing requirements.

(A) All pharmacy personnel preparing sterile preparations shall be trained conscientiously and skillfully by expert personnel through multimedia instructional sources and professional publications in the theoretical principles and practical skills of aseptic manipulations, garbing procedures, aseptic work practices, achieving and maintaining ISO Class 5 environmental conditions, and cleaning and disinfection procedures before beginning to prepare compounded sterile preparations.

(B) All pharmacy personnel preparing sterile preparations shall perform didactic review and pass written and media-fill testing of aseptic manipulative skills initially followed by:

- (i) every 12 months for low- and medium-risk level compounding; and
- (ii) every six months for high-risk level compounding.

(C) Pharmacy personnel who fail written tests or whose media-fill test vials result in gross microbial colonization shall:

- (i) be immediately re-instructed and re-evaluated by expert compounding personnel to ensure correction of all aseptic practice deficiencies; and
- (ii) not be allowed to compound sterile preparations for patient use until passing results are achieved.

(D) The didactic and experiential training shall include instruction, experience, and demonstrated proficiency in the following areas:

- (i) aseptic technique;
- (ii) critical area contamination factors;
- (iii) environmental monitoring;
- (iv) structure and engineering controls related to facilities;
- (v) equipment and supplies;
- (vi) sterile preparation calculations and terminology;
- (vii) sterile preparation compounding documentation;
- (viii) quality assurance procedures;
- (ix) aseptic preparation procedures including proper gowning and gloving technique;
- (x) handling of hazardous drugs, if applicable;
- (xi) cleaning procedures; and
- (xii) general conduct in the clean room.

(E) The aseptic technique of each person compounding or responsible for the direct supervision of personnel compounding sterile preparations shall be observed and evaluated by expert personnel as satisfactory through written and practical tests, and media-fill challenge testing, and such evaluation documented. Compounding personnel shall not evaluate their own aseptic technique or results of their own media-fill challenge testing.

(F) Media-fill tests must be conducted at each pharmacy where an individual compounds sterile preparations. No preparation intended for patient use shall be compounded by an individual until the on-site media-fill tests indicate that the individual can competently perform aseptic procedures, except that a pharmacist may temporarily compound sterile preparations and supervise pharmacy technicians compounding sterile preparations without media-fill tests provided the pharmacist completes the on-site media-fill tests within seven days of commencing work at the pharmacy.

(G) Media-fill tests procedures for assessing the preparation of specific types of sterile preparations shall be representative of the most challenging or stressful conditions encountered by the pharmacy personnel being evaluated and, if applicable, for sterilizing high-risk level compounded sterile preparations.

(H) Media-fill challenge tests simulating high-risk level compounding shall be used to verify the capability of the compounding environment and process to produce a sterile preparation.

(I) Commercially available sterile fluid culture media, such as Soybean-Casein Digest Medium shall be able to promote exponential colonization of bacteria that are most likely to be transmitted to compounding sterile preparations from the compounding personnel and environment. Media-filled vials are generally incubated at 20 to 25 or at 30 to 35 for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature. Failure is indicated by visible turbidity in the medium on or before 14 days.

(J) The pharmacist-in-charge shall ensure continuing competency of pharmacy personnel through in-service education, training, and media-fill tests to supplement initial training. Personnel competency shall be evaluated:

- (i) during orientation and training prior to the regular performance of those tasks;
- (ii) whenever the quality assurance program yields an unacceptable result;
- (iii) whenever unacceptable techniques are observed; and
- (iv) at least on an annual basis for low- and medium-risk level compounding, and every six months for high-risk level compounding.

(K) The pharmacist-in-charge shall ensure that proper hand hygiene and garbing practices of compounding personnel are evaluated prior to compounding, supervising, or verifying sterile preparations intended for patient use and whenever an aseptic media fill is performed.

(i) Sampling of compounding personnel glove fingertips shall be performed for all risk level compounding.

(ii) All compounding personnel shall demonstrate competency in proper hand hygiene and garbing procedures and in aseptic work practices (e.g., disinfection of component surfaces, routine disinfection of gloved hands).

(iii) Sterile contact agar plates shall be used to sample the gloved fingertips of compounding personnel after garbing in order to assess garbing competency and after completing the media-fill preparation (without applying sterile 70% IPA).

(iv) The visual observation shall be documented and maintained to provide a permanent record and long-term assessment of personnel competency.

(v) All compounding personnel shall successfully complete an initial competency evaluation and gloved fingertip/thumb sampling procedure no less than three times before initially being allowed to compound sterile preparations for patient use. Immediately after the compounding personnel completes the hand hygiene and garbing procedure (i.e., after donning of sterile gloves and before any disinfecting with sterile 70% IPA), the evaluator will collect a gloved fingertip and thumb sample from both hands of the compounding personnel onto agar plates or media test paddles by having the individual lightly touching each fingertip onto the agar. The test plates or test paddles will be incubated for the appropriate incubation period and at the appropriate temperature. Results of the initial gloved fingertip evaluations shall indicate zero colony-forming units (0 CFU) growth on the agar plates or media test paddles, or the test shall be considered a failure. In the event of a failed gloved fingertip test, the evaluation shall be repeated until the individual can successfully don sterile gloves and pass the gloved fingertip evaluation, defined as zero CFUs growth. No preparation intended for patient use shall be compounded by an individual until the results of the initial gloved fingertip evaluation indicate that the individual can competently perform aseptic procedures except that a pharmacist may temporarily supervise pharmacy technicians compounding sterile preparations while waiting for the results of the evaluation for no more than three days.

(vi) Re-evaluation of all compounding personnel shall occur at least annually for compounding personnel who compound low and medium risk level preparations and every six months for compounding personnel who compound high risk level preparations. Results of gloved fingertip tests conducted immediately after compounding personnel complete a compounding procedure shall indicate no more than 3 CFUs growth, or the test shall be considered a failure, in which case, the evaluation shall be repeated until an acceptable test can be achieved (i.e., the results indicated no more than 3 CFUs growth).

(L) The pharmacist-in-charge shall ensure surface sampling shall be conducted in all ISO classified areas on a periodic basis. Sampling shall be accomplished using contact plates at the conclusion of compounding. The sample area shall be gently touched with the agar surface by rolling the plate across the surface to be sampled.

(5) Documentation of Training. The pharmacy shall maintain a record of the training and continuing education on each person who compounds sterile preparations. The record shall contain, at a minimum, a written record of initial and in-service training, education, and the results of written and practical testing and media-fill testing of pharmacy personnel. The record shall be maintained and available for inspection by the board and contain the following information:

(A) name of the person receiving the training or completing the testing or media-fill tests;

(B) date(s) of the training, testing, or media-fill challenge testing;

(C) general description of the topics covered in the training or testing or of the process validated;

(D) name of the person supervising the training, testing, or media-fill challenge testing; and

(E) signature or initials of the person receiving the training or completing the testing or media-fill challenge testing and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training, testing, or media-fill challenge testing of personnel.

(d) Operational Standards.

(1) General Requirements.

(A) Sterile preparations may be compounded:

(i) upon presentation of a practitioner's prescription drug or medication order based on a valid pharmacist/patient/prescriber relationship;

(ii) in anticipation of future prescription drug or medication orders based on routine, regularly observed prescribing patterns; or

(iii) in reasonable quantities for office use by a practitioner and for use by a veterinarian.

(B) Sterile compounding in anticipation of future prescription drug or medication orders must be based upon a history of receiving valid prescriptions issued within an established pharmacist/patient/prescriber relationship, provided that in the pharmacist's professional judgment the quantity prepared is stable for the anticipated shelf time.

(i) The pharmacist's professional judgment shall be based on the criteria used to determine a beyond-use date outlined in paragraph (6)(G) of this subsection.

(ii) Documentation of the criteria used to determine the stability for the anticipated shelf time must be maintained and be available for inspection.

(iii) Any preparation compounded in anticipation of future prescription drug or medication orders shall be labeled. Such label shall contain:

(I) name and strength of the compounded preparation or list of the active ingredients and strengths;

(II) facility's lot number;

(III) beyond-use date as determined by the pharmacist using appropriate documented criteria as outlined in paragraph (6)(G) of this subsection;

(IV) quantity or amount in the container;

(V) appropriate ancillary instructions, such as storage instructions or cautionary statements, including hazardous drug warning labels where appropriate; and

(VI) device-specific instructions, where appropriate.

(C) Commercially available products may be compounded for dispensing to individual patients or for office use provided the following conditions are met:

(i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet patient's needs;

(ii) the pharmacy maintains documentation that the product is not reasonably available due to a drug shortage or unavailability from the manufacturer; and

(iii) the prescribing practitioner has requested that the drug be compounded as described in subparagraph (D) of this paragraph.

(D) A pharmacy may not compound preparations that are essentially copies of commercially available products (e.g., the preparation is dispensed in a strength that is only slightly different from a commercially available product) unless the prescribing practitioner specifically orders the strength or dosage form and specifies why the patient needs the particular strength or dosage form of the

preparation or why the preparation for office use is needed in the particular strength or dosage form of the preparation. The prescribing practitioner shall provide documentation of a patient specific medical need and the preparation produces a clinically significant therapeutic response (e.g., the physician requests an alternate preparation due to hypersensitivity to excipients or preservative in the FDA-approved product, or the physician requests an effective alternate dosage form) or if the drug product is not commercially available. The unavailability of such drug product must be documented prior to compounding. The methodology for documenting unavailability includes maintaining a copy of the wholesaler's notification showing back-ordered, discontinued, or out-of-stock items. This documentation must be available in hard-copy or electronic format for inspection by the board.

(E) A pharmacy may enter into an agreement to compound and dispense prescription/medication orders for another pharmacy provided the pharmacy complies with the provisions of §291.125 of this title (relating to Centralized Prescription Dispensing).

(F) Compounding pharmacies/pharmacists may advertise and promote the fact that they provide sterile prescription compounding services, which may include specific drug preparations and classes of drugs.

(G) A pharmacy may not compound veterinary preparations for use in food producing animals except in accordance with federal guidelines.

(2) Microbial Contamination Risk Levels. Risk Levels for sterile compounded preparations shall be as outlined in Chapter 797, Pharmacy Compounding--Sterile Preparations of the USP/NF and as listed in this paragraph.

(A) Low-risk level compounded sterile preparations.

(i) Low-Risk conditions. Low-risk level compounded sterile preparations are those compounded under all of the following conditions.

(I) The compounded sterile preparations are compounded with aseptic manipulations entirely within ISO Class 5 or better air quality using only sterile ingredients, products, components, and devices.

(II) The compounding involves only transfer, measuring, and mixing manipulations using not more than three commercially manufactured packages of sterile products and not more than two entries into any one sterile container or package (e.g., bag, vial) of sterile product or administration container/device to prepare the compounded sterile preparation.

(III) Manipulations are limited to aseptically opening ampuls, penetrating disinfected stoppers on vials with sterile needles and syringes, and transferring sterile liquids in sterile syringes to sterile administration devices, package containers of other sterile products, and containers for storage and dispensing.

(IV) For a low-risk preparation, in the absence of direct sterility testing results or appropriate information sources that justify different limits, the storage periods may not exceed the following periods: before administration the compounded sterile preparation is stored properly and are exposed for not more than 48 hours at controlled room temperature, for not more than 14 days if stored at a cold temperature, and for 45 days if stored in a frozen state between minus 25 degrees Celsius and minus 10 degrees Celsius. For delayed activation device systems, the storage period begins when the device is activated.

(ii) Examples of Low-Risk Compounding. Examples of low-risk compounding include the following.

(I) Single volume transfers of sterile dosage forms from ampuls, bottles, bags, and vials using sterile syringes with sterile needles, other administration devices, and other sterile containers. The solution content of ampules shall be passed through a sterile filter to remove any particles.

(II) Simple aseptic measuring and transferring with not more than three packages of manufactured sterile products, including an infusion or diluent solution to compound drug admixtures and nutritional solutions.

(B) Low-Risk Level compounded sterile preparations with 12-hour or less beyond-use date. Low-risk level compounded sterile preparations are those compounded pursuant to a physician's order for a specific patient under all of the following conditions.

(i) The compounded sterile preparations are compounded in compounding aseptic isolator or compounding aseptic containment isolator that does not meet the requirements described in paragraph (7)(C) or (D) of this subsection (relating to Primary Engineering Control Device) or the compounded sterile preparations are compounded in laminar airflow workbench or a biological safety cabinet that cannot be located within an ISO Class 7 buffer area.

(ii) The primary engineering control device shall be certified and maintain ISO Class 5 for exposure of critical sites and shall be located in a segregated compounding area restricted to sterile compounding activities that minimizes the risk of contamination of the compounded sterile preparation.

(iii) The segregated compounding area shall not be in a location that has unsealed windows or doors that connect to the outdoors or high traffic flow, or that is adjacent to construction sites, warehouses, or food preparation.

(iv) For a low-risk preparation compounded as described in clauses (i) - (iii) of this subparagraph, administration of such compounded sterile preparations must commence within 12 hours of preparation or as recommended in the manufacturers' package insert, whichever is less.

(C) Medium-risk level compounded sterile preparations.

(i) Medium-Risk Conditions. Medium-risk level compounded sterile preparations, are those compounded aseptically under low-risk conditions and one or more of the following conditions exists.

(I) Multiple individual or small doses of sterile products are combined or pooled to prepare a compounded sterile preparation that will be administered either to multiple patients or to one patient on multiple occasions.

(II) The compounding process includes complex aseptic manipulations other than the single-volume transfer.

(III) The compounding process requires unusually long duration, such as that required to complete the dissolution or homogenous mixing (e.g., reconstitution of intravenous immunoglobulin or other intravenous protein products).

(IV) The compounded sterile preparations do not contain broad spectrum bacteriostatic substances and they are administered over several days (e.g., an externally worn infusion device).

(V) For a medium-risk preparation, in the absence of direct sterility testing results the beyond use dates may not exceed the following time periods: before administration, the compounded sterile preparations are properly stored and are exposed for not more than 30 hours at controlled room temperature, for not

more than 9 days at a cold temperature, and for 45 days in solid frozen state between minus 25 degrees Celsius and minus 10 degrees Celsius.

(ii) Examples of medium-risk compounding. Examples of medium-risk compounding include the following.

(I) Compounding of total parenteral nutrition fluids using a manual or automated device during which there are multiple injections, detachments, and attachments of nutrient source products to the device or machine to deliver all nutritional components to a final sterile container.

(II) Filling of reservoirs of injection and infusion devices with more than three sterile drug products and evacuations of air from those reservoirs before the filled device is dispensed.

(III) Filling of reservoirs of injection and infusion devices with volumes of sterile drug solutions that will be administered over several days at ambient temperatures between 25 and 40 degrees Celsius (77 and 104 degrees Fahrenheit).

(IV) Transfer of volumes from multiple ampuls or vials into a single, final sterile container or product.

(D) High-risk level compounded sterile preparations.

(i) High-risk Conditions. High-risk level compounded sterile preparations are those compounded under any of the following conditions.

(I) Non-sterile ingredients, including manufactured products not intended for sterile routes of administration (e.g., oral) are incorporated or a non-sterile device is employed before terminal sterilization.

(II) Any of the following are exposed to air quality worse than ISO Class 5 for more than 1 hour:

(-a-) sterile contents of commercially manufactured products;

(-b-) CSPs that lack effective antimicrobial preservatives; and

(-c-) sterile surfaces of devices and containers for the preparation, transfer, sterilization, and packaging of CSPs.

(III) Compounding personnel are improperly garbed and gloved.

(IV) Non-sterile water-containing preparations are exposed no more than 6 hours before being sterilized.

(V) It is assumed, and not verified by examination of labeling and documentation from suppliers or by direct determination, that the chemical purity and content strength of ingredients meet their original or compendial specifications in unopened or in opened packages of bulk ingredients.

(VI) For a sterilized high-risk level preparation, in the absence of passing a sterility test, the storage periods cannot exceed the following time periods: before administration, the compounded sterile preparations are properly stored and are exposed for not more than 24 hours at controlled room temperature, for not more than 3 days at a cold temperature, and for 45 days in solid frozen state between minus 25 degrees Celsius and minus 10 degrees Celsius.

(VII) All non-sterile measuring, mixing, and purifying devices are rinsed thoroughly with sterile, pyrogen-free water, and then thoroughly drained or dried immediately before use for high-risk compounding. All high-risk compounded sterile solutions subjected to terminal sterilization are prefiltered by passing through a filter with a nominal pore size not larger than 1.2 micron preceding or during filling into their final containers to remove particulate mat-

ter. Sterilization of high-risk level compounded sterile preparations by filtration shall be performed with a sterile 0.2 micrometer or 0.22 micrometer nominal pore size filter entirely within an ISO Class 5 or superior air quality environment.

(ii) Examples of high-risk compounding. Examples of high-risk compounding include the following.

(I) Dissolving non-sterile bulk drug powders to make solutions, which will be terminally sterilized.

(II) Exposing the sterile ingredients and components used to prepare and package compounded sterile preparations to room air quality worse than ISO Class 5 for more than one hour.

(III) Measuring and mixing sterile ingredients in non-sterile devices before sterilization is performed.

(IV) Assuming, without appropriate evidence or direct determination, that packages of bulk ingredients contain at least 95% by weight of their active chemical moiety and have not been contaminated or adulterated between uses.

(3) Immediate Use Compounded Sterile Preparations. For the purpose of emergency or immediate patient care, such situations may include cardiopulmonary resuscitation, emergency room treatment, preparation of diagnostic agents, or critical therapy where the preparation of the compounded sterile preparation under low-risk level conditions would subject the patient to additional risk due to delays in therapy. Compounded sterile preparations are exempted from the requirements described in this paragraph for low-risk level compounded sterile preparations when all of the following criteria are met.

(A) Only simple aseptic measuring and transfer manipulations are performed with not more than three sterile non-hazardous commercial drug and diagnostic radiopharmaceutical drug products, including an infusion or diluent solution, from the manufacturers' original containers and not more than two entries into any one container or package of sterile infusion solution or administration container/device.

(B) Unless required for the preparation, the compounding procedure occurs continuously without delays or interruptions and does not exceed 1 hour.

(C) During preparation, aseptic technique is followed and, if not immediately administered, the finished compounded sterile preparation is under continuous supervision to minimize the potential for contact with nonsterile surfaces, introduction of particulate matter of biological fluids, mix-ups with other compounded sterile preparations, and direct contact of outside surfaces.

(D) Administration begins not later than one hour following the completion of preparing the compounded sterile preparation.

(E) When the compounded sterile preparations is not administered by the person who prepared it, or its administration is not witnessed by the person who prepared it, the compounded sterile preparation shall bear a label listing patient identification information such as name and identification number(s), the names and amounts of all ingredients, the name or initials of the person who prepared the compounded sterile preparation, and the exact 1-hour beyond-use time and date.

(F) If administration has not begun within one hour following the completion of preparing the compounded sterile preparation, the compounded sterile preparation is promptly and safely discarded. Immediate use compounded sterile preparations shall not be stored for later use.

(G) Hazardous drugs shall not be prepared as immediate use compounded sterile preparations.

(4) Single-dose and multiple dose containers.

(A) Opened or needle punctured single-dose containers, such as bags bottles, syringes, and vials of sterile products shall be used within one hour if opened in worse than ISO Class 5 air quality. Any remaining contents must be discarded.

(B) Single-dose containers, including single-dose large volume parenteral solutions and single-dose vials, exposed to ISO Class 5 or cleaner air may be used up to six hours after initial needle puncture.

(C) Opened single-dose fusion sealed containers shall not be stored for any time period.

(D) Multiple-dose containers may be used up to 28 days after initial needle puncture unless otherwise specified by the manufacturer.

(5) Library. In addition to the library requirements of the pharmacy's specific license classification, a pharmacy shall maintain current or updated copies in hard-copy or electronic format of each of the following:

(A) a reference text on injectable drug preparations, such as Handbook on Injectable Drug Products;

(B) a specialty reference text appropriate for the scope of pharmacy services provided by the pharmacy, e.g., if the pharmacy prepares hazardous drugs, a reference text on the preparation of hazardous drugs; and

(C) the United States Pharmacopeia/National Formulary containing USP Chapter 71, Sterility Tests, USP Chapter 85, Bacterial Endotoxins Test, Pharmaceutical Compounding--Nonsterile Preparations, USP Chapter 795, USP Chapter 797, Pharmaceutical Compounding--Sterile Preparations, and USP Chapter 1163, Quality Assurance in Pharmaceutical Compounding.

(6) Environment. Compounding facilities shall be physically designed and environmentally controlled to minimize airborne contamination from contacting critical sites.

(A) Low and Medium Risk Preparations. A pharmacy that prepares low- and medium-risk preparations shall have a clean room for the compounding of sterile preparations that is constructed to minimize the opportunities for particulate and microbial contamination. The clean room shall:

(i) be clean, well lit, and of sufficient size to support sterile compounding activities;

(ii) be maintained at a comfortable temperature (e.g., 20 degrees Celsius or cooler) allowing compounding personnel to perform flawlessly when attired in the required aseptic compounding garb;

(iii) be used only for the compounding of sterile preparations;

(iv) be designed such that hand sanitizing and gowning occurs outside the buffer area but allows hands-free access by compounding personnel to the buffer area;

(v) have non-porous and washable floors or floor covering to enable regular disinfection;

(vi) be ventilated in a manner to avoid disruption from the HVAC system and room cross-drafts;

(vii) have walls, ceilings, floors, fixtures, shelving, counters, and cabinets that are smooth, impervious, free from cracks and crevices (e.g., coved), non-shedding and resistant to damage by disinfectant agents;

(viii) have junctures of ceilings to walls coved or caulked to avoid cracks and crevices;

(ix) have drugs and supplies stored on shelving areas above the floor to permit adequate floor cleaning;

(x) contain only the appropriate compounding supplies and not be used for bulk storage for supplies and materials. Objects that shed particles shall not be brought into the clean room;

(xi) contain an ante-area that provides at least an ISO class 8 air quality and contains a sink with hot and cold running water that enables hands-free use with a closed system of soap dispensing to minimize the risk of extrinsic contamination; and

(xii) contain a buffer area designed to maintain at least ISO Class 7 conditions for 0.5-micrometer and larger particles under dynamic working conditions. The following is applicable for the buffer area.

(I) There shall be some demarcation designation that delineates the ante-area from the buffer area. The demarcation shall be such that it does not create conditions that could adversely affect the cleanliness of the area.

(II) The buffer area shall be segregated from surrounding, unclassified spaces to reduce the risk of contaminants being blown, dragged, or otherwise introduced into the filtered unidirectional airflow environment, and this segregation should be continuously monitored.

(III) A buffer area that is not physically separated from the ante-area shall employ the principle of displacement airflow as defined in Chapter 797, Pharmaceutical Compounding--Sterile Preparations, of the USP/NF, with limited access to personnel.

(IV) The buffer area shall not contain sources of water (i.e., sinks) or floor drains.

(B) High-risk Preparations.

(i) In addition to the requirements in subparagraph (A) of this paragraph, when high-risk preparations are compounded, the primary engineering control shall be located in a buffer area that provides a physical separation, through the use of walls, doors and pass-throughs and has a minimum differential positive pressure of 0.02 to 0.05 inches water column.

(ii) Presterilization procedures for high-risk level compounded sterile preparations, such as weighing and mixing, shall be completed in no worse than an ISO Class 8 environment.

(C) Automated compounding device. If automated compounding devices are used, the pharmacy shall have a method to calibrate and verify the accuracy of automated compounding devices used in aseptic processing and document the calibration and verification on a daily basis, based on the manufacturer's recommendations, and review the results at least weekly.

(D) Hazardous drugs. If the preparation is hazardous, the following is also applicable.

(i) Hazardous drugs shall be prepared only under conditions that protect personnel during preparation and storage.

(ii) Hazardous drugs shall be stored separately from other inventory in a manner to prevent contamination and personnel exposure.

(iii) All personnel involved in the compounding of hazardous drugs shall wear appropriate protective apparel, such as gowns, face masks, eye protection, hair covers, shoe covers or dedicated shoes, and appropriate gloving at all times when handling hazardous drugs, including receiving, distribution, stocking, inventorying, preparation, for administration and disposal.

(iv) Appropriate safety and containment techniques for compounding hazardous drugs shall be used in conjunction with aseptic techniques required for preparing sterile preparations.

(v) Disposal of hazardous waste shall comply with all applicable local, state, and federal requirements.

(vi) Prepared doses of hazardous drugs must be dispensed, labeled with proper precautions inside and outside, and distributed in a manner to minimize patient contact with hazardous agents.

(E) Cleaning and disinfecting the sterile compounding areas. The following cleaning and disinfecting practices and frequencies apply to direct and contiguous compounding areas, which include ISO Class 5 compounding areas for exposure of critical sites as well as buffer areas, ante-areas, and segregated compounding areas.

(i) The pharmacist-in-charge is responsible for developing written procedures for cleaning and disinfecting the direct and contiguous compounding areas and assuring the procedures are followed.

(ii) These procedures shall be conducted at the beginning of each work shift, before each batch preparation is started, when there are spills, and when surface contamination is known or suspected resulting from procedural breaches, and every 30 minutes during continuous compounding of individual compounded sterile preparations, unless a particular compounding procedure requires more than 30 minutes to complete, in which case, the direct compounding area is to be cleaned immediately after the compounding activity is completed.

(iii) Before compounding is performed, all items shall be removed from the direct and contiguous compounding areas and all surfaces are cleaned by removing loose material and residue from spills, followed by an application of a residue-free disinfecting agent (e.g., IPA), which is allowed to dry before compounding begins.

(iv) Work surfaces in the ISO Class 7 buffer areas and ISO Class 8 ante-areas, as well as segregated compounding areas, shall be cleaned and disinfected at least daily. Dust and debris shall be removed when necessary from storage sites for compounding ingredients and supplies using a method that does not degrade the ISO Class 7 or 8 air quality.

(v) Floors in the buffer area, ante-area, and segregated compounding area are cleaned by mopping with a cleaning and disinfecting agent at least once daily when no aseptic operations are in progress. Mopping shall be performed by trained personnel using approved agents and procedures described in the written SOPs. It is incumbent on compounding personnel to ensure that such cleaning is performed properly.

(vi) In the buffer area, ante-area, and segregated compounding area, walls, ceilings, and shelving shall be cleaned and disinfected monthly. Cleaning and disinfecting agents shall be used with careful consideration of compatibilities, effectiveness, and inappropriate or toxic residues.

(vii) All cleaning materials, such as wipers, sponges, and mops, shall be non-shedding, and dedicated to use in the buffer area, ante-area, and segregated compounding areas and shall not be removed from these areas except for disposal. Floor mops may be used in both the buffer area and ante-area, but only in that order. If cleaning materials are reused, procedures shall be developed that ensure that the effectiveness of the cleaning device is maintained and that repeated use does not add to the bio-burden of the area being cleaned.

(viii) Supplies and equipment removed from shipping cartons must be wiped with a disinfecting agent, such as sterile IPA. After the disinfectant is sprayed or wiped on a surface to be disinfected, the disinfectant shall be allowed to dry, during which time the item shall not be used for compounding purposes. However, if sterile supplies are received in sealed pouches, the pouches may be removed as the supplies are introduced into the ISO Class 5 area without the need to disinfect the individual sterile supply items. No shipping or other external cartons may be taken into the buffer area or segregated compounding area.

(ix) Storage shelving emptied of all supplies, walls, and ceilings are cleaned and disinfected at planned intervals, monthly, if not more frequently.

(x) Cleaning must be done by personnel trained in appropriate cleaning techniques.

(xi) Proper documentation and frequency of cleaning must be maintained and shall contain the following:

(I) date and time of cleaning;

(II) type of cleaning performed; and

(III) name of individual who performed the cleaning.

(F) Security requirements. The pharmacist-in-charge may authorize personnel to gain access to that area of the pharmacy containing dispensed sterile preparations, in the absence of the pharmacist, for the purpose of retrieving dispensed prescriptions to deliver to patients. If the pharmacy allows such after-hours access, the area containing the dispensed sterile preparations shall be an enclosed and lockable area separate from the area containing undispensed prescription drugs. A list of the authorized personnel having such access shall be in the pharmacy's policy and procedure manual.

(G) Storage requirements and beyond-use dating.

(i) Storage requirements. All drugs shall be stored at the proper temperature and conditions, as defined in the USP/NF and in §291.15 of this title (relating to Storage of Drugs).

(ii) Beyond-use dating.

(I) Beyond-use dates for compounded sterile preparations shall be assigned based on professional experience, which shall include careful interpretation of appropriate information sources for the same or similar formulations.

(II) Beyond-use dates for compounded sterile preparations that are prepared strictly in accordance with manufacturers' product labeling must be those specified in that labeling, or from appropriate literature sources or direct testing.

(III) When assigning a beyond-use date, compounding personnel shall consult and apply drug-specific and general stability documentation and literature where available, and they should consider the nature of the drug and its degradation mechanism, the container in which it is packaged, the expected storage conditions, and the intended duration of therapy.

(IV) The sterility and storage and stability beyond-use date for attached and activated container pairs of drug products for intravascular administration shall be applied as indicated by the manufacturer.

(7) Primary engineering control device. The pharmacy shall prepare sterile preparations in a primary engineering control device (PEC), such as a laminar air flow hood, biological safety cabinet, compounding aseptic isolator (CAI), or compounding aseptic containment isolator (CACI) which is capable of maintaining at least ISO Class 5 conditions for 0.5 micrometer particles while compounding sterile preparations.

(A) Laminar air flow hood. If the pharmacy is using a laminar air flow hood as its PEC, the laminar air flow hood shall:

(i) be located in the buffer area and placed in the buffer area in a manner as to avoid conditions that could adversely affect its operation such as strong air currents from opened doors, personnel traffic, or air streams from the heating, ventilating and air condition system;

(ii) be certified by a qualified independent contractor according to the appropriate Controlled Environment Testing Association (CETA) standard (CAG-003-2006) for operational efficiency at least every six months and whenever the device or room is relocated or altered or major service to the facility is performed;

(iii) have pre-filters inspected periodically and replaced as needed, in accordance with written policies and procedures and the manufacturer's specification, and the inspection and/or replacement date documented; and

(iv) be located in a buffer area that has a minimum differential positive pressure of 0.02 to 0.05 inches water column. A buffer area that is not physically separated from the ante-area shall employ the principle of displacement airflow as defined in Chapter 797, Pharmaceutical Compounding--Sterile Preparations, of the USP/NF, with limited access to personnel.

(B) Biological safety cabinet.

(i) If the pharmacy is using a biological safety cabinet as its PEC for the preparation of hazardous sterile compounded preparations, the biological safety cabinet shall be a Class II or III vertical flow biological safety cabinet located in an ISO Class 7 area that is physically separated from other preparation areas. The area for preparation of sterile chemotherapeutic preparations shall:

(I) have not less than 0.01 inches water column negative pressure to the adjacent positive pressure ISO Class 7 or better ante-area; and

(II) have a pressure indicator that can be readily monitored for correct room pressurization.

(ii) Pharmacies that prepare a low volume of hazardous drugs, are not required to comply with the provisions of clause (i) of this subparagraph if the pharmacy uses a device that provides two tiers of containment (e.g., closed-system vial transfer device within a BSC or CACI that is located in a non-negative pressure room).

(iii) If the pharmacy is using a biological safety cabinet as its PEC for the preparation of non-hazardous sterile compounded preparations, the biological safety cabinet shall:

(I) be located in the buffer area and placed in the buffer area in a manner as to avoid conditions that could adversely affect its operation such as strong air currents from opened doors, personnel traffic, or air streams from the heating, ventilating and air condition system;

(II) be certified by a qualified independent contractor according to the International Organization of Standardization (ISO) Classification of Particulate Matter in Room Air (ISO 14644-1) for operational efficiency at least every six months and whenever the device or room is relocated or altered or major service to the facility is performed, in accordance with the manufacturer's specifications and test procedures specified in the Institute of Environmental Sciences and Technology (IEST) document IEST-RP-CC002.3;

(III) have pre-filters inspected periodically and replaced as needed, in accordance with written policies and procedures and the manufacturer's specification, and the inspection and/or replacement date documented; and

(IV) be located in a buffer area that has a minimum differential positive pressure of 0.02 to 0.05 inches water column.

(C) Compounding aseptic isolator.

(i) If the pharmacy is using a compounding aseptic isolator (CAI) as its PEC, the CAI shall provide unidirectional airflow within the main processing and antechambers, and be placed in an ISO Class 7 buffer area unless the isolator meets all of the following conditions:

(I) The isolator must provide isolation from the room and maintain ISO Class 5 during dynamic operating conditions including transferring ingredients, components, and devices into and out of the isolator and during preparation of compounded sterile preparations.

(II) Particle counts sampled approximately 6 to 12 inches upstream of the critical exposure site must maintain ISO Class 5 levels during compounding operations.

(III) The CAI must be validated according to CETA CAG-002-2006 standards.

(IV) The pharmacy shall maintain documentation from the manufacturer that the isolator meets this standard when located in worse than ISO Class 7 environments.

(ii) If the isolator meets the requirements in clause (i) of this subparagraph, the CAI may be placed in a non-ISO classified area of the pharmacy; however, the area shall be segregated from other areas of the pharmacy and shall:

(I) be clean, well lit, and of sufficient size;

(II) be used only for the compounding of low- and medium-risk, non-hazardous sterile preparations;

(III) be located in an area of the pharmacy with non-porous and washable floors or floor covering to enable regular disinfection; and

(IV) be an area in which the CAI is placed in a manner as to avoid conditions that could adversely affect its operation.

(iii) In addition to the requirements specified in clauses (i) and (ii) of this subparagraph, if the CAI is used in the compounding of high-risk non-hazardous preparations, the CAI shall be placed in an area or room with at least ISO 8 quality air so that high-risk powders weighed in at least ISO-8 air quality conditions, compounding utensils for measuring and other compounding equipment are not exposed to lesser air quality prior to the completion of compounding and packaging of the high-risk preparation.

(D) Compounding aseptic containment isolator.

(i) If the pharmacy is using a compounding aseptic containment isolator as its PEC for the preparation of low- and

medium-risk hazardous drugs, the CACI shall be located in a separate room away from other areas of the pharmacy and shall:

(I) be vented to the outside of the building in which the pharmacy is located; provide at least 0.01 inches water column negative pressure compared to the other areas of the pharmacy;

(II) provide unidirectional airflow within the main processing and antechambers, and be placed in an ISO Class 7 buffer area, unless the CACI meets all of the following conditions.

(-a-) The isolator must provide isolation from the room and maintain ISO Class 5 during dynamic operating conditions including transferring ingredients, components, and devices into and out of the isolator and during preparation of compounded sterile preparations.

(-b-) Particle counts sampled approximately 6 to 12 inches upstream of the critical exposure site must maintain ISO Class 5 levels during compounding operations.

(-c-) The CACI must be validated according to CETA CAG-002-2006 standards.

(-d-) The pharmacy shall maintain documentation from the manufacturer that the isolator meets this standard when located in worse than ISO Class 7 environments.

(ii) If the CACI meets all conditions specified in clause (i) of this subparagraph, the CACI shall not be located in the same room as a CAI, but shall be located in a separate room in the pharmacy, that is not required to maintain ISO classified air. The room in which the CACI is located shall provide a minimum of 0.01 inches water column negative pressure compared with the other areas of the pharmacy and shall meet the following requirements:

(I) be clean, well lit, and of sufficient size;

(II) be maintained at a comfortable temperature (e.g., 20 degrees Celsius or cooler) allowing compounding personnel to perform flawlessly when attired in the required aseptic compounding garb;

(III) be used only for the compounding of hazardous sterile preparations;

(IV) be located in an area of the pharmacy with walls, ceilings, floors, fixtures, shelving, counters, and cabinets that are smooth, impervious, free from cracks and crevices, non-shedding and resistant to damage by disinfectant agents; and

(V) have non-porous and washable floors or floor covering to enable regular disinfection.

(iii) If the CACI is used in the compounding of high-risk hazardous preparations, the CACI shall be placed in an area or room with at least ISO 8 quality air so that high-risk powders, weighed in at least ISO-8 air quality conditions, are not exposed to lesser air quality prior to the completion of compounding and packaging of the high-risk preparation.

(8) Additional Equipment and Supplies. Pharmacies compounding sterile preparations shall have the following equipment and supplies:

(A) a calibrated system or device (i.e., thermometer) to monitor the temperature to ensure that proper storage requirements are met, if sterile preparations are stored in the refrigerator;

(B) a calibrated system or device to monitor the temperature where bulk chemicals are stored;

(C) a temperature-sensing mechanism suitably placed in the controlled temperature storage space to reflect accurately the true temperature;

(D) if applicable, a Class A prescription balance, or analytical balance and weights. Such balance shall be properly maintained and subject to periodic inspection by the Texas State Board of Pharmacy;

(E) equipment and utensils necessary for the proper compounding of sterile preparations. Such equipment and utensils used in the compounding process shall be:

(i) of appropriate design, appropriate capacity, and be operated within designed operational limits;

(ii) of suitable composition so that surfaces that contact components, in-process material, or drug products shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug preparation beyond the desired result;

(iii) cleaned and sanitized immediately prior to and after each use; and

(iv) routinely inspected, calibrated (if necessary), or checked to ensure proper performance;

(F) appropriate disposal containers for used needles, syringes, etc., and if applicable, hazardous waste from the preparation of hazardous drugs and/or biohazardous waste;

(G) appropriate packaging or delivery containers to maintain proper storage conditions for sterile preparations;

(H) infusion devices, if applicable; and

(I) all necessary supplies, including:

(i) disposable needles, syringes, and other supplies for aseptic mixing;

(ii) disinfectant cleaning solutions;

(iii) sterile 70% isopropyl alcohol;

(iv) sterile gloves, both for hazardous and non-hazardous drug compounding;

(v) sterile alcohol-based or water-less alcohol based surgical scrub;

(vi) hand washing agents with bactericidal action;

(vii) disposable, lint free towels or wipes;

(viii) appropriate filters and filtration equipment;

(ix) hazardous spill kits, if applicable; and

(x) masks, caps, coveralls or gowns with tight cuffs, shoe covers, and gloves, as applicable.

(9) Labeling.

(A) Prescription drug or medication orders. In addition to the labeling requirements for the pharmacy's specific license classification, the label dispensed or distributed pursuant to a prescription drug or medication order shall contain the following:

(i) the generic name(s) or the official name(s) of the principal active ingredient(s) of the compounded sterile preparation;

(ii) for outpatient prescription orders only, a statement that the compounded sterile preparation has been compounded by the pharmacy. (An auxiliary label may be used on the container to meet this requirement);

(iii) a beyond-use date. The beyond-use date shall be determined as outlined in Chapter 797, Pharmacy Compounding--

Sterile Preparations of the USP/NF, and paragraph (7)(G) of this subsection;

(B) Batch. If the sterile preparation is compounded in a batch, the following shall also be included on the batch label:

- (i) unique lot number assigned to the batch;
- (ii) quantity;
- (iii) appropriate ancillary instructions, such as storage instructions or cautionary statements, including hazardous drug warning labels where appropriate; and
- (iv) device-specific instructions, where appropriate.

(C) Pharmacy bulk package. The label of a pharmacy bulk package shall:

- (i) state prominently "Pharmacy Bulk Package--Not for Direct Infusion;"
- (ii) contain or refer to information on proper techniques to help ensure safe use of the preparation; and
- (iii) bear a statement limiting the time frame in which the container may be used once it has been entered, provided it is held under the labeled storage conditions.

(10) Written drug information for prescription drug orders only. Written information about the compounded preparation or its major active ingredient(s) shall be given to the patient at the time of dispensing a prescription drug order. A statement which indicates that the preparation was compounded by the pharmacy must be included in this written information. If there is no written information available, the patient shall be advised that the drug has been compounded and how to contact a pharmacist, and if appropriate, the prescriber, concerning the drug.

(11) Pharmaceutical Care Services. In addition to the pharmaceutical care requirements for the pharmacy's specific license classification, the following requirements for sterile preparations compounded pursuant to prescription drug orders must be met.

(A) Primary provider. There shall be a designated physician primarily responsible for the patient's medical care. There shall be a clear understanding between the physician, the patient, and the pharmacy of the responsibilities of each in the areas of the delivery of care, and the monitoring of the patient. This shall be documented in the patient medication record (PMR).

(B) Patient training. The pharmacist-in-charge shall develop policies to ensure that the patient and/or patient's caregiver receives information regarding drugs and their safe and appropriate use, including instruction when applicable, regarding:

- (i) appropriate disposition of hazardous solutions and ancillary supplies;
- (ii) proper disposition of controlled substances in the home;
- (iii) self-administration of drugs, where appropriate;
- (iv) emergency procedures, including how to contact an appropriate individual in the event of problems or emergencies related to drug therapy; and
- (v) if the patient or patient's caregiver prepares sterile preparations in the home, the following additional information shall be provided:

(I) safeguards against microbial contamination, including aseptic techniques for compounding intravenous admixtures

and aseptic techniques for injecting additives to premixed intravenous solutions;

(II) appropriate storage methods, including storage durations for sterile pharmaceuticals and expirations of self-mixed solutions;

(III) handling and disposition of premixed and self-mixed intravenous admixtures; and

(IV) proper disposition of intravenous admixture compounding supplies such as syringes, vials, ampules, and intravenous solution containers.

(C) Pharmacist-patient relationship. It is imperative that a pharmacist-patient relationship be established and maintained throughout the patient's course of therapy. This shall be documented in the patient's medication record (PMR).

(D) Patient monitoring. The pharmacist-in-charge shall develop policies to ensure that:

- (i) the patient's response to drug therapy is monitored and conveyed to the appropriate health care provider;
- (ii) the first dose of any new drug therapy is administered in the presence of an individual qualified to monitor for and respond to adverse drug reactions; and
- (iii) reports of adverse events with a compounded sterile preparation are reviewed promptly and thoroughly to correct and prevent future occurrences.

(12) Drugs, components, and materials used in sterile compounding.

(A) Drugs used in sterile compounding shall be a USP/NF grade substances manufactured in an FDA-registered facility.

(B) If USP/NF grade substances are not available shall be of a chemical grade in one of the following categories:

- (i) Chemically Pure (CP);
- (ii) Analytical Reagent (AR);
- (iii) American Chemical Society (ACS); or
- (iv) Food Chemical Codex.

(C) If a drug, component or material is not purchased from a FDA-registered facility, the pharmacist shall establish purity and stability by obtaining a Certificate of Analysis from the supplier and the pharmacist shall compare the monograph of drugs in a similar class to the Certificate of Analysis.

(D) All components shall:

- (i) be manufactured in an FDA-registered facility; or
- (ii) in the professional judgment of the pharmacist, be of high quality and obtained from acceptable and reliable alternative sources; and
- (iii) stored in properly labeled containers in a clean, dry area, under proper temperatures.

(E) Drug preparation containers and closures shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the compounded drug preparation beyond the desired result.

(F) Components, drug preparation containers, and closures shall be rotated so that the oldest stock is used first.

(G) Container closure systems shall provide adequate protection against foreseeable external factors in storage and use that can cause deterioration or contamination of the compounded drug preparation.

(H) A pharmacy may not compound a preparation that contains ingredients appearing on a federal Food and Drug Administration list of drug products withdrawn or removed from the market for safety reasons.

(13) Compounding process.

(A) Standard operating procedures (SOPs). All significant procedures performed in the compounding area shall be covered by written SOPs designed to ensure accountability, accuracy, quality, safety, and uniformity in the compounding process. At a minimum, SOPs shall be developed and implemented for:

- (i) the facility;
- (ii) equipment;
- (iii) personnel;
- (iv) preparation evaluation;
- (v) quality assurance;
- (vi) preparation recall;
- (vii) packaging; and
- (viii) storage of compounded sterile preparations.

(B) USP/NF. Any compounded formulation with an official monograph in the USP/NF shall be compounded, labeled, and packaged in conformity with the USP/NF monograph for the drug.

(C) Personnel Cleansing and Garbing.

(i) Any person with an apparent illness or open lesion, including rashes, sunburn, weeping sores, conjunctivitis, and active respiratory infection, that may adversely affect the safety or quality of a drug preparation being compounded shall be excluded from working in ISO Class 5 and ISO Class 7 compounding areas until the condition is remedied.

(ii) Before entering the buffer area, compounding personnel must remove the following:

(I) personal outer garments (e.g., bandanas, coats, hats, jackets, scarves, sweaters, vests);

(II) all cosmetics, because they shed flakes and particles; and

(III) all hand, wrist, and other body jewelry or piercings (e.g., earrings, lip or eyebrow piercings) that can interfere with the effectiveness of personal protective equipment (e.g., fit of gloves and cuffs of sleeves).

(iii) The wearing of artificial nails or extenders is prohibited while working in the sterile compounding environment. Natural nails shall be kept neat and trimmed.

(iv) Personnel shall don personal protective equipment and perform hand hygiene in an order that proceeds from the dirtiest to the cleanest activities as follows:

(I) Activities considered the dirtiest include donning of dedicated shoes or shoe covers, head and facial hair covers (e.g., beard covers in addition to face masks), and face mask/eye shield. Eye shields are optional unless working with irritants like germicidal disinfecting agents or when preparing hazardous drugs.

(II) After donning dedicated shoes or shoe covers, head and facial hair covers, and face masks, personnel shall perform a hand hygiene procedure by removing debris from underneath fingernails using a nail cleaner under running warm water followed by vigorous hand washing. Personnel shall begin washing arms at the hands and continue washing to elbows for at least 30 seconds with either a plain (non-antimicrobial) soap, or antimicrobial soap, and water while in the ante-area. Hands and forearms to the elbows shall be completely dried using lint-free disposable towels, an electronic hands-free hand dryer, or a HEPA filtered hand dryer.

(III) After completion of hand washing, personnel shall don clean non-shedding gowns with sleeves that fit snugly around the wrists and enclosed at the neck.

(IV) Once inside the buffer area or segregated compounding area, and prior to donning sterile powder-free gloves, antiseptic hand cleansing shall be performed using a waterless alcohol-based surgical hand scrub with persistent activity following manufacturers' recommendations. Hands shall be allowed to dry thoroughly before donning sterile gloves.

(V) Sterile gloves that form a continuous barrier with the gown shall be the last item donned before compounding begins. Sterile gloves shall be donned using proper technique to ensure the sterility of the glove is not compromised while donning. The cuff of the sterile glove shall cover the cuff of the gown at the wrist. When preparing hazardous preparations, the compounder shall double glove or shall use single gloves ensuring that the gloves are sterile powder-free chemotherapy-rated gloves. Routine application of sterile 70% IPA shall occur throughout the compounding day and whenever non-sterile surfaces are touched.

(v) When compounding personnel shall temporarily exit the ISO Class 7 environment during a work shift, the exterior gown, if not visibly soiled, may be removed and retained in the ISO Class 8 ante-area, to be re-donned during that same work shift only. However, shoe covers, hair and facial hair covers, face mask/eye shield, and gloves shall be replaced with new ones before re-entering the ISO Class 7 clean environment along with performing proper hand hygiene.

(vi) During high-risk compounding activities that precede terminal sterilization, such as weighing and mixing of non-sterile ingredients, compounding personnel shall be garbed and gloved the same as when performing compounding in an ISO Class 5 environment. Properly garbed and gloved compounding personnel who are exposed to air quality that is either known or suspected to be worse than ISO Class 7 shall re-garb personal protective equipment along with washing their hands properly, performing antiseptic hand cleansing with a sterile 70% IPA-based or another suitable sterile alcohol-based surgical hand scrub, and donning sterile gloves upon re-entering the ISO Class 7 buffer area.

(vii) When compounding aseptic isolators or compounding aseptic containment isolators are the source of the ISO Class 5 environment, at the start of each new compounding procedure, a new pair of sterile gloves shall be donned within the CAI or CACI. In addition, the compounding personnel should follow the requirements as specified in this subparagraph, unless the isolator manufacturer can provide written documentation based on validated environmental testing that any components of personal protective equipment or cleansing are not required.

(14) Quality Assurance.

(A) Initial Formula Validation. Prior to routine compounding of a sterile preparation, a pharmacy shall conduct an evaluation that shows that the pharmacy is capable of compounding a prepa-

ration that is sterile and that contains the stated amount of active ingredient(s).

(i) Low risk preparations.

(I) Quality assurance practices include, but are not limited to the following:

(-a-) Routine disinfection and air quality testing of the direct compounding environment to minimize microbial surface contamination and maintain ISO Class 5 air quality.

(-b-) Visual confirmation that compounding personnel are properly donning and wearing appropriate items and types of protective garments and goggles.

(-c-) Review of all orders and packages of ingredients to ensure that the correct identity and amounts of ingredients were compounded.

(-d-) Visual inspection of compounded sterile preparations to ensure the absence of particulate matter in solutions, the absence of leakage from vials and bags, and the accuracy and thoroughness of labeling.

(II) Example of a Media-Fill Test Procedure.

This, or an equivalent test, is performed at least annually by each person authorized to compound in a low-risk level under conditions that closely simulate the most challenging or stressful conditions encountered during compounding of low-risk level sterile preparations. Once begun, this test is completed without interruption within an ISO Class 5 air quality environment. Three sets of four 5-milliliter aliquots of sterile Soybean-Casein Digest Medium are transferred with the same sterile 10-milliliter syringe and vented needle combination into separate sealed, empty, sterile 30-milliliter clear vials (i.e., four 5-milliliter aliquots into each of three 30-milliliter vials). Sterile adhesive seals are aseptically affixed to the rubber closures on the three filled vials. The vials are incubated within a range of 20 - 35 degrees Celsius for a minimum of 14 days. Failure is indicated by visible turbidity in the medium on or before 14 days. The media-fill test must include a positive-control sample.

(ii) Medium risk preparations.

(I) Quality assurance procedures for medium-risk level compounded sterile preparations include all those for low-risk level compounded sterile preparations, as well as a more challenging media-fill test passed annually, or more frequently.

(II) Example of a Media-Fill Test Procedure.

This, or an equivalent test, is performed at least annually under conditions that closely simulate the most challenging or stressful conditions encountered during compounding. This test is completed without interruption within an ISO Class 5 air quality environment. Six 100-milliliter aliquots of sterile Soybean-Casein Digest Medium are aseptically transferred by gravity through separate tubing sets into separate evacuated sterile containers. The six containers are then arranged as three pairs, and a sterile 10-milliliter syringe and 18-gauge needle combination is used to exchange two 5-milliliter aliquots of medium from one container to the other container in the pair. For example, after a 5-milliliter aliquot from the first container is added to the second container in the pair, the second container is agitated for 10 seconds, then a 5-milliliter aliquot is removed and returned to the first container in the pair. The first container is then agitated for 10 seconds, and the next 5-milliliter aliquot is transferred from it back to the second container in the pair. Following the two 5-milliliter aliquot exchanges in each pair of containers, a 5-milliliter aliquot of medium from each container is aseptically injected into a sealed, empty, sterile 10-milliliter clear vial, using a sterile 10-milliliter syringe and vented needle. Sterile adhesive seals are aseptically affixed to the rubber closures on the three filled vials. The vials are incubated within a

range of 20 - 35 degrees Celsius for a minimum of 14 days. Failure is indicated by visible turbidity in the medium on or before 14 days. The media-fill test must include a positive-control sample.

(iii) High risk preparations.

(I) Procedures for high-risk level compounded sterile preparations include all those for low-risk level compounded sterile preparations. In addition, a media-fill test that represents high-risk level compounding is performed twice a year by each person authorized to compound high-risk level compounded sterile preparations.

(II) Example of a Media-Fill Test Procedure
Compounded Sterile Preparations Sterilized by Filtration. This test, or an equivalent test, is performed under conditions that closely simulate the most challenging or stressful conditions encountered when compounding high-risk level compounded sterile preparations. Note: Sterility tests for autoclaved compounded sterile preparations are not required unless they are prepared in batches of more than 25 units. This test is completed without interruption in the following sequence:

(-a-) Dissolve 3 grams of non-sterile commercially available Soybean-Casein Digest Medium in 100 milliliters of non-bacteriostatic water to make a 3% non-sterile solution.

(-b-) Draw 25 milliliters of the medium into each of three 30-milliliter sterile syringes. Transfer 5 milliliters from each syringe into separate sterile 10-milliliter vials. These vials are the positive controls to generate exponential microbial growth, which is indicated by visible turbidity upon incubation.

(-c-) Under aseptic conditions and using aseptic techniques, affix a sterile 0.2-micron porosity filter unit and a 20-gauge needle to each syringe. Inject the next 10 milliliters from each syringe into three separate 10-milliliter sterile vials. Repeat the process for three more vials. Label all vials, affix sterile adhesive seals to the closure of the nine vials, and incubate them at 20 to 35 degrees Celsius for a minimum of 14 days. Inspect for microbial growth over 14 days as described in Chapter 797 Pharmaceutical Compounding--Sterile Preparations, of the USP/NF.

(III) Filter Integrity Testing. Filters need to undergo testing to evaluate the integrity of filters used to sterilize high-risk preparations, such as Bubble Point Testing or comparable filter integrity testing. Such testing is not a replacement for sterility testing and shall not be interpreted as such. Such test shall be performed after a sterilization procedure on all filters used to sterilize each high-risk preparation or batch preparation and the results documented. The results should be compared with the filter manufacturer's specification for the specific filter used. If a filter fails the integrity test, the preparation or batch must be sterilized again using new unused filters.

(B) Finished preparation release checks and tests.

(i) All high-risk level compounded sterile preparations that are prepared in groups of more than 25 identical individual single-dose packages (such as ampuls, bags, syringes, and vials), or in multiple dose vials for administration to multiple patients, or are exposed longer than 12 hours at 2 - 8 degrees Celsius and longer than six hours at warmer than 8 degrees Celsius before they are sterilized shall be tested to ensure they are sterile and do not contain excessive bacterial endotoxins as specified in Chapter 71, Sterility Tests of the USP/NF before being dispensed or administered.

(ii) All compounded sterile preparations that are intended to be solutions must be visually examined for the presence of particulate matter and not administered or dispensed when such matter is observed.

(iii) The prescription drug and medication orders, written compounding procedure, preparation records, and expended materials used to make compounded sterile preparations at all contamination risk levels shall be inspected for accuracy of correct identities and amounts of ingredients, aseptic mixing and sterilization, packaging, labeling, and expected physical appearance before they are dispensed or administered.

(iv) Written procedures for checking compounding accuracy shall be followed for every compounded sterile preparation during preparation, in accordance with pharmacy's policies and procedures, and immediately prior to release, including label accuracy and the accuracy of the addition of all drug products or ingredients used to prepare the finished preparation and their volumes or quantities. A pharmacist shall ensure that components used in compounding are accurately weighed, measured, or subdivided as appropriate to conform to the formula being prepared.

(C) Environmental Testing.

(i) Viable and nonviable environmental sampling testing. Environmental sampling shall occur, at a minimum, every six months as part of a comprehensive quality management program and under any of the following conditions:

(I) as part of the commissioning and certification of new facilities and equipment;

(II) following any servicing of facilities and equipment;

(III) as part of the re-certification of facilities and equipment;

(IV) in response to identified problems with end products or staff technique; or

(V) in response to issues with compounded sterile preparations, observed compounding personnel work practices, or patient-related infections (where the compounded sterile preparation is being considered as a potential source of the infection).

(ii) Total particle counts. Certification that each ISO classified area (e.g., ISO Class 5, 7, and 8), is within established guidelines shall be performed no less than every six months and whenever the equipment is relocated or the physical structure of the buffer area or ante-area has been altered. All certification records shall be maintained and reviewed to ensure that the controlled environments comply with the proper air cleanliness, room pressures, and air changes per hour. Testing shall be performed by qualified operators using current, state-of-the-art equipment, with results of the following:

(I) ISO Class 5 - not more than 3520 particles 0.5 micrometer and larger size per cubic meter of air;

(II) ISO Class 7 - not more than 352,000 particles of 0.5 micrometer and larger size per cubic meter of air for any buffer area; and

(III) ISO Class 8 - not more than 3,520,000 particles of 0.5 micrometer and larger size per cubic meter of air for any ante-area.

(iii) Pressure differential monitoring. A pressure gauge or velocity meter shall be installed to monitor the pressure differential or airflow between the buffer area and the ante-area and between the ante-area and the general environment outside the compounding area. The results shall be reviewed and documented on a log at least every work shift (minimum frequency shall be at least daily) or by a continuous recording device. The pressure between the

ISO Class 7 and the general pharmacy area shall not be less than 0.02 inch water column.

(iv) Sampling plan. An appropriate environmental sampling plan shall be developed for airborne viable particles based on a risk assessment of compounding activities performed. Selected sampling sites shall include locations within each ISO Class 5 environment and in the ISO Class 7 and 8 areas and in the segregated compounding areas at greatest risk of contamination. The plan shall include sample location, method of collection, frequency of sampling, volume of air sampled, and time of day as related to activity in the compounding area and action levels.

(v) Viable air sampling. Evaluation of airborne microorganisms using volumetric collection methods in the controlled air environments shall be performed by properly trained individuals for all compounding risk levels. For low-, medium-, and high-risk level compounding, air sampling shall be performed at locations that are prone to contamination during compounding activities and during other activities such as staging, labeling, gowning, and cleaning. Locations shall include zones of air backwash turbulence within the laminar airflow workbench and other areas where air backwash turbulence may enter the compounding area. For low-risk level compounded sterile preparations within 12-hour or less beyond-use-date prepared in a primary engineering control that maintains an ISO Class 5, air sampling shall be performed at locations inside the ISO Class 5 environment and other areas that are in close proximity to the ISO Class 5 environment during the certification of the primary engineering control.

(vi) Air sampling frequency and process. Air sampling shall be performed at least every 6 months as a part of the re-certification of facilities and equipment. A sufficient volume of air shall be sampled and the manufacturer's guidelines for use of the electronic air sampling equipment followed. At the end of the designated sampling or exposure period for air sampling activities, the microbial growth media plates are recovered and their covers secured and they are inverted and incubated at a temperature and for a time period conducive to multiplication of microorganisms. Sampling data shall be collected and reviewed on a periodic basis as a means of evaluating the overall control of the compounding environment. If an activity consistently shows elevated levels of microbial growth, competent microbiology personnel shall be consulted.

(vii) Compounding accuracy checks. Written procedures for checking compounding accuracy shall be followed for every compounded sterile preparation during preparation and immediately prior to release, including label accuracy and the accuracy of the addition of all drug products or ingredients used to prepare the finished preparation and their volumes or quantities. At each step of the compounding process, the pharmacist shall ensure that components used in compounding are accurately weighed, measured, or subdivided as appropriate to conform to the formula being prepared.

(15) Quality control.

(A) Quality control procedures. The pharmacy shall follow established quality control procedures to monitor the compounding environment and quality of compounded drug preparations for conformity with the quality indicators established for the preparation. When developing these procedures, pharmacy personnel shall consider the provisions of USP Chapter 71, Sterility Tests, USP Chapter 85, Bacterial Endotoxins Test, Pharmaceutical Compounding-Non-sterile Preparations, USP Chapter 795, USP Chapter 797, Pharmaceutical Compounding--Sterile Preparations, Chapter 1075, Good Compounding Practices, and Chapter 1160, Pharmaceutical Calculations in Prescription Compounding, and USP Chapter 1163, Quality Assurance in Pharmaceutical Compounding of the current

USP/NF. Such procedures shall be documented and be available for inspection.

(B) Verification of compounding accuracy and sterility.

(i) The accuracy of identities, concentrations, amounts, and purities of ingredients in compounded sterile preparations shall be confirmed by reviewing labels on packages, observing and documenting correct measurements with approved and correctly standardized devices, and reviewing information in labeling and certificates of analysis provided by suppliers.

(ii) If the correct identity, purity, strength, and sterility of ingredients and components of compounded sterile preparations cannot be confirmed such ingredients and components shall be discarded immediately. Any compounded sterile preparation that fails sterility testing following sterilization by one method (e.g., filtration) is to be discarded and not subjected to a second method of sterilization.

(iii) If individual ingredients, such as bulk drug substances, are not labeled with expiration dates, when the drug substances are stable indefinitely in their commercial packages under labeled storage conditions, such ingredients may gain or lose moisture during storage and use and shall require testing to determine the correct amount to weigh for accurate content of active chemical moieties in compounded sterile preparations.

(e) Records. Any testing, cleaning, procedures, or other activities required in this subsection shall be documented and such documentation shall be maintained by the pharmacy.

(1) Maintenance of records. Every record required under this section must be:

(A) kept by the pharmacy and be available, for at least two years for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(B) supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(2) Compounding records.

(A) Compounding pursuant to patient specific prescription drug orders. Compounding records for all compounded preparations shall be maintained by the pharmacy electronically or manually as part of the prescription drug or medication order, formula record, formula book, or compounding log and shall include:

(i) the date of preparation;

(ii) a complete formula, including methodology and necessary equipment which includes the brand name(s) of the raw materials, or if no brand name, the generic name(s) or official name and name(s) of the manufacturer(s) or distributor of the raw materials and the quantities of each;

(iii) signature or initials of the pharmacist or pharmacy technician or pharmacy technician trainee performing the compounding;

(iv) signature or initials of the pharmacist responsible for supervising pharmacy technicians or pharmacy technician trainees and conducting final checks of compounded pharmaceuticals

if pharmacy technicians or pharmacy technician trainees perform the compounding function;

(v) the quantity in units of finished preparation or amount of raw materials;

(vi) the container used and the number of units prepared; and

(vii) a reference to the location of the following documentation which may be maintained with other records, such as quality control records:

(I) the criteria used to determine the beyond-use date; and

(II) documentation of performance of quality control procedures.

(B) Compounding records when batch compounding or compounding in anticipation of future prescription drug or medication orders.

(i) Master work sheet. A master work sheet shall be developed and approved by a pharmacist for preparations prepared in batch. Once approved, a duplicate of the master work sheet shall be used as the preparation work sheet from which each batch is prepared and on which all documentation for that batch occurs. The master work sheet shall contain at a minimum:

(I) the formula;

(II) the components;

(III) the compounding directions;

(IV) a sample label;

(V) evaluation and testing requirements;

(VI) specific equipment used during preparation;

and

(VII) storage requirements.

(ii) Preparation work sheet. The preparation work sheet for each batch of preparations shall document the following:

(I) identity of all solutions and ingredients and their corresponding amounts, concentrations, or volumes;

(II) lot number for each component;

(III) component manufacturer/distributor or suitable identifying number;

(IV) container specifications (e.g., syringe, pump cassette);

(V) unique lot or control number assigned to batch;

(VI) expiration date of batch-prepared preparations;

(VII) date of preparation;

(VIII) name, initials, or electronic signature of the person(s) involved in the preparation;

(IX) name, initials, or electronic signature of the responsible pharmacist;

(X) finished preparation evaluation and testing specifications, if applicable; and

(XI) comparison of actual yield to anticipated or theoretical yield, when appropriate.

(f) Office Use Compounding and Distribution of Sterile Compounded Preparations.

(1) General.

(A) A pharmacy may compound, dispense, deliver, and distribute a compounded sterile preparation as specified in Subchapter D, Texas Pharmacy Act Chapter 562.

(B) A Class A-S pharmacy is not required to register or be licensed under Chapter 431, Health and Safety Code, to distribute sterile compounded preparations to a Class C or Class C-S pharmacy.

(C) A Class C-S pharmacy is not required to register or be licensed under Chapter 431, Health and Safety Code, to distribute sterile compounded preparations that the Class C-S pharmacy has compounded for other Class C or Class C-S pharmacies under common ownership.

(D) To compound and deliver a compounded preparation under this subsection, a pharmacy must:

(i) verify the source of the raw materials to be used in a compounded drug;

(ii) comply with applicable United States Pharmacopoeia guidelines, including the testing requirements, and the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

(iii) enter into a written agreement with a practitioner for the practitioner's office use of a compounded preparation;

(iv) comply with all applicable competency and accrediting standards as determined by the board; and

(v) comply with the provisions of this subsection.

(2) Written Agreement. A pharmacy that provides sterile compounded preparations to practitioners for office use or to another pharmacy shall enter into a written agreement with the practitioner or pharmacy. The written agreement shall:

(A) address acceptable standards of practice for a compounding pharmacy and a practitioner and receiving pharmacy that enter into the agreement including a statement that the compounded drugs may only be administered to the patient and may not be dispensed to the patient or sold to any other person or entity except to a veterinarian as authorized by §563.054 of the Act;

(B) require the practitioner or receiving pharmacy to include on a patient's chart, medication order or medication administration record the lot number and beyond-use date of a compounded preparation administered to a patient;

(C) describe the scope of services to be performed by the pharmacy and practitioner or receiving pharmacy, including a statement of the process for:

(i) a patient to report an adverse reaction or submit a complaint; and

(ii) the pharmacy to recall batches of compounded preparations.

(3) Recordkeeping.

(A) Maintenance of Records.

(i) Records of orders and distribution of sterile compounded preparations to a practitioner for office use or to an institutional pharmacy for administration to a patient shall:

(I) be kept by the pharmacy and be available, for at least two years from the date of the record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies;

(II) maintained separately from the records of preparations dispensed pursuant to a prescription or medication order; and

(III) supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy or its representative. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format. Failure to provide the records set out in this subsection, either on site or within 72 hours for whatever reason, constitutes prima facie evidence of failure to keep and maintain records.

(ii) Records may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided the data processing system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(B) Orders. The pharmacy shall maintain a record of all sterile compounded preparations ordered by a practitioner for office use or by an institutional pharmacy for administration to a patient. The record shall include the following information:

(i) date of the order;

(ii) name, address, and phone number of the practitioner who ordered the preparation and if applicable, the name, address and phone number of the institutional pharmacy ordering the preparation; and

(iii) name, strength, and quantity of the preparation ordered.

(C) Distributions. The pharmacy shall maintain a record of all sterile compounded preparations distributed pursuant to an order to a practitioner for office use or by an institutional pharmacy for administration to a patient. The record shall include the following information:

(i) date the preparation was compounded;

(ii) date the preparation was distributed;

(iii) name, strength and quantity in each container of the preparation;

(iv) pharmacy's lot number;

(v) quantity of containers shipped; and

(vi) name, address, and phone number of the practitioner or institutional pharmacy to whom the preparation is distributed.

(D) Audit Trail.

(i) The pharmacy shall store the order and distribution records of preparations for all sterile compounded preparations ordered by and or distributed to a practitioner for office use or by a pharmacy licensed to compound sterile preparations for administration to a patient in such a manner as to be able to provide an audit trail for all orders and distributions of any of the following during a specified time period:

- (I) any strength and dosage form of a preparation (by either brand or generic name or both);
- (II) any ingredient;
- (III) any lot number;
- (IV) any practitioner;
- (V) any facility; and
- (VI) any pharmacy, if applicable.

(ii) The audit trail shall contain the following information:

- (I) date of order and date of the distribution;
- (II) practitioner's name, address, and name of the institutional pharmacy, if applicable;
- (III) name, strength and quantity of the preparation in each container of the preparation;
- (IV) name and quantity of each active ingredient;
- (V) quantity of containers distributed; and
- (VI) pharmacy's lot number.

(4) Labeling. The pharmacy shall affix a label to the preparation containing the following information:

- (A) name, address, and phone number of the compounding pharmacy;
 - (B) the statement: "For Institutional or Office Use Only--Not for Resale"; or if the preparation is distributed to a veterinarian the statement: "Compounded Preparation";
 - (C) name and strength of the preparation or list of the active ingredients and strengths;
 - (D) pharmacy's lot number;
 - (E) beyond-use date as determined by the pharmacist using appropriate documented criteria;
 - (F) quantity or amount in the container;
 - (G) appropriate ancillary instructions, such as storage instructions or cautionary statements, including hazardous drug warning labels where appropriate; and
 - (H) device-specific instructions, where appropriate.
- (g) Recall Procedures.

(1) The pharmacy shall have written procedures for the recall of any compounded sterile preparation provided to a patient, to a practitioner for office use, or a pharmacy for administration. Written procedures shall include, but not be limited to the requirements as specified in paragraph (3) of this subsection.

(2) The pharmacy shall immediately initiate a recall of any sterile preparation compounded by the pharmacy upon identification of a potential or confirmed harm to a patient.

(3) In the event of a recall, the pharmacist-in-charge shall ensure that:

- (A) each practitioner, facility, and/or pharmacy to which the preparation was distributed is notified, in writing, of the recall;
- (B) each patient to whom the preparation was dispensed is notified, in writing, of the recall;

(C) the board is notified of the recall, in writing, not later than 24 hours after the recall is issued;

(D) if the preparation is distributed for office use, the Texas Department of State Health Services, Drugs and Medical Devices Group, is notified of the recall, in writing;

(E) the preparation is quarantined; and

(F) the pharmacy keeps a written record of the recall including all actions taken to notify all parties and steps taken to ensure corrective measures.

(4) If a pharmacy fails to initiate a recall, the board may require a pharmacy to initiate a recall if there is potential for or confirmed harm to a patient.

(5) A pharmacy that compounds sterile preparations shall notify the board immediately of any adverse effects reported to the pharmacy or that are known by the pharmacy to be potentially attributable to a sterile preparation compounded by the pharmacy.

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 May 22, 2015.

TRD-201501892

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Effective date: June 11, 2015

Proposal publication date: March 27, 2015

For further information, please call: (512) 305-8028



CHAPTER 295. PHARMACISTS

22 TAC §295.6, §295.9

The Texas State Board of Pharmacy adopts amendments to §295.6 concerning Emergency Temporary Pharmacist License and to §295.9 concerning Inactive License. The amendments are adopted without changes to the proposed text as published in the March 27, 2015, issue of the *Texas Register* (40 TexReg 1803).

The amendments to §295.6 implement provisions of House Bill (HB) 746, as passed by the 83rd Texas Legislature, regarding volunteer registry. The amendments to §295.9 specify the requirements for the activation of an inactive pharmacist license to include one hour of continuing education credit related to Texas pharmacy laws/rules.

No comments were received.

The amendments are adopted under §§551.002, 554.051, 559.052, and 559.104 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. The Board interprets §559.052 as authorizing the agency to establish the requirements for continuing education. The Board interprets §559.104 as authorizing the agency to adopt rules regarding the return of an inactive pharmacist license to active status.

The statutes affected by the amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

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

Filed with the Office of the Secretary of State on May 22, 2015.

TRD-201501890

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Effective date: June 11, 2015

Proposal publication date: March 27, 2015

For further information, please call: (512) 305-8028



CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.3, §297.11

The Texas State Board of Pharmacy adopts amendments to §297.3, concerning Registration Requirements, and new §297.11, concerning Temporary Emergency Registration. The amendments are adopted without changes to the proposed text as published in the March 27, 2015, issue of the *Texas Register* (40 TexReg 1805).

The amendments to §297.3 require a criminal history background check, including fingerprints, for a pharmacy technician renewal application. New §297.11 implements provisions of House Bill (HB) 746, passed by the 83rd Texas Legislature, regarding volunteer registry.

No comments were received.

The amendments and new rule are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by the amendments and new rule: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

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

Filed with the Office of the Secretary of State on May 22, 2015.

TRD-201501891

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Effective date: June 11, 2015

Proposal publication date: March 27, 2015

For further information, please call: (512) 305-8028



PART 31. TEXAS STATE BOARD OF EXAMINERS OF DIETITIANS

CHAPTER 711. DIETITIANS SUBCHAPTER A. LICENSED DIETITIANS

22 TAC §711.12

The Texas State Board of Examiners of Dietitians (board) adopts an amendment to §711.12, concerning licensing dietitians. The amendment to §711.12 is adopted without changes to the proposed text as published in the December 26, 2014, issue of the *Texas Register* (39 TexReg 10177) and will not be republished.

BACKGROUND AND PURPOSE

The amendment implements Senate Bill (SB) 1733, 82nd Legislature, Regular Session, 2011, and SB 162 and House Bill (HB) 2254, 83rd Legislature, Regular Session, 2013, which amended Occupations Code, Chapter 55 (relating to License for Military Service Member or Military Spouse). SB 1733, SB 162, and HB 2254 require a state agency that issues a license to adopt rules for licensing an applicant who is a military service member, military veteran, or military spouse.

SECTION-BY-SECTION SUMMARY

The amendment to §711.12 moves language concerning replacement of lost, damaged, or destroyed certificates or identification cards from subsection (a) to subsection (b). The amendment also adds new subsection (c), which includes definitions and sets forth the license application process for a military service member, military veteran, or military spouse.

COMMENTS

The board did not receive any comments regarding the proposed rules during the comment period.

STATUTORY AUTHORITY

The amendment is adopted under Occupations Code §701.151(3), which requires the board to establish qualifications for a license; Occupations Code §701.152, which authorizes the board to adopt rules consistent with Chapter 701; Occupations Code §55.004(a), which requires a state agency that issues a license to adopt licensing rules for a military spouse; Occupations Code §55.005(b), which requires the board to adopt rules to implement §55.005; and Occupations Code §55.007(b), which requires a state agency that issues a license to adopt rules to implement §55.007.

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 May 28, 2015.

TRD-201501941

Janet Hall

Chair

Texas State Board of Examiners of Dietitians

Effective date: June 17, 2015

Proposal publication date: December 26, 2014

For further information, please call: (512) 776-6972



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF
PUBLIC SAFETY

CHAPTER 28. DNA, CODIS, FORENSIC
ANALYSIS, AND CRIME LABORATORIES
SUBCHAPTER I. ACCREDITATION

37 TAC §28.144

The Texas Department of Public Safety (the department) adopts amendments to §28.144, concerning List of Recognized Accrediting Bodies, without changes to the proposed text as published in the April 24, 2015, issue of the *Texas Register* (40 TexReg 2240). The rule will not be republished.

The recognized accrediting body Forensic Quality Services (FQS) has changed its name to ANSI-ASQ National Accreditation Board (ANAB). This amendment reflects the change in names from FQS to ANAB.

No comments were received regarding the amendments to this section.

This amendment is adopted pursuant to Texas Government Code, §411.0205, which authorizes the director to adopt rules considered necessary for establishing an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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 May 28, 2015.

TRD-201501958

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: June 17, 2015

Proposal publication date: April 24, 2015

For further information, please call: (512) 424-5848



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

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

Proposed Rule Reviews

Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 53, Regional Education Service Centers, Subchapter AA, Commissioner's Rules, §53.1001, Board of Directors, and §53.1002, Charter School Representation on Board of Directors, pursuant to the Texas Government Code, §2001.039.

As required by the Texas Government Code, §2001.039, the TEA will accept comments as to whether the reasons for adopting 19 TAC §53.1001 and §53.1002 continue to exist.

The public comment period on the review of 19 TAC §53.1001 and §53.1002 begins June 12, 2015, and ends July 13, 2015. Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 475-1497. Comments may also be submitted electronically to rules@tea.texas.gov or faxed to (512) 463-5337.

TRD-201501968

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: May 29, 2015



Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (Division) will review all sections within the following chapters of Title 28, Part 2 of the Texas Administrative Code, in accordance with §2001.039 of the Texas Government Code:

Chapter 43 - Insurance Coverage

Chapter 45 - Employer's Report of Injury or Disease

Chapter 61 - Prehearing Conferences

Chapter 64 - Representing Claimants Before the Board

Chapter 67 - Allegations of Fraud

Chapter 124 - Carriers: Required Notices and Mode of Payment

Chapter 129 - Income Benefits - Temporary Income Benefits

Chapter 130 - Impairment and Supplemental Income Benefits

Chapter 131 - Benefits - Lifetime Income Benefits

Chapter 132 - Death Benefits - Death and Burial Benefits

Chapter 133 - General Medical Provisions

Chapter 137 - Disability Management

Chapter 140 - Dispute Resolution - General Provisions

Chapter 141 - Dispute Resolution - Benefit Review Conference

Chapter 143 - Dispute Resolution Review by the Appeals Panel

The Division will consider whether the reasons for initially adopting these rules continue to exist and whether these rules should be repealed, readopted, or readopted with amendments.

Any repeals or necessary amendments identified during the review of these rules will be proposed and published in the *Texas Register* in accordance with Chapter 2001 of the Texas Government Code.

If you wish to comment on whether these rules should be repealed, readopted, or readopted with amendments, you must do so in writing no later than July 13, 2015. Comments received after that date will not be considered.

Comments should clearly specify the particular section of the rule to which they apply and include proposed alternative language as appropriate. General comments should be designated as such.

Comments may be submitted by email at RuleReviewComments@tdi.texas.gov or by mailing or delivering your comments to Maria Jimenez, Office of Workers' Compensation Counsel, MS-4D, Texas Department of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645.

TRD-201502039

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: June 3, 2015



Texas Lottery Commission

Title 16, Part 9

The Texas Lottery Commission (Commission) files this notice of intent to review and to consider for readoption, amendment, or repeal Title 16 Texas Administrative Code Chapter 403, related to General Administration. The names and numbers of the rules contained in Chapter 403 are set forth below. This review is being conducted in accordance with

the requirements of Texas Government Code, §2001.039 (Agency Review of Existing Rules):

- §403.101 - Open Records
- §403.102 - Items Mailed to the Commission
- §403.110 - Petition for Adoption of Rule Changes
- §403.115 - Negotiated Rulemaking and Alternative Dispute Resolution
- §403.201 - Definitions
- §403.202 - Prerequisites to Suit
- §403.203 - Sovereign Immunity
- §403.204 - Notice of Claim of Breach of Contract
- §403.205 - Agency Counterclaim
- §403.206 - Request for Voluntary Disclosure of Additional Information
- §403.207 - Duty to Negotiate
- §403.208 - Timetable
- §403.209 - Conduct of Negotiation
- §403.210 - Settlement Approval Procedures
- §403.211 - Settlement Agreement
- §403.212 - Costs of Negotiation
- §403.213 - Request for Contested Case Hearing
- §403.214 - Mediation Timetable
- §403.215 - Conduct of Mediation
- §403.216 - Qualifications and Immunity of the Mediator
- §403.217 - Confidentiality of Mediation and Final Settlement Agreement
- §403.218 - Costs of Mediation
- §403.219 - Settlement Approval Procedures
- §403.220 - Initial Settlement Agreement
- §403.221 - Final Settlement Agreement
- §403.222 - Referral to the State Office of Administrative Hearings
- §403.223 - Use of Assisted Negotiation Processes
- §403.301 - Historically Underutilized Businesses
- §403.401 - Use of Commission Motor Vehicles
- §403.501 - Custody and Use of Criminal History Record Information
- §403.600 - Complaint Review Process

The Commission will make an assessment of whether the reasons for initially adopting each of these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations, and whether it reflects current procedures of the Commission.

Written comments pertaining to this rule review may be submitted by mail to Bob Biard, General Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us.

The deadline for comments is 30 days after publication of this notice in the *Texas Register*. Proposed changes to any of these rules as a result of the rule review will be published as separate rulemaking proceedings in the Proposed Rules Section of the *Texas Register* at a later date. Any proposed rule changes will be open for public comment prior to final adoption or repeal by the Commission, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-201501964
Bob Biard
General Counsel
Texas Lottery Commission
Filed: May 29, 2015

◆ ◆ ◆

Adopted Rule Reviews

Texas Alcoholic Beverage Commission

Title 16, Part 3

The Texas Alcoholic Beverage Commission (commission) files notice of the completion of its review and re-adoption of 16 Texas Administrative Code §35.41, Terms Defined.

This review and re-adoption was conducted in accordance with Texas Government Code §2001.039. As a result of its review, the commission determined that the reasons for adopting the rule continue to exist, that the rule is not obsolete, and that the rule reflects current legal and policy considerations, and current procedures, of the commission. The commission received no comments on the proposed rule review, which was published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2101).

TRD-201501971
Martin Wilson
Assistant General Counsel
Texas Alcoholic Beverage Commission
Filed: May 29, 2015

◆ ◆ ◆

The Texas Alcoholic Beverage Commission (commission) files notice of the completion of its review and re-adoption of 16 Texas Administrative Code §37.2, Contested Case.

This review and re-adoption was conducted in accordance with Texas Government Code §2001.039. As a result of its review, the commission determined that the reasons for adopting the rule continue to exist, that the rule is not obsolete, and that the rule reflects current legal and policy considerations, and current procedures, of the commission. The commission received no comments on the proposed rule review, which was published in the April 10, 2015, issue of the *Texas Register* (40 TexReg 2101).

TRD-201501972
Martin Wilson
Assistant General Counsel
Texas Alcoholic Beverage Commission
Filed: May 29, 2015

TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 16 TAC §401.317(d)(2)

Number of Matches Per Play	Prize Payment	Prize Pool Percentage Allocated to Prize
All five (5) of first set plus one (1) of second set.	Grand Prize	68.0131%
All five (5) of first set and none of second set.	\$1,000,000	8.5558%
Any four (4) of first set plus one (1) of second set.	\$50,000	5.4757%
Any four (4) of first set and none of second set.	\$100	0.2738%
Any three (3) of first set plus one (1) of second set.	\$100	0.6899%
Any three (3) of first set and none of second set.	\$7	1.2074%
Any two (2) of first set plus one (1) of second set.	\$7	0.9981%
Any one (1) of first set plus one (1) of second set.	\$4	4.3489%
None of first set plus one (1) of second set.	\$4	10.4373%

Figure: 16 TAC §401.317(e)

Number of Matches Per Ticket	Probability Distribution		Probable/Set Prize Amount
	Winners	Probability	
All five (5) of first set plus one (1) of second set	1	1:292,201,338.0000	Grand Prize
All five (5) of first set and none of second set	25	1:11,688,053.5200	\$1,000,000
Any four (4) of first set plus one (1) of second set	320	1:913,129.1813	\$50,000
Any four (4) of first set and none of second set	8,000	1:36,525.1673	\$100
Any three (3) of first set plus one (1) of second set	20,160	1:14,494.1140	\$100
Any three (3) of first set and none of second set	504,000	1:579.7646	\$7
Any two (2) of the first set plus one (1) of second set	416,640	1:701.3281	\$7
Any one (1) of the first set plus one (1) of the second set	3,176,880	1:91.9775	\$4
None of the first set plus one (1) of second set	7,624,512	1:38.3239	\$4
Overall	11,750,538	1:24.8671	

Figure: 16 TAC §401.317(f)(1)

Terminal Type	Manual Entry	Playslip with No Payment Option Selected
GT1200 (Retailer Terminal)	Default to CVO; retailer toggles to choose Annuity	Playslip Rejected with message "Playslip Rejected. Select Payment Option."
GT1200C (Retailer Terminal)	Default to CVO; retailer toggles to choose Annuity.	Playslip Rejected with message "Playslip Rejected. Select Payment Option."
GT Mini (Retailer Terminal)	Default to CVO; retailer toggles to choose Annuity.	Not Applicable.
Gemini (Self-service Terminal)	CVO only - designated on on-line game Quick Pick buttons.	Playslip Rejected with message "Playslip Rejected. Select Payment Option."

Figure: 16 TAC §401.317(k)(3)

Prize Amount	Regardless of Power Play number selected:					
	Prize Amount	10X	5X	4X	3X	2X
Match 5+0	\$1,000,000.00	\$2,000,000.00	\$2,000,000.00	\$2,000,000.00	\$2,000,000.00	\$2,000,000.00
Match 4+1	\$50,000.00	\$500,000.00	\$250,000.00	\$200,000.00	\$150,000.00	\$100,000.00
Match 4+0	\$100.00	\$1,000.00	\$500.00	\$400.00	\$300.00	\$200.00
Match 3+1	\$100.00	\$1,000.00	\$500.00	\$400.00	\$300.00	\$200.00
Match 3+0	\$7.00	\$70.00	\$35.00	\$28.00	\$21.00	\$14.00
Match 2+1	\$7.00	\$70.00	\$35.00	\$28.00	\$21.00	\$14.00
Match 1+1	\$4.00	\$40.00	\$20.00	\$16.00	\$12.00	\$8.00
Match 0+1	\$4.00	\$40.00	\$20.00	\$16.00	\$12.00	\$8.00

Figure: 16 TAC §401.317(k)(4)(D)

When the 10x multiplier is available:

Power Play		Probability of Prize Increase	
10X	Prize Won Times 10	1 in 43	2.3255%
5X	Prize Won Times 5	2 in 43	4.6512%
4X	Prize Won Times 4	3 in 43	6.9767%
3X	Prize Won Times 3	13 in 43	30.2326%
2X	Prize Won Times 2	24 in 43	55.8140%

When the 10x multiplier is not available:

Power Play		Probability of Prize Increase	
10X	Prize Won Times 10	0 in 42	0.0000%
5X	Prize Won Times 5	2 in 42	4.7619%
4X	Prize Won Times 4	3 in 42	7.1429%
3X	Prize Won Times 3	13 in 42	30.9523%
2X	Prize Won Times 2	24 in 42	57.1429%

Power Play does not apply to the Grand Prize. Except as provided in subparagraph (C), a Power Play Match 5 prize is set at two million dollars (\$2 million), regardless of the multiplier selected.

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.

Ark-Tex Council of Governments

Texarkana Urban Transit District Request for Proposals - Public Notice

Texarkana Urban Transit District (TUTD) is accepting proposals for the purchase of two (2) Type 11 Medium Duty Low-Floor buses of the "Body-on-Chassis" type with an option to purchase 22 additional units over a period of four (4) years. Proposals are being solicited and will be received until 4:00 p.m., June 24, 2015, at Ark-Tex Council of Governments (ATCOG) (TUTD), 4808 Elizabeth Street, Texarkana, Texas 75503 or by mail at P.O. Box 5307, Texarkana, Texas 75505-5307. TUTD reserves the right to reject any and all proposals, to waive informalities, to reject nonconforming or conditional proposals, and to proceed otherwise when in the best interest of TUTD.

Information for the Request for Proposals is available on the TUTD website at www.t-linebus.org. Proposals received after the deadline will not be considered. For more information please contact Owetta Walton-Bost, Transit Manager, at (903) 255-3529 or Nancy Hoehn, Transportation Coordinator, at (903) 255-3553.

TRD-201502050
Chris Brown
Executive Director
Ark-Tex Council of Governments
Filed: June 3, 2015

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/08/15 - 06/14/15 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 06/08/15 - 06/14/15 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 06/01/15 - 06/30/15 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 06/01/15 - 06/30/15 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-201502029
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: June 2, 2015

State Board of Dental Examiners

Disciplinary Matrix

The Texas State Board of Dental Examiners' (Board) Disciplinary Matrix was developed to outline Board policy when the Board takes disciplinary action in accordance with the Dental Practice Act (Texas Occupations Code, Chapters 251 - 267) and Board rules (22 Texas Administrative Code Chapters 100 - 104, 107, 108, 110, 112 - 117, 119 and 125). The matrix also provides licensees, attorneys, the public and Administrative Law Judges ready access to the Board's enforcement policies. Further, the matrix is intended to maintain flexibility in determining the most appropriate sanction for each violation and allows the Board to take into account aggravating and mitigating factors (i.e., the licensee's compliance history, the seriousness of the violation, the threat to the public health and safety, etc.) when determining sanctions.

The matrix is organized by violation type and distinguished by violation tiers. The violations described in the matrix mirror the violations specified in the Texas Occupations Code (Dental Practice Act). Violations that are distinguished as First Tier Violations are those that the Board determines to be less serious, or which pose minimal threat to the public safety, after consideration of any aggravating or mitigating factors. Each violation tier in the matrix includes a description of events that might fall within that violation tier. The corresponding sanction description describes each of the sanctions that could be imposed.

The matrix was first published in the September 3, 2010, issue of the *Texas Register* (35 TexReg 8152) and was subsequently amended and published in the December 21, 2012, September 27, 2013, and September 5, 2014, issues of the *Texas Register*. At the May 29, 2015 Board meeting, the Board voted to amend the Disciplinary Matrix to include community service as a possible stipulation. The Board republishes the matrix with this amendment.

This amended matrix is effective immediately upon filing in the *Texas Register*.

Texas State Board of Dental Examiners - Disciplinary Matrix

Table of Contents	
Violation Tiers; Sanctions; Aggravating and Mitigating Factors	2
Administrative Fine Schedule; Administrative Penalty Schedule (Tickets)	3
STANDARD OF CARE	4-5
Licensee fails to treat a patient according to the standard of care in the practice of dentistry or dental hygiene	4
Licensee fails to use proper diligence in practice or fails to safeguard patients against avoidable infections	5
Licensee is negligent in performing dental services and that negligence causes injury or damage to a dental patient	5
Licensee is physically or mentally incapable of practicing in a manner that is safe for the person's dental patients	5
AIDING AND ABETTING OR IMPERMISSIBLE DELEGATION	6
DISHONORABLE OR UNPROFESSIONAL CONDUCT	7
CRIMINAL CONVICTIONS	8
CHEMICAL DEPENDENCY OR IMPROPER POSSESSION OR DISTRIBUTION OF DRUG	11
FRAUD AND MISREPRESENTATION	12
Licensee obtains a license by fraud or misrepresentation	12
Licensee engages in deception or misrepresentation in soliciting or obtaining patronage	12
VIOLATION OF LAW REGULATING DENTISTRY OR DENTAL HYGIENE	13-14
Licensee violates or refuses to comply with a law relating to the regulation of dentists or dental hygienists	13
Licensee knowingly provides or agrees to provide dental care in a manner that violates a federal or state law that regulates a plan to provide, arrange for, pay for, or reimburse any part of the cost of dental care services; or regulates the business of insurance	14
Licensee holds a license or certificate in another state and that state reprimands the licensee, suspends or revokes the licensee's license or certificate or places the licensee on probation, or imposes another restriction on the licensee's practice	14
PRACTICING DENTISTRY WITHOUT A LICENSE	15
Licensee required to practice dentistry or dental hygiene	15
Licensee enters into a contract, agreement or arrangement that allows a non-dentist to practice dentistry	15
OTHER VIOLATIONS	15
Licensee is adjudged under the law to be insane	15
DENTAL ASSISTANTS	16
OWNER RESPONSIBILITY	16
DENTAL LABORATORIES	17
Registration Required	17
Certified Dental Technician	17
Applicant or certificate holder has violated, aided another person, or allowed a person under their direction to violate a law regulating the practice of dentistry	17

VIOLATION TIERS

First Tier Violations: Violations that are distinguished as First Tier Violations are those that the Board determines to be less serious, or which pose minimal threat to public safety, after consideration of any aggravating or mitigating factors.

Second, Third, or Fourth Tier Violations: Violations that are distinguished as Second, Third, or Fourth Tier Violations are those that the Board determines to be more serious, or which pose more than a minimal threat to public safety, after consideration of any aggravating or mitigating factors.

SANCTIONS

The Board will determine an appropriate sanction after consideration of any aggravating or mitigating factors.

When considering conduct constituting a violation of multiple statute sections, the Board will determine an appropriate sanction after consideration of the sanction recommendations from all applicable violation sections and any aggravating or mitigating factors.

NOTE: All Sanctions other than denial of licensure, revocation of license, emergency suspension of license, or surrender of license should include a stipulation requiring completion of the online jurisprudence assessment.

Levels listed from lowest (no action) to highest (revocation):

- Denial of Licensure
- Administrative Penalty (Ticket) – Fine-based penalty limited to those violations that do not involve the provision of direct patient care.
- Warning – Lowest level of disciplinary action.
- Reprimand – Increased level of disciplinary action.
- Suspension – Increased level of disciplinary action. Suspension may be probated in full or for limited time periods.
 - Emergency Suspension – If a licensee is found by the board or executive committee to constitute a clear, imminent, or continuing threat to a person's physical health or well-being, the person's license or permit will be immediately suspended.
- Revocation of license or certification. Voluntary surrender may be accepted in lieu of revocation.

AGGRAVATING AND MITIGATING FACTORS

The Board will consider all factors required by statute or board rule (e.g., Tex. Occ. Code Chapter 53). In addition, the Board will consider aggravating or mitigating factors, including the following:

- Potential or actual patient harm
- Prior disciplinary action
- Prior violations of a similar nature
- Self-report or voluntary admission of violation
- Remedial measures taken to correct or mitigate harm
- Rehabilitative potential
- Level of competency exhibited over course of career
- Attempts to circumvent a statute or board rule
- Isolated or repeated violation
- Number of violations
- Cooperation with board investigation and response to board communication
- Material or financial gain from violation
- Involvement of, or impairment by alcohol, illegal drugs, or controlled substances
- Criminal conduct
- Other relevant circumstances

ADMINISTRATIVE FINE SCHEDULE

See SBDE Rule §107.202 – 22 Tex. Admin. Code §107.202. The amount of an administrative fine assessed will be based on the following criteria:

- The seriousness of the violation, including but not limited to, the nature, circumstances, extent and the gravity of the prohibited acts and the hazard of potential hazard created to the health, safety, or welfare of the public;
- the economic damage to property or the environment caused by the violation;
- the history of previous violations;
- the amount necessary to deter future violations;
- efforts made to correct the violation; or
- any other matter the justice may require.

Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

First Offense:	Second Offense:	Third Offense:
≤ \$3,000	≤ \$4,000	≤ \$5,000

ADMINISTRATIVE PENALTY SCHEDULE (Tickets)

An administrative penalty may consist only of a monetary penalty that does not exceed \$1,000 for each violation. The total amount of penalties assessed against a person may not exceed \$3,000 in a calendar year.

If the Respondent fails to pay or appeal the administrative penalty by the due date, the penalty amount will double, not to exceed the statutory maximum penalty for each violation.

Violation:	Administrative Penalty:
No Consumer Information	\$250.00
Names of Dentists not Posted	\$250.00
Fail to Display Registration (Dental office)	\$250.00
Fail to Provide Records to Board	\$500.00
Fail to Provide Records to Patient	\$500.00
Fail to File Records Maintenance Agreement	\$250.00
Fail to Notify Board of Change of Information	\$250.00
Sanitation and Infection Control	\$500.00
False/Misleading Communications/Unlawful or Deceptive Advertising	\$250.00
Specialty Announcement-	\$250.00
Advertising – Testimonials	\$250.00
Improper Use of Trade Name	\$500.00
No Prosthetic Identification	\$250.00

STANDARD OF CARE

Licensee fails to treat a patient according to the standard of care in the practice of dentistry or dental hygiene.
 Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(4)

<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Practice below minimum standard with a low risk of patient harm. • Failure to advise patient before beginning treatment. • Failure to make, maintain and keep adequate dental records. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Remedial Plan including continuing education and/or restitution to patient for service rendered below minimum standard. • Warning or Reprimand with stipulations that may include: continuing education, administrative fine, restitution to patient for service rendered below minimum standard, community service, and/or audit of practice procedures.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Practice below minimum standard with patient harm or risk of patient harm. • Misleading patient as to the gravity, or lack thereof, of their dental needs. • Failure to maintain appropriate life support training. • Abandonment of patient. • Failure to report patient death or injury requiring hospitalization. • Act or omission that demonstrates level of incompetence such that the person should not practice without remediation and subsequent demonstration of competency. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning, Reprimand, or Probated Suspension with stipulations that may include: period of enforced suspension, continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures. • Denial, suspension of license, revocation of license or request for voluntary surrender.
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> • Negligence in treatment • Any intentional act or omission that risks or results in serious harm. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial, suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license to practice dentistry or dental hygiene

Standard of care violations continued on next page

STANDARD OF CARE (continued)

<p>Licensee fails to use proper diligence in practice or fails to safeguard patients against avoidable infections. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(9)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Failure to properly document compliance with health and sanitation requirements. Office premises are maintained in compliance with health and sanitation requirements. Low risk of patient harm. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Administrative Penalty ticket • Remedial Plan including continuing education, and/or audit of practice procedures. • Warning or Reprimand with stipulations that may include: continuing education, administrative fine, community service, and/or audit of practice procedures.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Office premises are not maintained in compliance with health and sanitation requirements. • Barrier techniques, disinfection, or sterilization techniques do not comply with health and sanitation requirements. • Failure to properly document controlled substance inventories or prescription records. • Failure to use reasonable diligence in preventing unauthorized persons from utilizing DEA or DPS permit privileges. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning, Reprimand, or Probated Suspension with stipulations that may include: continuing education, restitution to patient, administrative fine, community service, audit of practice procedures, and/or supervised practice or practice in a group setting.
<p>Licensee is negligent in performing dental services and that negligence causes injury or damage to a dental patient. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(12)</p>	
	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial, suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license to practice dentistry or dental hygiene.
<p>Licensee is physically or mentally incapable of practicing in a manner that is safe for the person's dental patients. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(11)</p>	
	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Suspension of license pending medical evaluation determining licensee is safe to practice. If evaluation determining licensee is safe to practice is received, then probated suspension with stipulation including regular evaluations for ability to practice safely. • Denial, suspension of license, revocation of license or request for voluntary surrender .Emergency suspension of license to practice dentistry or dental hygiene.

AIDING AND ABETTING OR IMPERMISSIBLE DELEGATION

<p>Licensee holds a dental license and employs, permits, or has employed or permitted a person not licensed to practice dentistry to practice dentistry in an office of the dentist that is under the dentist's control or management. Dental Practice Act (DPA), Tex. Occ. Code §§ 258.001 and 263.002(a)(8)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Impermissible delegation resulting in no more than a minimal risk of patient harm. Isolated incident. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Remedial Plan including continuing education and/or restitution to patient. • Warning or Reprimand with stipulations that may include: continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Impermissible delegation resulting in actual patient harm, or presenting a risk of patient harm. • Aiding and abetting another to practice dentistry without a license • Repeated incidents or pattern of impermissible delegation or aiding and abetting. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Probated Suspension with stipulations that may include: continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures. • Denial, suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license to practice dentistry or dental hygiene.

DISHONORABLE OR UNPROFESSIONAL CONDUCT

NOTE: Violations under this section may also constitute violations under sections such as those related to criminal conduct, chemical dependency, or improper distribution of a drug.

License practices dentistry or dental hygiene in a manner that constitutes dishonorable conduct.

Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(3)

<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Isolated dishonorable conduct resulting in no adverse patient effects. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Remedial Plan including continuing education and/or restitution to patient. Warning or Reprimand with stipulations that may include: continuing education, administrative fine, supervised practice or practice in a group setting, community service, audit of practice procedures, and/or limitations on sedation or controlled substance permits.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Repeated acts of dishonorable conduct or dishonorable conduct which places a patient or the public at risk of harm. • Dishonorable conduct which impairs a person's ability to treat a patient according to the standard of care. • Dispensing, administering, prescribing, or distributing drugs for a non-dental purpose. • Failure to meet duty of fair dealing in advising, treating, or billing patient. • Diagnosis of dental disease, prescription of medication, or performance of impermissible acts by dental hygienist. • Practicing dental hygiene without required supervision. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning, Reprimand, or Probated Suspension with stipulations that may include: continuing education, restitution to patient for financial exploitation, administrative fine, community service, supervised practice or practice in a group setting, and/or limitations on sedation or controlled substance permits. • Denial, suspension of license, revocation of license or request for voluntary surrender If violation involves mishandling or improper documentation of controlled substances, misdemeanor crimes or criminal conduct involving alcohol, drugs or controlled substances, then the stipulations will also include mandatory evaluation and enrollment in a Board approved peer assistance program, and abstinence from unauthorized use of drugs and alcohol, to be verified by random drug testing.
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> • Failure to comply with a substantive board rule regarding dishonorable conduct resulting in serious patient harm. • Repeated acts of dishonorable conduct or dishonorable conduct which results in harm to a patient or the public. • Sexual or sexualized conduct with patient. • Financial exploitation or dishonorable conduct resulting in a material or financial loss to a patient in excess of \$4,999. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial, suspension of license, revocation of license or request for voluntary surrender. Emergency suspension of license to practice dentistry or dental hygiene.

CRIMINAL OFFENSES

The Board considers criminal behavior to be highly relevant to an individual's fitness to engage in the practice of dentistry and has determined that the disciplinary actions imposed by these guidelines promote the intent of the Act. This matrix was developed to address criminal actions for which the Dental Practice Act does not mandate the Board take a specific disciplinary action.

The "date of disposition," when used to calculate the application of disciplinary actions, refers to the date a criminal action is entered by the court. The disciplinary actions imposed by the guidelines may be used in conjunction with other types of disciplinary actions, including administrative penalties.

The Board has determined that the nature and seriousness of certain crimes outweigh other factors to be considered in accordance with Section 101.8(h) of the Board's Rules and Regulations and so necessitate the disciplinary action as described below. Regarding the crimes enumerated in this matrix, the Board has weighed the factors in Section 101.8(h) in a light most favorable to the individual, and even if these factors are present, the Board has concluded that the following disciplinary actions apply to individuals with the criminal offenses as described below:

Type of Offense	Disciplinary Action
Criminal offenses requiring the individual maintain current registration as a sex offender with the Department of Public Safety Chapter 62, Code of Criminal Procedure	Denial or revocation of license
Criminal offenses relating to the regulation of dentists, dental hygienists, or dental assistants or committed in the practice of or connected to dentistry, dental hygiene or dental assistance	0-5 years since disposition – Denial or revocation of license 6-10 years since disposition – 5 years Probated Suspension of license 11-20 years since disposition – 3 years Probated Suspension of license Over 20 years since disposition – 1 year Probated Suspension of license

Type of Offense	Disciplinary Action
Criminal offense relating to the regulation of a plan to provide, arrange for, or reimburse any part of the cost of dental care services or the regulation of the business of insurance	0-5 years since disposition – Denial or revocation of license 6-10 years since disposition – 5 years Probated Suspension of license 11-20 years since disposition – 3 years Probated Suspension of license Over 20 years since disposition – 1 year Probated Suspension of license
Felony offenses under: (1) Chapter 481 or 483, Health and Safety Code; (2) Section 485.033, Health and Safety Code; or (3) the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §801 et seq.).	0-5 years since disposition – Denial or revocation of license 6-10 years since disposition – 5 years Probated Suspension of license 11-20 years since disposition – 3 years Probated Suspension of license Over 20 years since disposition – 1 year Probated Suspension of license
All other felony offenses	Currently on probation – Denial or revocation of license, or 30- to 180-day suspension followed by 5 years probation of license 0-5 years since disposition – 5 years Probated Suspension of license 6-10 years since disposition – 3 years Probated Suspension of license 11-20 years since disposition – 1 year Probated Suspension of license

Type of Offense	Disciplinary Action
Misdemeanor offenses under: (1) Chapter 22, Penal Code, other than a misdemeanor punishable by fine only; (2) Section 25.07, Penal Code; or (3) Section 25.071, Penal Code.	0-5 years since disposition – 3 years Probated Suspension of license 6-10 years since disposition – 1 year Probated Suspension of license
Other Class A and B misdemeanor offenses	0-5 years since disposition – Reprimand

CHEMICAL DEPENDENCY OR IMPROPER POSSESSION OR DISTRIBUTION OF DRUG

NOTE: Violations under this section may also constitute dishonorable or unprofessional conduct violations.

<p>Licensee is addicted to or habitually intemperate in the use of alcoholic beverages or drugs or has improperly obtained, possessed, used, or distributed habit-forming drugs or narcotics. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(7)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> Misuse of drugs or alcohol without patient interaction and no risk of patient harm or adverse patient effects. No previous history of misuse and no other aggravating circumstances. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> Probated suspension of license with stipulations that may include: continuing education, supervised practice or practice in a group setting, limitations on sedation or controlled substance permits, random drug screens, and/or enrollment in a Board approved peer assistance program.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> Improperly distributes habit-forming drugs or narcotics Prescribes or dispenses a controlled substance for a non-dental purpose. Prescribes or dispenses a controlled substance to a person who is not a dental patient, or to a patient without adequate diagnosis of the need for prescription. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> Probated suspension of license with stipulations that may include: period of enforced suspension, mandatory evaluation and enrollment in a Board approved peer assistance program, and abstinence from unauthorized use of drugs and alcohol, to be verified by random drug testing, continuing education, supervised practice or practice in a group setting, and/or limitations on sedation or controlled substance permits.
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> Misuse of drugs or alcohol with a risk of patient harm or adverse patient effects. Misuse of drugs or alcohol and other serious practice violation noted. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> Enforced or probated suspension of license with stipulations that may include: period of enforced suspension, mandatory evaluation and enrollment in a Board approved peer assistance program, and abstinence from unauthorized use of drugs and alcohol, to be verified by random drug testing, continuing education, supervised practice or practice in a group setting, and/or limitations on sedation or controlled substance permits.
<p><u>Fourth Tier Violation:</u></p> <ul style="list-style-type: none"> Misuse of drugs or alcohol with significant physical injury or death of a patient or a risk of significant physical injury or death. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> Denial of licensure, suspension of license, revocation of license or request for voluntary surrender. Emergency suspension of license to practice dentistry or dental hygiene.

FRAUD AND MISREPRESENTATION

NOTE: Violations under this section may also constitute dishonorable or unprofessional conduct violations.

<p>Licensee obtains a license by fraud or misrepresentation. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(6)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Failure to honestly and accurately provide information that may have affected the Board’s determination of whether to grant or renew a license. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Remedial Plan including continuing education. Elements normally related to dishonesty, fraud or deceit are deemed to be unintentional. • Warning or Reprimand with stipulations that may include: continuing education, community service, and/or administrative fine.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Intentional misrepresentation of previous licensure, education, or professional character, including failure to disclose criminal convictions. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial of licensure, suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license to practice dentistry or dental hygiene.

<p>Licensee engages in deception or misrepresentation in soliciting or obtaining patronage. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(5)</p>	
<p><u>Violation:</u></p> <ul style="list-style-type: none"> • Engaging in false advertising. • Creating unjustified expectation. • Engaging in false, misleading or deceptive referral schemes. • Failing to comply with requirements relating to professional signs. • Failure to list at least one dentist practicing under a trade name in an advertisement. • Falsely advertising as a specialist in one of the ADA recognized specialties or advertising as a specialist in an area not recognized by the ADA. • Other violations as assigned by rule. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • For a first violation of advertising restrictions, no sanction will be pursued until an opportunity to cure has been provided pursuant to statutory requirements. • Administrative Penalty ticket • Warning or Reprimand with stipulations that may include: cure of violation, continuing education, community service, and/or administrative fine.

VIOLATION OF LAW REGULATING DENTISTRY OR DENTAL HYGIENE

NOTE: A violation of any law relating to the regulation of dentists or dental hygienists, including those law violations expressed elsewhere in this matrix, will also be considered a violation of the Dental Practice Act, at Tex. Occ. Code §263.002(a)(10).

<p>Licensee violates or refuses to comply with a law relating to the regulation of dentists or dental hygienists. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(10)</p>	
<p>First Tier Violation:</p> <ul style="list-style-type: none"> Isolated failure to make, maintain and keep adequate dental records not resulting in patient harm. Failure to notify patients that complaints concerning dental services can be directed to the Board. Failure to post names of, degrees received by, and schools attended by each dentist practicing in office. Failure to properly exclude names of dentists not practicing in office. Failure to place identifying mark on a removable prosthetic device. Failure to notify the Board of maintenance of records agreement. First Tier violation of another law regulating dentists or dental hygienists. 	<p>Sanction:</p> <ul style="list-style-type: none"> Administrative Penalty ticket. Remedial Plan including continuing education, restitution to patient, and/or audit of practice procedures.
<p>Second Tier Violation:</p> <ul style="list-style-type: none"> Failure to make, maintain and keep adequate dental records resulting in potential for patient harm. Failure to obtain written, signed informed consent. Failure to provide full dental records to the Board upon request. Failure to maintain an appropriate permit for a mobile dental facility. Perform treatment outside licensee's scope of practice not resulting in patient harm. Prescription of controlled substance while DPS or DEA permit is expired. Second Tier violation of another law regulating dentists or dental hygienists. 	<p>Sanction:</p> <ul style="list-style-type: none"> Remedial Plan including continuing education, restitution to patient, and/or audit of practice procedures. Warning or Reprimand with stipulations that may include: continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures.
<p>Third Tier Violation:</p> <ul style="list-style-type: none"> Failure to make, maintain and keep adequate dental records resulting in actual patient harm. Violation of stipulation in a prior Board Order. Perform treatment outside licensee's scope of practice resulting in patient harm or potential for patient harm. Prescription of controlled substance without DPS or DEA permit. Third Tier or Fourth Tier violation of another law regulating dentists or dental hygienists. 	<p>Sanction:</p> <ul style="list-style-type: none"> Reprimand or Probated Suspension with stipulations that may include: enforced suspension of license until licensee obtains compliance with all stipulations in prior Board Orders, continuing education, restitution to patient, community service, and/or administrative fine. Denial of licensure, suspension of license, revocation of license or request for voluntary surrender. Emergency suspension of license to practice dentistry or dental hygiene.

VIOLATION OF LAW REGULATING DENTISTRY OR DENTAL HYGIENE (continued)

<p>Licensee knowingly provides or agrees to provide dental care in a manner that violates a federal or state law that: regulates a plan to provide, arrange for, pay for, or reimburse any part of the cost of dental care services; or regulates the business of insurance. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(14)</p>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Reprimand or Probated Suspension with stipulations that may include: continuing education, administrative fine, community service, repayment of any funds gained in violation of applicable law. • Denial of licensure, suspension of license, revocation of license or request for voluntary surrender.. • Emergency suspension of license to practice dentistry or dental hygiene.
<p>Licensee holds a license or certificate in another state and that state reprimands the licensee, suspends or revokes the licensee’s license or certificate or places the licensee on probation, or imposes another restriction on the licensee’s practice. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(13)</p>	<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • License or certificate is reprimanded or restricted in another jurisdiction. The action leading to the reprimand or restriction did not cause patient harm or risk patient harm.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • License or certificate is reprimanded or restricted in another jurisdiction. The action leading to the reprimand or restriction caused patient harm or caused a risk of patient harm. • Failure to report disciplinary action received in another jurisdiction. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning, reprimand, or probated suspension of license with stipulations that may include: continuing education, administrative fine, community service, and/or audit of practice procedures.
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> • License or certificate is suspended, revoked, or placed on probation in another jurisdiction. • License or certificate is reprimanded or restricted in another jurisdiction for action that caused severe patient harm or death. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial of licensure, suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license to practice dentistry or dental hygiene.

PRACTICING DENTISTRY WITHOUT A LICENSE

<p>License required to practice dentistry or dental hygiene Dental Practice Act (DPA), Tex. Occ. Code §256.001</p>	<p><u>Violation:</u></p> <ul style="list-style-type: none"> • Practicing dentistry without a license. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Issuance of Cease and Desist Order with referral of all information to Attorney General's Office and local law enforcement.
---	--	---

<p>Licensee enters into a contract, agreement or arrangement that allows a non-dentist to practice dentistry. Dental Practice Act (DPA), Tex. Occ. Code §251.003(a)(4) and (a)(9)</p>		
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Licensee knowingly, or should have known, entered into a contract, agreement or arrangement that allowed a non-dentist to practice dentistry that did not result in harm to patients. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Probated suspension, suspension of license, revocation of license or request for voluntary surrender. 	
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> • Licensee knowingly, or should have known, entered into a contract, agreement or arrangement that allowed a non-dentist to practice dentistry that resulted in harm to patients. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license. 	

OTHER VIOLATIONS

<p>Licensee is adjudged under the law to be insane. Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(1)</p>		
<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial of licensure, suspension of license, revocation of license or request for voluntary surrender. • Emergency suspension of license to practice dentistry or dental hygiene. 		

DENTAL ASSISTANTS

<p>Permitted Duties Dental Practice Act (DPA), Tex. Occ. Code §265.003</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Failure to comply with procedural Board rule such as failure to timely complete continuing education to maintain a Board-issued certification. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Remedial Plan including continuing education. • Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Practices dentistry or dental hygiene, or otherwise performs activities outside the scope of permitted duties for dental assistants. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.

OWNER RESPONSIBILITY

<p>Owner is responsible for all professional acts performed under the name of the owner. Dental Practice Act (DPA), Tex. Occ. Code §259.004(b)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> • Violation of the DPA or Board Rules – owner not personally involved or management of the entity was not a cause of the violation 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Remedial Plan or Warning with stipulations that may include: continuing education, community service, and/or administrative fine, restitution to patient
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> • Violation of the DPA or Board Rules – owner not personally involved, but management of the entity was a cause of the violation 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning or Reprimand with stipulation that may include: continuing education, and/or administrative fine, restitution to patient, and community service.
<p><u>Third Tier Violation</u></p> <ul style="list-style-type: none"> • Repeated Violations of the DPA or Board Rules – owner not personally involved, but management of the entity was a cause of the violation 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Probated Suspension, Suspension of License, Voluntary Surrender, or Revocation with stipulations that may include: continuing education, and/or administrative fine, restitution to patient, and community service.

DENTAL LABORATORIES

<p>Registration Required Dental Practice Act (DPA), Tex. Occ. Code §266.151</p>	<p><u>Violation:</u></p> <ul style="list-style-type: none"> • Operation of a dental laboratory or offer to provide dental laboratory services without a registration certificate. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Issuance of Cease and Desist Order with referral of all information to Attorney General's Office and local law enforcement.
--	--	---

<p>Certified Dental Technician Dental Practice Act (DPA), Tex. Occ. Code §266.152</p>	<p><u>Violation:</u></p> <ul style="list-style-type: none"> • Failure to have at least one dental technician working on the laboratory's premises who is certified by a recognized board of certification for dental technology. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning or Reprimand with stipulations that may include: continuing education, community service, and/or administrative fine. • Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.
--	---	---

<p>Applicant or certificate holder has violated, aided another person, or allowed a person under their direction to violate a law regulating the practice of dentistry. Dental Practice Act (DPA), Tex. Occ. Code §266.251</p>	<p><u>Violation:</u></p> <ul style="list-style-type: none"> • Failure to obtain written work orders or prescriptions from a licensed dentist, and maintain appropriate records. • Failure to keep premises and records open to inspection during working hours. • Failure to comply with the requirements for notification of change of ownership. 	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> • Warning or Reprimand with stipulations that may include: continuing education, community service, and/or administrative fine. • Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.
---	---	---

◆ ◆ ◆
Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is July 13, 2015. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on July 13, 2015. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: ADICO ENTERPRISES INCORPORATED dba Anas Shell; DOCKET NUMBER: 2015-0350-PST-E; IDENTIFIER: RN100870831; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$5,500; ENFORCEMENT COORDINATOR: Allyson Plantz, (512) 239-4593; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: ARC DGLBKTX004, LLC dba Dollar General Store 14227; DOCKET NUMBER: 2015-0431-PWS-E; IDENTIFIER: RN107575987; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e)(1) and (h)(1) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the executive director for review and approval prior to the establishment of a new public water supply; 30 TAC §290.41(c)(3)(B), by failing to provide a well casing a minimum of 18 inches above the elevation

of the finished floor of the pump house or natural ground surface; 30 TAC §290.41(c)(3)(J), by failing to provide the well with a concrete sealing block extending a minimum of three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inch per foot; 30 TAC §290.41(c)(3)(K), by failing to provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and located as to minimize the drawing of contaminants into the well; 30 TAC §290.41(c)(3)(N), by failing to provide a flow measuring device for the well to measure production yields and provide for the accumulation of water production data; 30 TAC §290.42(m) and §290.43(e), by failing to provide an intruder-resistant fence or lockable building for the well and pressure maintenance facilities; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply to ensure that continuous and effective disinfection can be secured under all conditions for the purpose of microbiological control throughout the distribution system; 30 TAC §290.45(d)(2)(B)(ii) and (iii) and THSC, §341.0315(c), by failing to provide ground storage capacity equal to 50% of the maximum daily demand, and failing to provide at least one service pump with a capacity of three times the maximum daily demand; 30 TAC §290.45(d)(2)(B)(v) and THSC, §341.0315(c), by failing to provide a minimum pressure tank capacity of 220 gallons; 30 TAC §290.42(l), by failing to develop and maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements; and 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay public health service fees, including late fees, for TCEQ Financial Administration Account Number 91520293 for Fiscal Year 2015; PENALTY: \$2,467; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(3) COMPANY: BRAZOS ELECTRIC POWER COOPERATIVE, INCORPORATED DBA BRAZOS ELECTRIC COOPERATIVE; DOCKET NUMBER: 2015-0532-IWD-E; IDENTIFIER: RN102079910; LOCATION: City of Gordon, Palo Pinto County; TYPE OF FACILITY: steam electric generating station; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0001903000, Effluent Limitations and Monitoring Requirements Number 1, Outfall Numbers 001 and 002, by failing to comply with permitted effluent limitations; PENALTY: \$8,125; Supplemental Environmental Project offset amount of \$6,500; ENFORCEMENT COORDINATOR: Larry Butler, (512) 239-2543; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: City of Wolfforth; DOCKET NUMBER: 2014-1259-WQ-E; IDENTIFIER: RN105481972; LOCATION: Wolfforth, Lubbock County; TYPE OF FACILITY: storm sewer system; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(a), by failing to maintain authorization to discharge storm water under a Small Municipal Separate Storm Sewer System Texas Pollutant Discharge Elimination System General Permit; PENALTY: \$3,000; Supplemental Environmental Project offset amount of \$2,400; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(5) COMPANY: EOLA WATER SUPPLY CORPORATION; DOCKET NUMBER: 2015-0157-PWS-E; IDENTIFIER: RN102673183; LOCATION: Eola, Concho County; TYPE OF

FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(f)(2), (3)(A)(i)(III), (ii)(III), and (D)(ii), by failing to make water works operation and maintenance records available for review by commission personnel during the investigation; 30 TAC §290.46(m)(4), by failing to maintain all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition; and 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay public health service fees, including late fees, for TCEQ Financial Administration Account Number 90480011 for Fiscal Year 2015; PENALTY: \$101; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(6) COMPANY: Federal Bureau of Prisons; DOCKET NUMBER: 2015-0278-PST-E; IDENTIFIER: RN102043452; LOCATION: Seagoville, Dallas County; TYPE OF FACILITY: federal penitentiary; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2), and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month, and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Steven Van Lindingham, (512) 239-5717; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: Harris County; DOCKET NUMBER: 2015-0073-PST-E; IDENTIFIER: RN102486263; LOCATION: Spring, Harris County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.50(b)(2) and (d)(1)(B)(ii) and TWC, §26.3475(a) and (c)(1), by failing to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and failing to provide release detection for the pressurized piping associated with the underground storage tank system; and 30 TAC §21.4 and TWC, §5.702, by failing to pay outstanding consolidated water quality late fees for TCEQ Financial Account Numbers 23003652 and 23004809 for fiscal year 2015; PENALTY: \$3,750; Supplemental Environmental Project offset amount of \$3,000; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(8) COMPANY: HARRISON PROFESSIONAL PROPERTIES, LLC; DOCKET NUMBER: 2015-0256-EAQ-E; IDENTIFIER: RN105864839; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: commercial project; RULES VIOLATED: 30 TAC §213.4(k) and Edwards Aquifer Water Pollution Abatement Plan (WPAP) Number 13-10010502, Standard Conditions Numbers 2 and 19, by failing to maintain permanent best management practices; and 30 TAC §213.4(j)(1) and Edwards Aquifer WPAP Number 13-10010502, Standard Conditions Number 6, by failing to obtain approval of a modification to an approved Edwards Aquifer WPAP prior to initiating construction of the modification; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Katelyn Samples, (512) 239-4728; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(9) COMPANY: JOE VAUGHN SPRAYING, INCORPORATED; DOCKET NUMBER: 2015-0158-PST-E; IDENTIFIER: RN101864098; LOCATION: Kress, Swisher County; TYPE OF FACILITY: aircraft refueling facility; RULES VIOLATED: 30 TAC §334.50(d)(1)(B)(ii) and (iii)(I) and TWC, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance

flow through for the month plus 130 gallons and failing to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; PENALTY: \$2,438; ENFORCEMENT COORDINATOR: John Duncan, (512) 239-2720; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(10) COMPANY: LCY ELASTOMERS LP; DOCKET NUMBER: 2015-0243-AIR-E; IDENTIFIER: RN102325974; LOCATION: Baytown, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O1756, Special Terms and Conditions (STC) Number 11, and New Source Review (NSR) Permit Number 20311, Special Conditions (SC) Number 1, by failing to comply with the annual allowable particulate matter (PM) and PM equal to or less than 10 microns in diameter/PM equal to or less than 2.5 microns in diameter emissions rates for the Cooling Tower, Emission Point Number (EPN) VE-9; and 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), THSC, §382.085(b), FOP Number O1756, STC Number 11, and NSR Permit Number 20311, SC Number 1, by failing to comply with the annual allowable volatile organic compounds and 1,3-butadiene emissions rates for the Low Pressure Flare and High Pressure Flare, EPNs VE-7 and VE-12, respectively; PENALTY: \$31,500; ENFORCEMENT COORDINATOR: Jessica Schildwachter, (512) 239-2617; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(11) COMPANY: Lufkin Industries, LLC; DOCKET NUMBER: 2015-0231-IHW-E; IDENTIFIER: RN100693209; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: iron foundry; RULE VIOLATED: 30 TAC §330.171(b)(2), by failing to obtain prior written approval from the executive director for the disposal of special wastes; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(12) COMPANY: Matagorda Waste Disposal and Water Supply Corporation; DOCKET NUMBER: 2015-0603-PWS-E; IDENTIFIER: RN101454627; LOCATION: Wadsworth, Matagorda County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$345; ENFORCEMENT COORDINATOR: Katelyn Samples, (512) 239-4728; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(13) COMPANY: McMullen County Water Control and Improvement District 2; DOCKET NUMBER: 2015-0333-PWS-E; IDENTIFIER: RN101398808; LOCATION: Calliham, McMullen County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(c)(2)(D) and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the executive director for the January 1, 2002 - December 31, 2010, monitoring period; 30 TAC §290.117(c)(2)(B) and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the executive director for the January 1, 2011 - December 31, 2011 and January 1, 2013 - December 31, 2014 monitoring periods; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director each quarter by the tenth day of the month following the end of the quarter for the third quarter of 2014; and 30 TAC §290.122(c)(2)(A)

and (f), by failing to provide public notification and submit a copy of the public notification to the executive director regarding the failure to submit a DLQOR for the first and second quarters of 2013 and regarding the failure to collect routine distribution water samples for coliform analysis during the months of April 2012 and September 2014; PENALTY: \$1,396; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(14) COMPANY: Melissa Lee Carpenter and Lynn Morren dba Chaplines Mobile Home Park; DOCKET NUMBER: 2014-1820-PWS-E; IDENTIFIER: RN101232536; LOCATION: Pearland, Brazoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director each quarter by the tenth day of the month following the end of the quarter; 30 TAC §290.117(c)(2)(A) and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the executive director; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year and failing to submit to the TCEQ by July 1st of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data; and 30 TAC §§290.272, 290.273 and 290.274(a), by failing to meet the adequacy, availability, and/or content requirements for the CCR for the year of 2013; PENALTY: \$2,341; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(15) COMPANY: MURPHY OIL USA, INCORPORATED dba Murphy USA 6895; DOCKET NUMBER: 2015-0349-PST-E; IDENTIFIER: RN103003307; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: gasoline dispensing facility; RULES VIOLATED: 30 TAC §115.246(b)(2) and Texas Health and Safety Code, §382.085(b), by failing to maintain all Stage II records at the station and make them immediately available for review upon request by agency personnel; PENALTY: \$3,562; Supplemental Environmental Project offset amount of \$1,425; ENFORCEMENT COORDINATOR: James Baldwin, (512) 239-1337; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(16) COMPANY: OG Estates MHC, LLC dba Oak Grove Mobile Home Park; DOCKET NUMBER: 2015-0221-PWS-E; IDENTIFIER: RN101232254; LOCATION: Kerrville, Kerr County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(c)(2)(A) and (i)(1), by failing to collect lead and copper samples at the required ten sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the executive director for the January 1, 2010 - December 31, 2010, and January 1, 2011 - June 30, 2011 monitoring periods, and failing to collect lead and copper samples at the required ten sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the executive director for the July 1, 2011 - December 31, 2011, January 1, 2013 - December 31, 2013 monitoring periods, and failing to collect six of the ten required samples at approved sample sites for the January 1, 2014 - June 30, 2014 monitoring period; PENALTY: \$3,479; ENFORCEMENT COORDINATOR: Ryan Byer, (512)239-2571; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(17) COMPANY: PARVEEZ INVESTMENT INCORPORATED dba Chevron Churchs Food Mart; DOCKET NUMBER: 2015-0485-PST-E; IDENTIFIER: RN101378206; LOCATION: Plano, Collin

County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: SACC, Incorporated; DOCKET NUMBER: 2015-0282-WQ-E; IDENTIFIER: RN107002107; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: residential development; RULES VIOLATED: 30 TAC §281.25(a)(4) and §305.125(1) and Texas Pollutant Discharge Elimination System Construction General Permit TXR15YT04, Part III, Section F, Numbers 4 and 6, by failing to maintain stormwater best management practices and minimize off-site vehicle tracking of sediments; PENALTY: \$876; ENFORCEMENT COORDINATOR: Alejandro Laje, (512) 239-2547; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(19) COMPANY: SAMIRA INCORPORATED dba Rajs Mart; DOCKET NUMBER: 2015-0290-PST-E; IDENTIFIER: RN102059326; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Allyson Plantz, (512) 239-4593; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(20) COMPANY: San Felipe Stone, Incorporated; DOCKET NUMBER: 2015-0446-WQ-E; IDENTIFIER: RN106586605; LOCATION: Grandbury, Hood County; TYPE OF FACILITY: aggregate production operation (APO); RULE VIOLATED: 30 TAC §342.25(d), by failing to renew the APO registration annually as regulated activities continue; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Heather Brister, (817) 588-5825; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: SANTA ANITA RECLAMATION PROJECT, LLC; DOCKET NUMBER: 2014-1698-MLM-E; IDENTIFIER: RN105389514; LOCATION: Linn, Hidalgo County; TYPE OF FACILITY: Land Reclamation Project Using Tires (LRPUT); RULES VIOLATED: 30 TAC §335.4, by failing to not cause, suffer, allow, or prevent the unauthorized storage of industrial solid waste; and 30 TAC §328.63(c)(4) and TCEQ LRPUT Registration ID Number 6200592, Section 9.0, by failing to adhere to the approved LRPUT application; PENALTY: \$14,782; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(22) COMPANY: STAR CREST RETAILER'S, INCORPORATED dba Blossom Food Mart; DOCKET NUMBER: 2015-0369-PST-E; IDENTIFIER: RN102362985; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(23) COMPANY: Terri Williams; DOCKET NUMBER: 2015-0718-WOC-E; IDENTIFIER: RN108189200; LOCATION: Tahoka, Lynn County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational

license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(24) COMPANY: Texas Petroleum Group, LLC dba TPG 242 05; DOCKET NUMBER: 2014-1669-PST-E; IDENTIFIER: RN100703750; LOCATION: Katy, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$3,831; ENFORCEMENT COORDINATOR: John Duncan, (512) 239-2720; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(25) COMPANY: TR's Market, Incorporated dba In & Out Texaco; DOCKET NUMBER: 2012-2614-PST-E; IDENTIFIER: RN101435006; LOCATION: Denton, Denton County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Larry Butler, (512) 239-2543; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(26) COMPANY: Vishwanath Enterprise, Incorporated dba The Beverage Store; DOCKET NUMBER: 2015-0375-PST-E; IDENTIFIER: RN101570885; LOCATION: Melissa, Collin County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once per month, and failing to provide proper release detection for the pressurized piping associated with the UST system; PENALTY: \$3,504; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-201502030

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: June 2, 2015



Correction of Error

The Texas Commission on Environmental Quality proposed repeals, new sections and amendments in 30 TAC Chapter 217 in the May 29, 2015, issue of the *Texas Register* (40 TexReg 2935). On page 3062, second column, rule text in amended §217.279(b)(1) was struck through in error. Corrected §217.279(b) reads as follows:

...

(b) A 150 pound cylinder must be stored vertically and secured by a clamp or chain to prevent it from falling over. A one-ton cylinder [Storage Orientation.]

[~~(1) One-ton cylinders~~] must be stored horizontally on trunnions.

[~~(2) A 150-pound cylinder must be stored vertically and secured by a clamp or chain.~~]

...

TRD-201502045



Enforcement Orders

An agreed order was entered regarding RJR RESTAURANTS OF DENTON LIMITED PARTNERSHIP dba Rudy's Bar-B-Que and Country Store, Docket No. 2014-0494-PST-E on May 12, 2015, assessing \$6,049 in administrative penalties with \$1,209 deferred.

Information concerning any aspect of this order may be obtained by contacting Allyson Plantz, Enforcement Coordinator at (512) 239-4593, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Harmen Waterlander dba Linquenda Dairy, Docket No. 2014-0819-AGR-E on May 12, 2015, assessing \$2,613 in administrative penalties with \$522 deferred.

Information concerning any aspect of this order may be obtained by contacting Greg Zychowski, Enforcement Coordinator at (512) 239-3158, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rita Laura Redow Karbalai, Docket No. 2014-0833-MWD-E on May 12, 2015, assessing \$4,445 in administrative penalties with \$889 deferred.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Green, Enforcement Coordinator at (512) 239-2587, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CADE LAKES WATER SUPPLY CORPORATION, Docket No. 2014-0912-PWS-E on May 12, 2015, assessing \$1,136 in administrative penalties with \$227 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RACETRAC PETROLEUM, INC., Docket No. 2014-0977-PWS-E on May 12, 2015, assessing \$250 in administrative penalties with \$50 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Affordable Land Services, LLC, Docket No. 2014-1064-AIR-E on May 12, 2015, assessing \$5,990 in administrative penalties with \$1,198 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Arnold Crushed Stone, Inc., Docket No. 2014-1109-WQ-E on May 12, 2015, assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Green, Enforcement Coordinator at (512) 239-2587, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Thirsty Parrot, LLC, Docket No. 2014-1194-PWS-E on May 12, 2015, assessing \$230 in administrative penalties with \$46 deferred.

Information concerning any aspect of this order may be obtained by contacting Lisa Westbrook, Enforcement Coordinator at (512) 239-

1160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cedarstone One Investors, Ltd., Docket No. 2014-1493-MWD-E on May 12, 2015, assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Greg Zychowski, Enforcement Coordinator at (512) 239-3158, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Lawn, Docket No. 2014-1512-PWS-E on May 12, 2015, assessing \$2,390 in administrative penalties with \$478 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 403-4077, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EOG Resources, Inc., Docket No. 2014-1603-MLM-E on May 12, 2015, assessing \$1,574 in administrative penalties with \$314 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Blue Star Materials II, LLC, Docket No. 2014-1622-WQ-E on May 12, 2015, assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Greg Zychowski, Enforcement Coordinator at (512) 239-3158, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SHENOOR Enterprise, Inc. dba Rochelle Fuel Center, Docket No. 2014-1666-PST-E on May 12, 2015, assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Tiffany Maurer, Enforcement Coordinator at (512) 239-2696, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Quanah, Docket No. 2014-1681-MWD-E on May 12, 2015, assessing \$1,313 in administrative penalties with \$262 deferred.

Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2547, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WTG FUELS, INC. dba Dalhart South Gascard, Docket No. 2014-1683-PST-E on May 12, 2015, assessing \$5,625 in administrative penalties with \$1,125 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KAMIRA PROPERTY OWNERS ASSOCIATION, INC. dba Kamira Water System, Docket No. 2014-1710-PWS-E on May 12, 2015, assessing \$210 in administrative penalties with \$210 deferred.

Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (210) 403-4076, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Montgomery Materials, LLC, Docket No. 2014-1723-AIR-E on May 12, 2015, assessing \$2,188 in administrative penalties with \$437 deferred.

Information concerning any aspect of this order may be obtained by contacting Rachel Bekowies, Enforcement Coordinator at (512) 239-2608, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Conroe Independent School District, Docket No. 2014-1731-PWS-E on May 12, 2015, assessing \$1,309 in administrative penalties with \$261 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 403-4077, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CENTERLINE WATER SUPPLY CORPORATION, Docket No. 2014-1744-PWS-E on May 12, 2015, assessing \$1,396 in administrative penalties with \$279 deferred.

Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (210) 403-4076, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HOOKS MOBILE HOME PARK, LTD., Docket No. 2014-1755-PWS-E on May 12, 2015, assessing \$3,356 in administrative penalties with \$671 deferred.

Information concerning any aspect of this order may be obtained by contacting Rachel Bekowies, Enforcement Coordinator at (512) 239-2608, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding C.V.W.S., Inc. dba Cypress Village Water System, Docket No. 2014-1780-PWS-E on May 12, 2015, assessing \$1,420 in administrative penalties with \$283 deferred.

Information concerning any aspect of this order may be obtained by contacting Katelyn Samples, Enforcement Coordinator at (512) 239-4728, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DALPAK ENTERPRISE, INC. dba SWIF-T, Docket No. 2014-1812-PST-E on May 12, 2015, assessing \$2,563 in administrative penalties with \$512 deferred.

Information concerning any aspect of this order may be obtained by contacting James Baldwin, Enforcement Coordinator at (512) 239-1337, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RANGER UTILITY COMPANY, Docket No. 2014-1841-PWS-E on May 12, 2015, assessing \$808 in administrative penalties with \$161 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KUROSKY & COMPANY, Docket No. 2014-1849-AIR-E on May 12, 2015, assessing \$1,626 in administrative penalties with \$325 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Nguyen, Enforcement Coordinator at (512) 239-6160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas American Resources Company, Docket No. 2014-1859-AIR-E on May 12, 2015, assessing \$2,063 in administrative penalties with \$412 deferred.

Information concerning any aspect of this order may be obtained by contacting Rachel Bekowies, Enforcement Coordinator at (512) 239-2608, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NH & SS Enterprises LLC dba D & D Store, Docket No. 2014-1872-PST-E on May 12, 2015, assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Tiffany Maurer, Enforcement Coordinator at (512) 239-2696, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Charlie W. Graham, Jr., Docket No. 2015-0274-OSS-E on May 12, 2015, assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding South Hampton Resources, Inc., Docket No. 2012-2108-IHW-E on May 19, 2015, assessing \$32,850 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jennifer Cook, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Equistar Chemical, LP, Docket No. 2013-0122-AIR-E on May 19, 2015, assessing \$29,575 in administrative penalties with \$5,915 deferred.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (210) 403-4063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FALL CREEK UTILITY COMPANY, INC., Docket No. 2013-1028-MWD-E on May 19, 2015, assessing \$13,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Carmen Ramirez Castro dba Carmen's Corner Stop, Docket No. 2013-1115-PST-E on May 19, 2015, assessing \$16,651 in administrative penalties with \$3,330 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LONESTAR ECOLOGY LLC, Docket No. 2013-1275-IHW-E on May 19, 2015, assessing \$46,889 in administrative penalties with \$9,377 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BUCHANAN LAKE VIL-LAGE, INC., Docket No. 2013-1410-PWS-E on May 19, 2015, assessing \$137 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jennifer Cook, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Xpress Choice LLC dba Xpress 1 Stop, Docket No. 2013-1560-PST-E on May 19, 2015, assessing \$45,038 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Eureka! Computer Scrap Recycler's L.L.C., Docket No. 2013-1752-MSW-E on May 19, 2015, assessing \$14,413 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elizabeth Carroll Harkrider, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SOUTHWEST INDUSTRIAL SERVICES, INC., Docket No. 2013-1781-IHW-E on May 19, 2015, assessing \$11,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jennifer Cook, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Robert F. Bryer dba Bentwood Estates Mobile Home Park, Docket No. 2013-1876-MWD-E on May 19, 2015, assessing \$16,100 in administrative penalties with \$3,220 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Alex Mendez dba Mendez Tire Shop 3, Docket No. 2013-1937-MSW-E on May 19, 2015, assessing \$39,319 in administrative penalties with \$7,863 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chase Industries, Inc., Docket No. 2013-1943-AIR-E on May 19, 2015, assessing \$37,447 in administrative penalties with \$7,489 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SIFCO Applied Surface Concepts, LLC, Docket No. 2013-2073-IHW-E on May 19, 2015, assessing \$119,521 in administrative penalties with \$23,903 deferred.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (817) 588-5892, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chester Alton Andrews, Docket No. 2013-2086-MWD-E on May 19, 2015, assessing \$14,375 in administrative penalties with \$2,875 deferred.

Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2547, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BASF CORPORATION, Docket No. 2013-2226-MLM-E on May 19, 2015, assessing \$72,160 in administrative penalties with \$14,432 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Raymond Wong dba Satsuma Park Villa Mobile Home Park, Docket No. 2014-0384-PWS-E on May 19, 2015, assessing \$2,529 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Green, Enforcement Coordinator at (512) 239-2587, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RECON SERVICES, INC. dba Recon Recycles, Docket No. 2014-0433-MSW-E on May 19, 2015, assessing \$18,771 in administrative penalties with \$3,754 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Fazio Family Investments, Inc. dba Kid Korral, Docket No. 2014-0446-PWS-E on May 19, 2015, assessing \$1,435 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cities of Waco, Woodway, Bellmead, Lacy-Lakeview, Robinson, Hewitt, and Lorena, Docket No. 2014-0483-MWD-E on May 19, 2015, assessing \$21,750 in administrative penalties with \$4,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2520, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Haney Sitework and Paving LLP, Docket No. 2014-0620-MLM-E on May 19, 2015, assessing \$28,438 in administrative penalties with \$5,687 deferred.

Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2547, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lufkin Creosoting Co., Inc., Docket No. 2014-0834-AIR-E on May 19, 2015, assessing \$14,400 in administrative penalties with \$2,880 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WESSON SAND COMPANY, INC., Docket No. 2014-1042-MLM-E on May 19, 2015, assessing \$9,375 in administrative penalties with \$1,875 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Dow Chemical Company, Docket No. 2014-1053-AIR-E on May 19, 2015, assessing \$18,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (713) 767-3567, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Donald R. Cole and Susan E. Cole dba Blue Ridge Water System, Docket No. 2014-1062-PWS-E on May 19, 2015, assessing \$2,571 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding New Braunfels Utilities, Docket No. 2014-1097-MWD-E on May 19, 2015, assessing \$10,500 in administrative penalties with \$2,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Greg Zychowski, Enforcement Coordinator at (512) 239-3158, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DANIEL MEMORIAL BAPTIST ENCAMPMENT, INC., Docket No. 2014-1148-PWS-E on May 19, 2015, assessing \$531 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lisa Westbrook, Enforcement Coordinator at (512) 239-1160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Terra Verde Utility Company, LLC, Docket No. 2014-1154-MWD-E on May 19, 2015, assessing \$9,750 in administrative penalties with \$1,950 deferred.

Information concerning any aspect of this order may be obtained by contacting Greg Zychowski, Enforcement Coordinator at (512) 239-3158, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding High Frontier Realty, Inc., Docket No. 2014-1241-PWS-E on May 19, 2015, assessing \$845 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 403-4077, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Davis Gas Processing, Inc., Docket No. 2014-1253-AIR-E on May 19, 2015, assessing \$26,689 in administrative penalties with \$5,337 deferred.

Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (713) 767-3567, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chevron Phillips Chemical Company LP, Docket No. 2014-1329-AIR-E on May 19, 2015, assessing \$104,525 in administrative penalties with \$20,905 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ABRAXAS CORPORATION, Docket No. 2014-1360-PWS-E on May 19, 2015, assessing \$588 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding John Riddle dba Dripping Springs Bulk Water Delivery, Docket No. 2014-1361-PWS-E on May 19, 2015, assessing \$548 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katie Hargrove, Enforcement Coordinator at (512) 239-2569, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Pasadena Refining System, Inc, Docket No. 2014-1376-AIR-E on May 19, 2015, assessing \$19,688 in administrative penalties with \$3,937 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Nguyen, Enforcement Coordinator at (512) 239-6160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Casita Enterprises, Inc., Docket No. 2014-1378-AIR-E on May 19, 2015, assessing \$7,688 in administrative penalties with \$1,537 deferred.

Information concerning any aspect of this order may be obtained by contacting Rachel Bekowies, Enforcement Coordinator at (512) 239-2608, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jim Hogg County Water Control and Improvement District No. 2, Docket No. 2014-1383-MWD-E on May 19, 2015, assessing \$16,841 in administrative penalties with \$3,368 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Formosa Plastics Corporation, Texas, Docket No. 2014-1394-AIR-E on May 19, 2015, assessing \$32,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ameriforge Corporation, Docket No. 2014-1450-IWD-E on May 19, 2015, assessing \$32,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JSW Steel (USA) Inc., Docket No. 2014-1488-AIR-E on May 19, 2015, assessing \$8,925 in administrative penalties with \$1,785 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding D P R WATER SUPPLY CORPORATION, Docket No. 2014-1489-PWS-E on May 19, 2015, assessing \$630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katie Hargrove, Enforcement Coordinator at (512) 239-2569, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lone Star NGL Fractionators LLC, Docket No. 2014-1519-AIR-E on May 19, 2015, assessing \$11,700 in administrative penalties with \$2,340 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brazosport Independent School District, Docket No. 2014-1558-PWS-E on May 19, 2015, assessing \$645 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katelyn Samples, Enforcement Coordinator at (512) 239-4728, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding UMBARGER COMMUNITY WATER SUPPLY CORPORATION, Docket No. 2014-1629-PWS-E on May 19, 2015, assessing \$1,020 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katelyn Samples, Enforcement Coordinator at (512) 239-4728, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Two Pillars Investments, Inc dba Davis Quick Stop, Docket No. 2014-1757-PST-E on May 19, 2015, assessing \$8,070 in administrative penalties with \$1,614 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201502038
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: June 3, 2015



Notice of District Petition

Notices issued May 14 and 27, 2015.

TCEQ Internal Control No. D-03062015-015; South Grayson Water Supply Corporation (Petitioner) filed a petition with the Texas Commission on Environmental Quality (TCEQ) to convert South Grayson Water Supply Corporation to South Grayson Special Utility District of Grayson and Collin Counties (District). South Grayson Special Utility District's business address will be: 1577 S. Waco Street, Van Alstyne, Texas 75495. The petition was filed pursuant to Chapters 49 and 65 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The nature and purpose of the petition are for the conversion of South Grayson Water Supply Corporation and the organization, creation and establishment of South Grayson Special Utility District of Grayson and Collin Counties under the provisions of Article XVI, §59 of the Texas Constitution, and Chapter 65 of the Texas Water Code, as amended. The District shall have the purposes and powers provided in Chapter 65 of the Texas Water Code, as amended. The nature of the services presently performed by South Grayson Water Supply Corporation is to supply water for municipal uses, domestic uses, power and commercial purposes, and other beneficial uses or controls. The nature of the services proposed to be provided by South Grayson Special Utility District of Grayson and Collin Counties is to supply water for municipal uses, domestic uses, power and commercial purposes, and other beneficial uses or controls. It is anticipated that the conversion will have no adverse effects on the rates and services provided to the customers.

TCEQ Internal Control No. D-03312015-047; JM Texas Land Fund No. 6, L.P. ("Petitioner") filed a petition for creation of Harris County Municipal Utility District No. 506 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholder on the property to be included in the proposed District; (3) the proposed District will contain approximately 347.704 acres located within Harris County, Texas; and (4) the proposed District is within the extraterritorial jurisdiction of the City of Houston, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Ordinance No. 2009-1329, effective December 22, 2009, the City of Houston gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain and operate a waterworks and sanitary sewer system for commercial and residential 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 waters, all as more particularly described in an engineering report filed simultaneously with the filing of this Petition, to which reference is hereby made for more detailed description; (4) purchase, construct, acquire, improve, maintain and operate such additional facilities, systems, plants and enterprises, as shall be consistent with all the purposes for which the District is created. Application material indicates the proposed District will also construct, acquire, maintain and operate parks and recreational facilities. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$42,150,000 (\$31,750,000 for utilities, plus \$4,500,000 for recreational facilities, plus \$5,900,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/comm_exec/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-201502036
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: June 3, 2015

◆ ◆ ◆
Notice of Public Meeting on July 14, 2015, in Lubbock, Lubbock County, Texas Concerning the Scrub-A-Dubb Barrel Company Facility

The purpose of this meeting is to obtain public input and information concerning proposal of the Scrub-A-Dubb Barrel Company facility (the site) in Lubbock, Lubbock County, Texas to the Texas Superfund Registry, the identification of potentially responsible parties, and the proposal of non-residential land use.

The Texas Commission on Environmental Quality (TCEQ or commission) is required under the Texas Solid Waste Disposal Act, Texas Health and Safety Code (THSC), Chapter 361, as amended, to annually publish a state registry that identifies facilities that may constitute an imminent and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances into the environment. The most recent state registry of these facilities was published in the September 26, 2014, issue of the *Texas Register* (39 TexReg 7816).

In accordance with THSC, §361.184(a), the commission must publish a notice of intent to list a site on the Texas Superfund Registry in the *Texas Register* and in a newspaper of general circulation in the county

in which the site is located. With this publication, the commission hereby gives notice that the executive director has determined that the site is eligible for listing and the executive director proposes to list the site on the Texas Superfund Registry. By this publication, the commission also gives notice in accordance with THSC, §361.1855, that it proposes a land use other than residential as appropriate for the site. The TCEQ is proposing a land use designation of commercial/industrial based on the existing land use of the property as prescribed in the Texas Risk Reduction Program Rule at 30 TAC §350.53. Determination of the appropriate land use may impact the remedial investigation and remedial action for the site.

This publication also specifies the general nature of the potential endangerment to the public health and safety or the environment as determined by the information currently available to the executive director. This notice of intent to list this site was also published on June 12, 2015, in the *Lubbock Avalanche-Journal*.

The site proposed for listing is the Scrub-A-Dubb Barrel Company facility at 1102 North Ash Avenue and 1209 North Ash Avenue in Lubbock, Lubbock County, Texas. The geographic coordinates of the site are Latitude 33.611889° North, Longitude 101.836122° West. The description of the site is based on information available at the time the site was evaluated with the Hazard Ranking System (HRS). The HRS is the principal screening guide used by the TCEQ to evaluate potential, relative risk to public health and the environment from releases or threatened releases of hazardous substances. The site description may change as additional information is gathered on the source and extent of contamination.

The Scrub-A-Dubb Barrel Company was a drum cleaning and reconditioning business that operated from 1975 to 2009. The company also collected waste materials from used drums and sold the materials to waste oil companies for reuse or reclamation. The refurbishing process employed by the company included rinsing the interior and the exterior of the drums with water. The water and contents of the drums were drained into a wastewater treatment system comprised of three above-ground fiberglass storage tanks and three open concrete impoundment vats. The concrete impoundment vats have been the source of previous releases that have migrated off the property.

In 2007, two releases occurred at the site that resulted in spilled material flowing offsite and onto adjacent properties. Samples of the spilled material collected by TCEQ indicated that metals, and volatile and semi-volatile organic compounds were present in the discharged material.

From February 2011 to February 2012, the United States Environmental Protection Agency conducted removal activities at the site. During the removal action, 44,340 drums were recovered and shipped offsite. Approximately 3,000 cubic yards of contaminated soil was excavated and six underground storage tanks were removed and disposed of off-site. Several aboveground tanks were drained, dismantled, and disposed of and all other containments, settling tanks, and other waste processing structures were removed. All areas were backfilled to stable grade. Impacts to groundwater have been documented.

A public meeting will be held on July 14, 2015, at 7:00 p.m. at the community meeting room of the City of Lubbock's Mahon Public Library, 1306 9th Street, Lubbock, Texas. The purpose of this meeting is to obtain additional information regarding the site relative to its eligibility for listing on the state registry, identify any additional potentially responsible parties, and to obtain public input and information regarding the appropriate use of the land on which the site is located. The public meeting is not a contested case hearing under the Texas Administrative Procedure Act (Texas Government Code, Chapter 2001).

All persons desiring to make comments may do so prior to or at the public meeting. All comments submitted prior to the public meeting must be received by 5:00 p.m. on July 13, 2015, **and should be sent in writing** to Adrienne Love, Project Manager, TCEQ, Remediation Division, MC 136, P.O. Box 13087, Austin, Texas 78711-3087 or by facsimile at (512) 239-2450. The public comment period for this action will end at the close of the public meeting on July 14, 2015.

A portion of the record for this site, including documents pertinent to the TCEQ's determination of eligibility for listing on the Texas Superfund Registry, is available for review during regular business hours at the Mahon Public Library, 1306 9th Street, Lubbock, Texas. The complete public file may be obtained Monday through Friday, 8:00 a.m. - 5:00 p.m., at the TCEQ's Central File Room located at 12100 Park 35 Circle, Building E, Room 103, Austin, Texas 78753. The Central File Room phone number is (512) 239-2900. Fees are charged for photocopying file information. Parking for persons with disabilities is available on the east side of Buildings D and E.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the TCEQ Community Relations Coordinator at (800) 633-9363 or (512) 239-5674. Requests should be made as far in advance as possible. Information regarding the state Superfund program is also available at <http://www.tceq.texas.gov/remediation/superfund/index.html>.

For further information about this site or the public meeting, please contact John Flores, TCEQ Community Relations Coordinator, at (800) 633-9363, extension 5674.

TRD-201502027
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: June 2, 2015



Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Limited Scope Permit Major Amendment

PROPOSED PERMIT NO. 2379

APPLICATION. Liquitek LLC, P.O. Box 470383, Fort Worth, Tarrant County, Texas 76147, the owner and operator of the Liquitek Arlington Liquid Waste Processing Facility, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Limited Scope Permit Major Amendment which requests authorization to add grit trap waste processing and a truck/container washout area to the facility. Revisions to the existing permit will authorize the addition of a new waste stream which is outlined in the revised site layout figures and waste flow diagrams. The facility is located at 408 113th Street, Arlington, Tarrant County, Texas 76011-5402. The application was submitted on March 20, 2015, and was received by TCEQ on March 27, 2015. The permit application is available for viewing and copying at the Arlington Central Express Library, 200 North Cooper Street, Arlington, Tarrant County, Texas 76011-7406 and may be viewed online at <http://cookjoyce.com/documents.htm>. The following website has 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://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.74613&lng=-97.0428&zoom=13&type=r>. For an exact location, refer to the application.

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; 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 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 will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

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.

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted either electronically at www.tceq.texas.gov/about/comments.html or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087.

If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing 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. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Liquitek, LLC at the address stated above or by calling Mr. Dave Martin, Owner, at (214) 632-4187.

TRD-201502034
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: June 3, 2015



Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Major Amendment

PROPOSED PERMIT NO. 1841A

APPLICATION. IESI TX Landfill LP, 2301 Eagle Parkway, Suite 200, Fort Worth, Texas 76177, owner/operator of the IESI Travis County Landfill, has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to its municipal solid waste permit for the referenced Type IV Landfill which accepts brush, construction and demolition waste, and rubbish. The major amendment application requests authorization for a lateral expansion and an increase in the volumetric waste capacity of the landfill without expanding the current site boundaries or increasing the maximum permitted elevation (height) or deepest excavation (depth) of the landfill. The application also includes updates and revisions to the landfill's site development, waste acceptance and site operating plans and other supporting permit documents. The landfill is located at 9600 FM 812, Austin, Texas 78719, approximately 0.75 miles east of the intersection of US 183 (South) and FM 812 in Travis County, Texas. The application was submitted to and received by TCEQ on March 31, 2015. The permit application is available for viewing and copying at the Elroy Community Library, 13512 FM 812, Del Valle, Travis County, Texas 78617 and may be viewed online at: <http://prj.geosyntec.com/TXPermits/IESITravisCoLandfill.aspx>. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=30.164166&lng=-97.681666&zoom=13&type=r>. For exact location, refer to application.

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; 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 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 will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

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.

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted either electronically at www.tceq.texas.gov/about/comments.html or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing 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 1-800-687-4040. Si desea información en español, puede llamar al 1-800-687-4040. Further information may also be obtained from IESI TX Landfill LP at the address stated above or by calling Mr. Steve McKinney, Landfill Manager, at (512) 243-6300.

TRD-201502035
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: June 3, 2015

◆ ◆ ◆

Texas Ethics Commission

List of Late Filers

Listed below are the names of filers from the Texas Ethics Commission who did not file reports or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you may contact Robbie Douglas at (512) 463-5800.

Deadline: 30-day Pre-election Report due October 6, 2014, for Candidates and Officeholders

Rose M. Harrison, 313 Naples St., Corpus Christi, Texas 78404-1832

Deadline: 8-day Pre-election Report due October 27, 2014, for Candidates and Officeholders

Moiz Abbas, P.O. Box 2161, Cypress, Texas 77410-2161

Deadline: January Semiannual Report due January 15, 2015, for Candidates and Officeholders

Valeria A. Alessi, 6030 High Star Dr., Houston, Texas 77081-4324

Leigh Christine Bailey, 6611 Hillcrest Ave., #214, Dallas, Texas 75205

Edward L. "Eddie" Bravenec, 405 S. Presa St., San Antonio, Texas 78205

Christopher Carmona, P.O. Box 7137, Houston, Texas 77248

David A. Mundy, 317 Darst, #12, Gonzales, Texas 78629

Amy G. Perez, P.O. Box 90044, Houston, Texas 77290-0044

Ronald E. Reynolds, 6140 Hwy. 6 S., Ste. 233, Missouri City, Texas 77459

Ted Seago, 12345 Lake Vista Dr., Willis, Texas 77318

D. Shawn Stevens, P.O. Box 190268, Dallas, Texas 75379-5216

Felecia L. Whatley, 6157 Skylark Ln., Watauga, Texas 76148

Braeden M. Wright, 419 W. Highland St., Denton, Texas 76201

Deadline: 30-day Pre-election Report due October 6, 2014, for Committees

Marcelo D. Molfino, Port Arthur Police Association PAC, 11150 Cole Dr., Beaumont, Texas 77705-7012

Richard Soliz, Victoria County Democratic Party (CEC), 203 N. Liberty St., Victoria, Texas 77901-6500

Allan Vogel, Medical and Personal Freedom Political Action Committee in Support of Jamie Balagia, 448 W. 19th, #278, Houston, Texas 77008-3914

Deadline: 8-day Pre-election Report due October 27, 2014, for Committees

Jeffre W. Rotkoff, Texas Association of Consumer Lawyers PAC, 1005 Congress Ave., Ste. 1000, Austin, Texas 78701-2469

Deadline: Lobby Activities Report due January 12, 2015

Jose A. Camacho, 1717 W. Sixth St., Ste. 370, Austin, Texas 78703

Terry Seales, 1122 Colorado, Ste. 208, Austin, Texas 78701

Deadline: Lobby Activities Report due February 10, 2015

Leticia M. Caballero, 4 Waterway Square Pl., Ste. 350, The Woodlands, Texas 77380

Anthony Holm, P.O. Box 427, Austin, Texas 78767

Deadline: Lobby Activities Report due March 10, 2015

John Kroll, 1212 Guadalupe, Ste. 1003, Austin, Texas 78701

James W. Mathis, 1122 Colorado, Ste. 208, Austin, Texas 78701

Deadline: Personal Financial Statement due February 9, 2015

Hope L. Knight, P.O. Box 552, Centerville, Texas 75833

TRD-201501957

Natalia Luna Ashley

Executive Director

Texas Ethics Commission

Filed: May 28, 2015



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of March 23, 2015, through June 1, 2015. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, June 5, 2015. The public comment period for this project will close at 5:00 p.m. on Monday, July 6, 2015.

FEDERAL AGENCY ACTIONS:

Applicant: Flint Hills Resources (FHR) Corpus Christi, LLC

Location: The project is located in Corpus Christi Bay, at the southern end of Farm to Market 1069, along Arleigh Burke Road at FHR Ingleside Marine Terminal 41 Dock 5 in Ingleside, San Patricio County, Texas. The project can be located on the U.S. Geological Survey (U.S.G.S.) quadrangle map entitled Port Ingleside, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 27.819350 North; Longitude: 97.202915 West

Project Description: The applicant is requesting a 10-year extension of time to perform previously authorized maintenance dredging via hydraulic and/or mechanical dredging of an existing basin to a maximum of -49 feet mean low tide (MLT) (-45 feet MLT required depth, plus 2 feet allowable over depth, plus 2 feet advanced maintenance dredg-

ing). In addition, FHR is requesting to amend the permit to include Berry Island and an on-site upland location on FHR property as additional placement areas for maintenance dredged material.

CMP Project No: 15-1430-F1

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-2011-00200. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Flint Hills Resources (FHR) Corpus Christi, LLC

Location: The project site is located in Corpus Christi Bay at the southern end of Farm to Market 1069 at Ingleside Marine Terminal 41 Dock 4 in Ingleside, San Patricio County, Texas. The project can be located on the U.S.G.S. quadrangle map titled Port Ingleside, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 27.81897 North; Longitude: 97.19953 West

Project Description: The applicant is requesting a 10-year extension of time to perform previously authorized maintenance dredging, via hydraulic and/or mechanical, to a depth of -47 feet below mean low tide (MLT) and plus 2 feet for allowable overdepth (totaling -49 feet below MLT). The applicant is also proposing to add Dredged Material Placement Areas (DMPA) 13, Good Hope DMPA, Berry Island DMPA, and an on-site upland DMPA on FHR property as potential dredged material placement options.

The applicant is currently authorized (DA Permit 13667) to conduct maintenance dredging to a depth of -47 feet below MLT plus 2 feet allowable over depth (totaling -49 feet below MLT) dated 7 May 2007 and will expire 31 December 2017. They are currently authorized to place dredged material in DMPA 1 and DMPA 10.

CMP Project No: 15-1431-F1

Type of Application: USACE permit application #SWG-1996-02951. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Flint Hills Resources (FHR) Corpus Christi, LLC

Location: The project site is located in the Corpus Christi Ship Channel (CCSC) at FHR Docks 1, 2, and 3, between CE stations 1184+00 to the west and 1164+00 to the east, at 1607 Nueces Bay Boulevard, in Corpus Christi, Nueces County, Texas. The project can be located on the U.S.G.S. quadrangle map titled Corpus Christi, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 27.812841 North; Longitude: 97.416447 West

Project Description: The applicant is requesting a 10-year authorization to conduct maintenance dredging via hydraulic and/or mechanical dredging along an approximate 1800-foot reach of the CCSC in front of Docks 1, 2, and 3 at the FHR facility. The applicant proposes to maintain dredge a total of approximately 200,000 cubic yards, comprising 4.5 acres, to a depth of -45 feet mean low tide (MLT), plus 1-foot allowable over depth (totaling -46 feet below MLT).

Dredged material will be disposed of in one or more of four designated Dredge Material Placement Areas (DMPAs), pending availability: Tule Lake DMPA 6, South Shore DMPA (Cell B), DMPA No. 1,

and/or the Herbie A. Maurer DMPA. The purpose of the project is to accommodate vessel traffic at Docks 1, 2, and 3 at the FHR Facility.

CMP Project No: 15-1432-F1

Type of Application: USACE permit application #SWG-1993-01197. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality under §401 of the Clean Water Act (33 U.S.C.A. §1344).

FEDERAL AGENCY ACTIVITIES:

Applicant: Federal Natural Resource Damage Trustees: U.S. Department of Interior, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Agriculture, and the U.S. Environmental Protection Agency (Federal Trustees).

Project Name: Sea Turtle Early Restoration Project

Location: Gulf of Mexico

Project Description: This project is a multi-faceted approach to restoration that collectively addresses identified needs for a variety of species and life stages of sea turtles, consistent with long-term recovery plans and plan objectives for sea turtles in the Gulf of Mexico. The Sea Turtle Early Restoration project consists of four complementary project components:

- The Kemp's Ridley Sea Turtle Nest Detection and Enhancement component would provide needed additional staff, infrastructure, training, education activities, equipment, supplies, and vehicles over a 10-year period in both Texas and Mexico for Kemp's Ridley sea turtle nest detection and protection.
- The Enhancement of the Sea Turtle Stranding and Salvage Network (STSSN) and Development of an Emergency Response Program component would enhance the existing STSSN beyond current capacities for 10 years in Texas and across the Gulf as well as develop a formal Emergency Response Program within the Gulf of Mexico.
- The Gulf of Mexico Shrimp Trawl Bycatch Reduction component would enhance two existing NOAA programs which would work to reduce the bycatch of sea turtles in shrimp trawls in the Gulf of Mexico. The two programs are the Gear Monitoring Team (GMT), which provides education and outreach efforts to encourage fisher compliance with existing federal Turtle Excluder Devices (TED), and the Southeast Shrimp Trawl Fisheries Observer Program (Observer Program), which monitors sea turtle bycatch in commercial shrimp trawls.
- The Texas Enhanced Fisheries Bycatch Enforcement component would enhance Texas Parks and Wildlife Department enforcement activities for fisheries that incidentally catch sea turtles while they operate primarily in Texas State waters within the Gulf of Mexico for a 10-year period.

CMP Project No: 15-1433

Type of Application: Request for review for federal agency activities under the Texas Coastal Management Program.

Applicant: Federal Natural Resource Damage Trustees: U.S. Department of Interior, National Oceanic and Atmospheric Administration, U.S. Department of Agriculture, and the U.S. Environmental Protection Agency (Federal Trustees).

Project Name: Pelagic Longline Bycatch Reduction Project

Location: Gulf of Mexico

Project Description: This proposed project aims to restore pelagic fish by reducing fish mortality from bycatch and other dead fish discards in the U.S. Atlantic pelagic longline fishery (PLL) operating in the Gulf of Mexico. The proposed project is comprised of two integrated actions: an annual 6-month repose for PLL fishing in the Gulf of Mexico, to coincide with bluefin tuna spawning season, to be implemented via a volunteer- and compensation-based program in the PLL fishery and provisioning of gear alternatives with lower bycatch rates for use by participating fishermen to continue to fish for target species during the repose period.

CMP Project No: 15-1434

Type of Application: Request for review for federal agency activities under the Texas Coastal Management Program.

Applicant: Federal Natural Resource Damage Trustees: U.S. Department of Interior, National Oceanic and Atmospheric Administration, U.S. Department of Agriculture, and the U.S. Environmental Protection Agency (Federal Trustees)

Project Name: Texas Rookery Islands Project

Location: East Matagorda Bay and Galveston Bay, Texas

Project Description: This proposed project would restore and protect three rookery islands in Galveston Bay and one rookery island in East Matagorda Bay. Restoration actions at each rookery island would increase the amount of available nesting habitat by expanding the size of the island to enhance the quality of habitat by establishing native vegetation. Habitat longevity would be increased by expanding the size of the island, establishing vegetation, and constructing protective features, such as breakwaters or levees. These restoration actions would result in an increase in the numbers of nesting colonial waterbirds. Rookery Islands in Galveston Bay include Dickinson Bay Island II, located within Dickinson Bay; Rollover Bay Island, located in East (Galveston) Bay; and Smith Point Island, located west of the Smith Point peninsula. Dressing Point Island lies in East Matagorda Bay and is part of the Big Boggy National Wildlife Refuge.

CMP Project No: 15-1435

Type of Application: Request for review for federal agency activities under the Texas Coastal Management Program.

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451 - 1464), as amended, interested parties are invited to submit comments on whether a proposed action or activity is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Land Commissioner for review.

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection may be obtained from Mr. Ray Newby, P.O. Box 12873, Austin, Texas 78711-2873 or via email at federal.consistency@glo.texas.gov. Comments should be sent to Mr. Newby at the above address or by email.

TRD-201502049

Anne L. Idsal

Chief Clerk

General Land Office

Filed: June 3, 2015

◆ ◆ ◆
Texas Health and Human Services Commission

Public Notice: Hospital Targeted Rate Increases for Potentially Preventable Events

The Texas Health and Human Services Commission announces its intent to submit transmittal number 15-017 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of this amendment is to add an incentive component in regards to safety-net hospital performance on potentially preventable readmissions and potentially preventable complications. The proposed amendment is effective September 1, 2015.

The proposed amendment is estimated to result in an additional annual aggregate expenditure of \$1,253,155 for federal fiscal year (FFY) 2015, consisting of \$727,456 in federal funds and \$525,699 in state general revenue. For FFY 2016, the estimated additional annual expenditure is \$15,023,385, consisting of \$8,582,860 in federal funds and \$6,440,525 in state general revenue. For FFY 2017, the estimated additional annual expenditure is \$13,625,490, consisting of \$7,765,167 in federal funds and \$5,860,323 in state general revenue.

To obtain copies of the proposed amendment, interested parties may contact J.R. Top, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 462-6397; by facsimile at (512) 730-7472; or by e-mail at jr.top@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201502041

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: June 3, 2015



Texas Higher Education Coordinating Board

Request for Proposals - Comprehensive Classification and Compensation Study

RFP Number 781-5-14444

Texas Higher Education Coordinating Board (THECB or Agency) is soliciting proposals from interested, highly qualified, and experienced consulting firms to design, conduct, and assist in the implementation of a comprehensive classification and compensation study of the Agency's positions staffed by full-time and part-time employees.

Scope of Work:

The THECB anticipates that the study will involve two (2) broad phases of work comprised of the following key tasks:

A. CLASSIFICATION PHASE

1. Develop a classification structure that reflects the THECB's overall classification and compensation strategy and includes the clear definition of terms, grouping appropriate jobs into job families, and the development of competencies for the designations as entry, journey, senior/mastery levels, and development of career ladders for classifications as appropriate.
2. Review of the background materials including organizational charts, budgets, personnel rules and regulations, and related information.
3. In conjunction with THECB HR representative, conduct orientation and briefing session(s) with employees.
4. In conjunction with THECB HR representative, conduct orientation and briefing sessions(s) with all department heads, managers, and supervisors.

5. Provide an appropriate job classification questionnaire with the understanding that the job questionnaire and the subsequent job analysis will serve as the foundation for all classification and compensation decisions in this study, and in the future.

6. Administer the job questionnaire by all employees that can be used for classification and compensation purposes from start through completion.

7. Conduct interviews with employees and appropriate supervisory and management personnel, with the understanding that THECB has considerable diversity in the type of work that is performed across the agency, within the same job classification, that requires review of position as their functions may have significant differences.

8. Recommend all encumbered and vacant positions to an appropriate job classification, equal employment opportunity (EEO) classification, and Fair Labor Standards Act designation.

9. Prepare up-to-date and accurate job classification specifications for all employees (full-time and part-time), and for designated vacant positions.

10. Design and administer an employee review process.

11. Prepare appropriate implementation and maintenance manuals.

12. Provide periodic status reports on progress as requested.

B. COMPENSATION PHASE

1. Identify comparable labor market(s) and classification survey(s).

2. Conduct a comprehensive market study on THECB's positions by identifying benchmark positions in a comparable market to include, but not limited to, local, regional, national, higher education and public sector. Compare THECB's salary structure and position, duties, and responsibilities against those in the comparable market.

3. Complete internal salary relationship analysis including the development of appropriate internal relationship guidelines (internal equity).

4. Develop externally competitive and internally equitable salary recommendations for each position classification, whether staffed or vacant, and for each employee (full-time and part-time).

5. Provide compensation recommendation and assign a salary range to each classification which reflects the results of the market survey and the analysis of internal relationships.

6. Assist in the development of a strategy for implementing compensation recommendations.

7. Prepare implementation and maintenance manuals.

8. Provide training for THECB HR representative and designated staff.

9. Provide periodic status reports on progress as requested.

RFP documentation may be obtained by contacting:

Texas Higher Education Coordinating Board

P.O. Box 12788

Austin, Texas 78711-2788

(512) 427-6142

Theresa.lopez@theeb.state.tx.us.

RFP documentation is also located on the THECB's website at: www.theeb.state.tx.us/Agency and the Electronic State Business Daily, <http://esbd.cpa.state.tx.us/>. Proposers should check both websites often to ensure they have the most current information.

Deadline for proposal submission is 3:00 p.m. CT on July 06, 2015.

TRD-201502031
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Filed: June 2, 2015

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Announcement of a Request for Proposal from Firms Interested in Providing Services of a Market Rate To Be Announced Program Administrator

The Texas Department of Housing and Community Affairs ("TDHCA") is issuing a request for proposal from firms interested in providing services of a Market Rate To Be Announced ("TBA") Program Administrator (the "TBA Program Administrator") to (1) manage and hedge its pipeline, (2) estimate pipeline fallout, and (3) purchase mortgage-backed securities from TDHCA or pair out of pipeline hedges, as directed by TDHCA.

Responses to the RFP must be received at TDHCA no later than 2:00 p.m. (CT) on Wednesday, July 1, 2015. The RFP #332-RFP16-1001 will be made available via the Department's website at www.tdhca.state.tx.us and via the Electronic State Business Daily at <http://esbd.cpa.state.tx.us/> where you can search by the RFP number above.

TRD-201502037
Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Filed: June 3, 2015

◆ ◆ ◆
Request for Proposal - Texas Homeless Youth Survey Tool

The Texas Department of Housing and Community Affairs has posted a Request for Proposal #332-RFP15-1004 for Texas Homeless Youth Survey Tool. If you are interested in providing a response to this proposal, please view the RFP posting on the Electronic State Business Daily (ESBD). The website for the ESBD is: <http://esbd.cpa.state.tx.us/> and you can search by the proposal number listed above.

You may also use the web address below to directly access the ESBD without having to search:

http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=117647

Or, view the Department website at www.tdhca.state.tx.us under "What's New" on the homepage.

Should you have any difficulty accessing either website, please contact Julie Dumbeck at (512) 475-3991 or julie.dumbeck@tdhca.state.tx.us for further information.

TRD-201501918
Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 28, 2015

◆ ◆ ◆
Texas Department of Insurance

Company Licensing

Application to do business in the State of Texas by HUMANA BEHAVIORAL HEALTH, INC., a domestic health maintenance organization. The home office is in Irving, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201502048
Sara Waitt
General Counsel
Texas Department of Insurance
Filed: June 3, 2015

◆ ◆ ◆
Correction of Error

The Texas Department of Insurance (TDI) adopted amendments to 28 TAC §1.601, concerning Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures, in the May 29, 2015, issue of the *Texas Register* (40 TexReg 3174). TDI adopted §1.601 with changes, and Figure: 28 TAC §1.601(a)(3) was republished on page 3203 in the Tables & Graphics section of the issue. Due to an agency error in the Spanish language portion of the notice, the word "usted" was omitted and an underscore was included between the words "es resuelta".

The corrected notice follows:

Figure: 28 TAC §1.601(a)(3):

1 IMPORTANT NOTICE

To obtain information or make a complaint:

2 You may contact your (title) at
(telephone number).

3 You may call (company)'s toll-free
telephone number for information or to
make a complaint at:

1-XXX-XXX-XXXX

4 You may also write to (company) at:

5 You may contact the Texas Department
of Insurance to obtain information on
companies, coverages, rights, or
complaints at:

1-800-252-3439

6 You may write the Texas Department of
Insurance:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Web: www.tdi.texas.gov

E-mail:

ConsumerProtection@tdi.texas.gov

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning
your premium or about a claim, you should
contact the (agent) (company) (agent or
the company) first. If the dispute is not
resolved, you may contact the Texas
Department of Insurance.

8 ATTACH THIS NOTICE TO YOUR

1 AVISO IMPORTANTE

Para obtener información o para presentar una
queja:

2 Usted puede comunicarse con su (title) al
(telephone number).

3 Usted puede llamar al número de teléfono
gratuito de (company)'s para obtener información
o para presentar una queja al:

1-XXX-XXX-XXXX

4 Usted también puede escribir a (company):

5 Usted puede comunicarse con el Departamento
de Seguros de Texas para obtener información
sobre compañías, coberturas, derechos, o quejas
al:

1-800-252-3439

6 Usted puede escribir al Departamento de
Seguros de Texas a:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Sitio web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

**7 DISPUTAS POR PRIMAS DE SEGUROS O
RECLAMACIONES:**

Si tiene una disputa relacionada con su prima de
seguro o con una reclamación, usted debe
comunicarse con (el agente) (la compañía) (el
agente o la compañía) primero. Si la disputa no es
resuelta, usted puede comunicarse con el
Departamento de Seguros de Texas.

POLICY: This notice is for information only and does not become a part or condition of the attached document.

8 ADJUNTE ESTE AVISO A SU PÓLIZA: Este aviso es solamente para propósitos informativos y no se convierte en parte o en condición del documento adjunto.

TRD-201502028

◆ ◆ ◆
Texas Lottery Commission

Instant Game Number 1668 "Win It All"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1668 is "WIN IT ALL". The play style is "key number match".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1668 shall be \$5.00 per Ticket.

1.2 Definitions in Instant Game No. 1668.

A. Display Printing - That area of the Instant Game Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the Instant Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250, \$1,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1668 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRV
46	FRSX

47	FRSV
48	FRET
49	FRNI
50	FFTY
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$250	TWO FTY
\$1,000	ONE THOU
\$100,000	100 THOU

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100, \$200, \$250, \$300, \$400 or \$500.

H. High-Tier Prize - A prize of \$1,000 or \$100,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1668), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1668-0000001-001.

K. Pack - A Pack of "WIN IT ALL" Instant Game Tickets contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other book will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "WIN IT ALL" Instant Game No. 1668 Ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Ticket validation requirements set forth in Texas Lottery Rule §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Instant Ticket. A prize winner in the "WIN IT ALL" Instant Game is determined once the latex on the Ticket is scratched off to expose 46 (forty-six) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols

to any of the WINNING NUMBERS Play Symbol, the player wins the prize for that number. If a player matches any of YOUR NUMBERS Play Symbols to the WIN IT ALL NUMBER Play Symbol, the player WINS ALL 20 PRIZES! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 46 (forty-six) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;
8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Ticket must not be counterfeit in whole or in part;
10. The Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Ticket must be complete and not miscut and have exactly 46 (forty-six) Play Symbols under the Latex Overprint on the front portion of the Ticket, exactly one Serial Number, exactly one Retailer Validation Code and exactly one Pack-Ticket Number on the Ticket;

14. The Serial Number of an apparent winning Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Tickets, and a Ticket with that Serial Number shall not have been paid previously;

15. The Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 46 (forty-six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 46 (forty-six) Play Symbols on the Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Ticket. In the event a defective Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Ticket with another unplayed Ticket in that Instant Game (or a Ticket of equivalent sales price from any other current Texas Lottery Instant Game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns of either Play Symbols or Prize Symbols.

B. A Ticket will win as indicated by the prize structure.

C. A Ticket can win up to twenty (20) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$100,000 and \$1,000 will each appear at least once, except on Tickets winning twenty (20) times or on "WIN IT ALL NUMBER" (win all) Play Symbol wins.

E. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

F. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

G. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

H. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

I. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 5 and \$5, 10 and \$10, 15 and \$15, 20 and \$20, 50 and \$50).

J. On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

K. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

L. The "WIN IT ALL NUMBER" (win all) Play Symbol will never match a WINNING NUMBERS Play Symbol.

M. If the "WIN IT ALL NUMBER" (win all) Play Symbol matches a YOUR NUMBERS Play Symbol it will instantly win all twenty (20) prizes as per the prize structure.

N. The "WIN IT ALL NUMBER" (win all) Play Symbol will never match any YOUR NUMBERS Play Symbol on a Non-Winning Ticket.

O. On Tickets winning with the "WIN IT ALL NUMBER" (win all) Play Symbol, no YOUR NUMBERS Play Symbols will match any of the WINNING NUMBERS Play Symbols.

P. The "WIN IT ALL NUMBER" (win all) Play Symbol will only appear once in the YOUR NUMBERS Play Symbols area.

2.3 Procedure for Claiming Prizes.

A. To claim a "WIN IT ALL" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$200, \$250, \$300, \$400 or \$500, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100, \$200, \$250, \$300, \$400 or \$500 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "WIN IT ALL" Instant Game prize of \$1,000, or \$100,000, the claimant must sign the winning Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "WIN IT ALL" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "WIN IT ALL" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "WIN IT ALL" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or

within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 8,280,000 Tickets in the Instant Game No. 1668. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1668 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	1,067,200	7.76
\$10	754,400	10.98
\$15	220,800	37.50
\$20	73,600	112.50
\$50	74,290	111.46
\$100	40,503	204.43
\$200	1,035	8,000.00
\$250	1,817	4,556.96
\$300	851	9,729.73
\$400	368	22,500.00
\$500	1,311	6,315.79
\$1,000	204	40,588.24
\$100,000	8	1,035,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.70. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1668 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1668, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201502026
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: June 2, 2015



Instant Game Number 1696 "Texas Loteria"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1696 is "TEXAS LOTERIA". The play style is "row/column/diagonal".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1696 shall be \$3.00 per Ticket.

1.2 Definitions in Instant Game No. 1696.

A. Display Printing - That area of the Instant Game Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the Instant Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: THE HEN SYMBOL, THE EMBLEM SYMBOL, THE CACTUS SYMBOL, THE MOONRISE SYMBOL, THE BALLOONS SYMBOL, THE PIÑATA SYMBOL, THE GUITAR SYMBOL, THE FIRE SYMBOL, THE SUNSET SYMBOL, THE PARASOL SYMBOL, THE LADYBUG SYMBOL, THE SHOES SYMBOL, THE NEWSPAPER SYMBOL, THE CHERRIES SYMBOL, THE BOWL SYMBOL, THE HORSE SYMBOL, THE FOREST SYMBOL, THE TULIP SYMBOL, THE TOAD SYMBOL, THE LOG SYMBOL, THE SPEAR SYMBOL, THE CORN SYMBOL, THE PARTRIDGE SYMBOL and THE MARACAS SYMBOL.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1696 - 1.2D

PLAY SYMBOL	CAPTION
THE HEN SYMBOL	THE HEN
THE EMBLEM SYMBOL	THE EMBLEM
THE CACTUS SYMBOL	THE CACTUS
THE MOONRISE SYMBOL	THE MOONRISE
THE BALLOONS SYMBOL	THEBALLOONS
THE PIÑATA SYMBOL	THE PIÑATA
THE GUITAR SYMBOL	THE GUITAR
THE FIRE SYMBOL	THE FIRE
THE SUNSET SYMBOL	THE SUNSET
THE PARASOL SYMBOL	THEPARASOL
THE LADYBUG SYMBOL	THELADYBUG
THE SHOES SYMBOL	THE SHOES
THE NEWSPAPER SYMBOL	THENEWSAPER
THE CHERRIES SYMBOL	THECHERRIES
THE BOWL SYMBOL	THE BOWL
THE HORSE SYMBOL	THE HORSE
THE FOREST SYMBOL	THE FOREST
THE TULIP SYMBOL	THE TULIP
THE TOAD SYMBOL	THE TOAD
THE LOG SYMBOL	THE LOG
THE SPEAR SYMBOL	THE SPEAR
THE CORN SYMBOL	THE CORN
THE PARTRIDGE SYMBOL	THEPARTRIDGE
THE MARACAS SYMBOL	THEMARACAS

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Low-Tier Prize - A prize of \$3.00, \$4.00, \$7.00, \$10.00, \$17.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$30.00, \$33.00, \$50.00, \$80.00 or \$300.

H. High-Tier Prize - A prize of \$3,000 or \$50,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1696), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1696-0000001-001.

K. Pack - A Pack of "TEXAS LOTERIA" Instant Game Tickets contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "TEXAS LOTERIA" Instant Game No. 1696 Ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Ticket validation requirements set forth in Texas Lottery Rule §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Instant Ticket. A prize winner in the "TEXAS LOTERIA" Instant Game is determined once the latex on the Ticket is scratched off to expose up to 30 (thirty) Play Symbols. The player scratches the CALLER'S CARD area to reveal 14 symbols. The player scratches only the symbols on the PLAY BOARD that match the symbols revealed on the CALLER'S CARD. If the player reveals a complete row, column or diagonal line, the player wins the prize for that line. El jugador raspa las CARTAS DEL GRITON para revelar 14 símbolos. El jugador raspa SOLAMENTE los símbolos en la TABLA DE JUEGO que son iguales a los símbolos revelados en las CARTAS DEL GRITON para revelar una línea completa horizontal, vertical o diagonal para ganar el premio para esa línea. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 30 (thirty) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;
8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Ticket must not be counterfeit in whole or in part;
10. The Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Ticket must be complete and not miscut and have exactly 30 (thirty) Play Symbols under the Latex Overprint on the front portion of the Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the Ticket;
14. The Serial Number of an apparent winning Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Tickets, and a Ticket with that Serial Number shall not have been paid previously;
15. The Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 30 (thirty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 30 (thirty) Play Symbols on the Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Ticket. In the event a defective Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Ticket with another unplayed Ticket in that Instant Game (or a Ticket of equivalent sales price from any other current Texas Lottery Instant Game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Players can win up to three (3) times on a Ticket in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play Symbol patterns. Two (2) Tickets have matching Play Symbol patterns if they have the same Play Symbols in the same positions.

C. No matching Play Symbols in the CALLER'S CARD play area.

D. At least eight (8), but no more than twelve (12), CALLER'S CARD Play Symbols will match a symbol on the PLAY BOARD play area on a Ticket.

E. CALLER'S CARD Play Symbols will have a random distribution on the Ticket unless restricted by other parameters, play action or prize structure.

F. No matching Play Symbols are allowed on the PLAY BOARD play area.

2.3 Procedure for Claiming Prizes.

A. To claim a "TEXAS LOTERIA" Instant Game prize of \$3.00, \$4.00, \$7.00, \$10.00, \$17.00, \$20.00, \$30.00, \$33.00, \$50.00, \$80.00 or \$300, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$33.00, \$50.00, \$80.00 or \$300 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TEXAS LOTERIA" Instant Game prize of \$3,000 or \$50,000, the claimant must sign the winning Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TEXAS LOTERIA" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is

not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. a sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "TEXAS LOTERIA" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "TEXAS LOTERIA" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 20,160,000 Tickets in the Instant Game No. 1696. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1696 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$3	2,822,400	7.14
\$4	604,800	33.33
\$7	537,600	37.50
\$10	336,000	60.00
\$17	336,000	60.00
\$20	336,000	60.00
\$30	33,600	600.00
\$33	16,800	1,200.00
\$50	15,960	1,263.16
\$80	13,440	1,500.00
\$300	10,080	2,000.00
\$3,000	300	67,200.00
\$50,000	40	504,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.98. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1696 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1696, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201502047
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: June 3, 2015



Instant Game Number 1697 "Triple Payout!"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1697 is "TRIPLE PAYOUT!". The play style is "key number match".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1697 shall be \$1.00 per Ticket.

1.2 Definitions in Instant Game No. 1697.

A. Display Printing - That area of the Instant Game Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the Instant Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 3X SYMBOL, \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$50.00, \$100 and \$3,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1697 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
3X SYMBOL	TPL
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THREE\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$50.00	FIFTY
\$100	ONE HUND
\$3,000	THR THOU

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00 or \$15.00.

G. Mid-Tier Prize - A prize of \$50.00 or \$100.

H. High-Tier Prize - A prize of \$3,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1697), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 1697-0000001-001.

K. Pack - A Pack of "TRIPLE PAYOUT!" Instant Game Tickets contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets 006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of Ticket 001 and 010 will be exposed.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "TRIPLE PAYOUT!" Instant Game No. 1697 Ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Ticket validation requirements set forth in Texas Lottery Rule §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Instant Ticket. A prize winner in the "TRIPLE PAYOUT!" Instant Game is determined

once the latex on the Ticket is scratched off to expose 11 (eleven) Play Symbols. If the player matches any of YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the PRIZE for that number. If a player reveals a "3X" Play Symbol, the player wins TRIPLE the PRIZE for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 11 (eleven) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;
8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Ticket must not be counterfeit in whole or in part;
10. The Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Ticket must be complete and not miscut and have exactly 11 (eleven) Play Symbols under the Latex Overprint on the front portion of the Ticket, exactly one Serial Number, exactly one Retailer Validation Code and exactly one Pack-Ticket Number on the Ticket;
14. The Serial Number of an apparent winning Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Tickets, and a Ticket with that Serial Number shall not have been paid previously;
15. The Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 11 (eleven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 11 (eleven) Play Symbols on the Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Ticket. In the event a defective Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Ticket with another unplayed Ticket in that Instant Game (or a Ticket of equivalent sales price from any other current Texas Lottery Instant Game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets in a Pack will not have matching play data, spot for spot.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

D. No matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

E. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.

F. The "3X" (tripler) Play Symbol will only appear as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "TRIPLE PAYOUT!" Instant Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$50.00 or \$100, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TRIPLE PAYOUT!" Instant Game prize of \$3,000, the claimant must sign the winning Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TRIPLE PAYOUT!" Instant Game prize, the claimant must sign the winning Ticket, thoroughly

complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "TRIPLE PAYOUT!" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "TRIPLE PAYOUT!" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 11,040,000 Tickets in the Instant Game No. 1697. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1697 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1	1,104,000	10.00
\$2	552,000	20.00
\$3	294,400	37.50
\$5	220,800	50.00
\$10	92,000	120.00
\$15	36,800	300.00
\$50	15,916	693.64
\$100	1,242	8,888.89
\$3,000	23	480,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.76. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1697 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1697, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201502025
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: June 2, 2015



Notice of Public Comment Hearing

A public hearing will be held to receive public comments regarding proposed amendments to 16 TAC §401.305, "Lotto Texas" On-Line Game Rule; §401.307, "Pick 3" On-Line Game Rule; §401.308, "Cash Five" On-Line Game; §401.312, "Texas Two Step" On-Line Game; §401.315 "Mega Millions" On-Line Game Rule; §401.316, "Daily 4" On-Line Game Rule; §401.320, "All or Nothing" On-Line Game Rule; and §401.322, "Texas Triple Chance" Lottery Game. It will be held on Tuesday, June 30, 2015, at 10:00 a.m. at 611 E. 6th Street, Austin, Texas 78701. Persons requiring any accommodation for a disability should notify Eric Williams at (512) 344-5241 at least 72 hours prior to the public hearing.

TRD-201501966

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: May 29, 2015



Notice of Public Comment Hearing

A public hearing to receive public comments regarding proposed amendments to 16 TAC §401.317 ("Powerball®" On-Line Game Rule) will be held on Tuesday, June 30, 2015, at 11:00 a.m. at 611 E. 6th Street, Austin, Texas 78701. Persons requiring any accommodation for a disability should notify Eric Williams at (512) 344-5241 at least 72 hours prior to the public hearing.

TRD-201501984
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: May 29, 2015



Texas Low-Level Radioactive Waste Disposal Compact Commission

Notice of Receipt of Amendment Request for Importation of Waste and Import Agreement

Please take notice that, pursuant to Texas Low-Level Radioactive Waste Disposal Compact Commission rule 31 TAC §675.23, the Compact Commission has received an amendment request for an agreement for import for disposal of low-level radioactive waste from:

Bionomics, Inc. (TLLRWDC #1-0074-03)
 P.O. Box 817
 Kingston, Tennessee 37763

The amendment request will be placed on the Compact Commission web site, www.tllrwdcc.org, where it will be available for inspection and copying.

Comments on the amendment request are due to be received by June 29, 2015. Comments should be mailed to:

Texas Low-Level Radioactive Waste Disposal Compact Commission
Attn: Leigh Ing, Executive Director
333 Guadalupe St., #3-240
Austin, Texas 78701

Comments may also be submitted via email to: administration@tllrwdcc.org.

TRD-201502000
Audrey Ferrell
Administrator
Texas Low-Level Radioactive Waste Disposal Compact Commission
Filed: June 1, 2015



Notice of Receipt of Application for Importation of Waste and Import Agreement

Please take notice that, pursuant to Texas Low-Level Radioactive Waste Disposal Compact Commission rule 31 TAC §675.23, the Compact Commission has received an application for and a proposed agreement for import for disposal of low-level radioactive waste from:

Thomas Gray & Associates-EMC (TLLRWDC #1-0090-00)
3106 S. Faith Home Road
Turlock, California 95380

The application will be placed on the Compact Commission web site, www.tllrwdcc.org, where it will be available for inspection and copying.

Comments on the application are due to be received by June 29, 2015. Comments should be mailed to:

Texas Low-Level Radioactive Waste Disposal Compact Commission
Attn: Leigh Ing, Executive Director
333 Guadalupe St., #3-240
Austin, Texas 78701

Comments may also be submitted via email to: administration@tllrwdcc.org.

TRD-201502001
Audrey Ferrell
Administrator
Texas Low-Level Radioactive Waste Disposal Compact Commission
Filed: June 1, 2015



Public Utility Commission of Texas

Notice of Petition for Amendment to Water Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on May 22, 2015, of a petition to amend a certificate of convenience and necessity by expedited release in Montgomery County.

Docket Style and Number: Petition of Martin Land Development, Ltd. to Amend the Town of Cut and Shoot's Certificate of Convenience and Necessity by Expedited Release in Montgomery County, Docket Number 44758.

The Application: On May 22, 2015, Martin Land Development, Ltd. filed an application with the commission for expedited release of 121 acres in Montgomery County from the Town of Cut and Shoot's water certificate of convenience and necessity (CCN) No. 11615 pursuant to Texas Water Code §13.254(a-5) and 16 TAC §24.113(r).

Persons wishing to comment on the action sought should contact the commission no later than July 13, 2015, by mail at Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 44758.

TRD-201502002
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: June 1, 2015



Supreme Court of Texas

In the Supreme Court of Texas

Misc. Docket No. 15-9087

ORDER ADOPTING AMENDMENTS TO THE STANDARDS FOR ATTORNEY CERTIFICATION IN CIVIL APPELLATE; CRIMINAL APPELLATE; HEALTH; IMMIGRATION AND NATIONALITY; AND OIL, GAS AND MINERAL LAW

ORDERED that:

1. The Standards for Attorney Certification by the Texas Board of Legal Specialization in Civil Appellate; Criminal Appellate; Health; Immigration and Nationality; and Oil, Gas and Mineral Law are amended as follows, effective January 1, 2016.
2. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

Dated: June 2, 2015.

Nathan L. Hecht, Chief Justice

Paul W. Green, Justice

Phil Johnson, Justice

Don R. Willett, Justice

Eva M. Guzman, Justice

Debra H. Lehrmann, Justice

Jeffrey S. Boyd, Justice

John P. Devine, Justice

Jeffrey V. Brown, Justice

**TEXAS BOARD OF LEGAL SPECIALIZATION
STANDARDS FOR ATTORNEY CERTIFICATION**

PART II

SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I - General Requirements for requirements that apply to all specialty areas.

SECTION XII

CIVIL APPELLATE LAW

(Area ID: AP / Year Started: 1987)

A. DEFINITION. Civil appellate law is the practice of law involving proceedings brought before a civil appellate court either by appeal of a final judgment or appealable interlocutory order or by an original proceeding in the appellate court. The preparation and presentation of the court's charge and of post-trial and other dispositive motions at the trial court level shall also be considered the practice of civil appellate law. The practice of civil appellate law that qualifies for substantial involvement and special competence should generally cover multiple areas of procedure and substantive law and not be limited to any one, narrow area of law (unless substantial involvement and special competence can otherwise be shown).

Serving as a judge on a civil appellate court or as an attorney in an advisory capacity to a civil appellate court, (such as a briefing or staff attorney, or a staff attorney law clerk, or in another position which requires comparable duties) on a civil appellate court is also considered the practice of civil appellate law.

For these purposes "civil appellate courts" include the United States Supreme Court, the Federal Court of Appeals, the Texas Supreme Court, the Texas Courts of Appeals, and comparable courts of other jurisdictions.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in civil appellate law practice by providing such information as may be required by TBLS.

1. Certification.

a. Percentage of Practice Requirement. Applicant must have devoted a minimum of 25% of his or her time practicing civil appellate law during each year of the 3 years immediately preceding application as defined in Section XII, A of the Specific Area Requirements for Civil Appellate Law.

b. Task Requirements. Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in civil

appellate law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant must have handled all or a substantial part of at least 12 civil appellate cases during his or her practice. A case that was submitted to one appellate court and then to a higher court will be considered only one case. Civil appellate cases in which applicant filed a brief or presented oral argument, and original proceedings were filed by applicant in an appellate court (such as petition for writs of mandamus or habeas corpus) are subject to the following additional requirements:

(a) All 12 cases must have been fully briefed on the merits at the appellate level;

(b) At least 6 of the 12 cases must have been handled by applicant within the 3 years immediately preceding application;

(c) Applicant must have been lead counsel in at least 6 of the 12 cases;

(d) Applicant must have presented oral argument to an appellate court on one significant issue of substantive or procedural law in at least 4 of the 12 cases;

(e) At least 6 of the 12 cases must have involved an appeal from a final judgment or other dispositive order which included a finding on a substantive or procedural issue;

(f) In at least 5 of the 12 cases, the appellate court must have issued an opinion on the merits that dealt with at least one substantive issue; and

(g) At least 3 of the 12 cases must have involved the prosecution or defense of a petition to the highest court of the jurisdiction to review the decision of an intermediate appellate court.

(2) Service for an appellate court as a briefing attorney and/or as an attorney in an advisory capacity to a civil appellate court (such as a briefing or staff attorney, law clerk, or in another position which requires comparable duties) for at least 5 years may be considered by TBLS as the equivalent of the requirements set out in Section XII, B,1,b(1)(a-g) above. Service for less than 5 years may be considered proportionally.

2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing civil appellate law during each year of the 5 year period of certification as defined in Section XII, A of the Specific Area Requirements for Civil Appellate Law except as provided for in Part I - General Requirements, Section VI, C,1(b).

C. REFERENCE REQUIREMENTS. Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in civil appellate law. These persons must be substantially involved in civil appellate law, and be familiar with applicant's civil appellate law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving civil appellate law matters within the 3 years immediately preceding application.

2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving civil appellate law matters since certification or the most recent recertification.

3. **Reference Types.** Applicant must submit the following types of references:

a. Four Texas attorneys who are substantially involved in civil appellate law. Applicant must have prosecuted a civil appellate law matter with or against one of these attorneys.

b. One judge of an appellate court in Texas before whom applicant has appeared as an advocate in a civil appellate law matter.

SECTION XVIII

CRIMINAL APPELLATE LAW

(Area ID: CA / Year Started: 2010)

A. DEFINITIONS.

1. Criminal appellate law is the practice of law in a criminal appellate case, which includes the following proceedings:

- a. Appeal or defense of a judgment or order in a criminal law matter, or juvenile adjudication, to an appellate court;
- b. Preparation of, or responding to, a petition for discretionary review or related brief to the Texas Court of Criminal Appeals;
- c. Prosecution or defense of an application for an extraordinary matter, such as Petition for Writ of Mandamus or Application for Original Habeas Corpus, to the Texas Court of Criminal Appeals, a Texas Court of Appeals, United States District Court, or United States Circuit Court of Appeals, in a criminal matter;
- d. Prosecution or defense of an application for post-conviction writ of habeas corpus from a misdemeanor conviction to a statutory county court exercising habeas corpus jurisdiction, or from a final felony conviction in Texas state court, either capital or non-capital;
- e. Prosecution or defense of an application for habeas corpus from a final felony conviction, either capital or non-capital, in United States District Court under 28 USC §2254, or 28 USC §2255;
- f. Prosecution or defense of an appeal to a United States Circuit Court of Appeals from the judgment of a United States District Court in an action under 28 USC §2254 or 28 USC §2255; or
- g. Prosecution or defense of any criminal law matter at the United States Supreme Court.

2. Applicable appellate courts include the:

- a. United States Supreme Court;
- b. United States Circuit Courts of Appeals;
- c. Texas Supreme Court exercising jurisdiction over adjudications in a juvenile case;
- d. Texas Court of Criminal Appeals;
- e. Texas Courts of Appeals;
- f. Texas District Courts exercising post-conviction habeas corpus jurisdiction under Article V §8, Texas Constitution, or Articles 11.07, 11.071 or 11.072, Code of Criminal Procedure;
- g. United States District Courts exercising post-conviction habeas corpus jurisdiction under 28 USC §2254 or 28 USC §2255; and
- h. Statutory Texas county courts sitting as Courts of Appeals in cases under Title II, Chapter 30, Government Code or exercising post-conviction habeas corpus jurisdiction under Article V §16, Texas Constitution, or Article 11.072, Code of Criminal procedure.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in criminal appellate law practice by providing such information as may be required by TBLS.

1. Certification.

- a. Percentage of Practice Requirement. Applicant must have devoted a minimum of 25% of his or her time practicing criminal appellate law during each year of the 3 years immediately preceding application as defined in Section XVIII, A of the Specific Area Requirements for Criminal Appellate Law.
- b. Task Requirements. Applicant must provide information concerning specific tasks he or she has performed in criminal appellate law. In

evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant shall provide information regarding his or her participation in each of the following types of criminal appellate cases during his or her entire practice:

- (a) Appeal or defense of a judgment or order in a criminal law matter, or juvenile adjudication, to a criminal appellate court;
- (b) Preparation of, or responding to, a petition for discretionary review or related brief to the Texas Court of Criminal Appeals;
- (c) Prosecution or defense of an application for an extraordinary matter, such as petition for writ of mandamus or application for original habeas corpus, to the Texas Court of Criminal Appeals, a Texas Court of Appeals, United States District Court, or United States Circuit Court of Appeals, in a criminal matter;
- (d) Prosecution or defense of an application for post-conviction writ of habeas corpus from a misdemeanor conviction to a statutory county court exercising habeas corpus jurisdiction, or from a final felony conviction in Texas state court, either capital or non-capital;
- (e) Prosecution or defense of an application for habeas corpus from a final felony conviction, either capital or non-capital, in United States District Court under 28 USC §2254, or 28 USC §2255;
- (f) Prosecution or defense of an appeal to a United States Circuit Court of Appeals from the judgment of a United States District Court in an action under 28 USC §2254 or 28 USC §2255; and
- (g) Prosecution or defense of any criminal law matter at the United States Supreme Court.

(2) *Anders* briefs shall not satisfy any task requirement.

(3) Applicant, as ~~lead~~ an attorney for a party to a criminal appellate counsel case, shall have been listed as a signatory to and have personally performed substantial work in, drafting the pleadings or brief for that party in a minimum of 50 tasks as defined in B, 1, b, (1) (a-g) above ~~of these~~ during his or her entire practice. Of these 50 tasks, applicant shall have:

- (a) handled at least 25 tasks within the 3 years immediately preceding application; and
 - (b) performed a minimum of 5 oral arguments at a Court of Appeals, the Texas Court of Criminal Appeals, a United States Circuit Court of Appeals, or the United States Supreme Court during his or her entire practice.
- (4) Service as an attorney in an advisory capacity to a for an criminal appellate court (such as a briefing attorney and/ or staff attorney, law clerk, or in another position which requires comparable duties) for at least 5 years may be considered by TBLS as the equivalent of the requirements set out in Section XVIII, B, 1, b, (1) (a-g) above. Service for less than 5 years may be considered proportionally.

2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing criminal appellate law during each year of the 5 year period of certification as defined in Section XVIII, A of the Specific Area Requirements for Criminal Appellate Law except as provided for in Part I - General Requirements, Section VI, C, 1, (b).

C. REFERENCE REQUIREMENTS. Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in criminal appellate law. These persons must be substantially involved in criminal appellate law, and be familiar with applicant's criminal appellate law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving criminal appellate law matters within the 3 years immediately preceding application.

2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving criminal appellate law matters since certification or the most recent recertification.

3. **Reference Types.** Applicant must submit the following types of references:

a. Four Texas attorneys who are substantially involved in criminal appellate law. Applicant must have tried a criminal appellate law matter with or against one of these attorneys.

b. One judge of any court of record in Texas whom applicant has appeared before as an advocate in a criminal appellate law matter.

SECTION XVI

HEALTH LAW

(Area ID: HE / Year Started: 2002)

A. DEFINITION. Health law is the practice of law dealing with federal, state, and local law, rules and regulations, and other jurisprudence affecting the health care industry and health care patients. It primarily deals with the operational, regulatory, and transactional legal issues arising from the application of these laws, rules, and regulations to patients, health care providers, health care vendors, and entities which pay for health care services, including without limitation, the relationships among providers, payors, vendors, and patients in the health care industry; and delivery of health care services.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in Texas health law by providing such information as may be required by TBLS.

1. Certification.

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 35% of his or her time practicing health law in Texas during each year of the 3 years immediately preceding application as defined in Section XVI, A of the Specific Area Requirements for Health Law.

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas health law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant must have handled as lead counsel or in a primary capacity, several of the categories listed below in order to sufficiently demonstrate an expertise in Texas health law within the 3 years immediately preceding application by (i) counseling clients and educating clients which may include trade associations, (ii) advising or counseling clients with respect to the establishment or modification of procedures, practices, forms, programs, or transactions to comply with laws in those areas as they relate to health law, or (iii) representing clients in preparation of claims handled through mediation, arbitration, or litigation.

(a) Health care antitrust;

(b) Fraud and abuse/referral prohibitions;

(c) Health care contract issues;

(d) Managed care and managed care organizations;

(e) Risk management/quality assurance/utilization review/patient safety;

(f) Licensure and certification;

(g) Patient rights;

(h) State licensing and federal COPs;

(hi) Medical staff/professional rights;

(ij) Physicians practice issues;

(jk) Reimbursement and coverage (state and federal);

(kl) Finance including tax/tax exemptions;

(lm) Administrative proceedings;

(mn) Hospital/institutional operations;

(no) Mental health;

(op) Drugs, devices, and IRBs;

(pq) Business organizations, mergers and acquisitions;

(qr) Labor and employment law;

(rs) Health information technology, Privacy, confidentiality, and the HIPAA Privacy Rules security and privacy;

(st) Governmental entities/political subdivisions; and

(tu) Long term care.

2. **Recertification.** Applicant must have devoted a minimum of 35% of his or her time practicing health law during each year of the 5 year period of certification as defined in Section XVI, A of the Specific Area Requirements for Health Law except as provided for in Part I - General Requirements, Section VI, C,1(b).

C. REFERENCE REQUIREMENTS. Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in health law. These persons shall be substantially involved in health law and be familiar with applicant's health law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving health law matters within the 3 years immediately preceding application.

2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving health law matters since certification or the most recent recertification.

3. **Reference Types.** Applicant must submit 5 Texas attorneys who are substantially involved in health law.

SECTION VII

IMMIGRATION AND NATIONALITY LAW

(Area ID: IM / Year Started: 1979)

A. DEFINITION. Immigration and nationality law is the practice of law dealing with the Immigration and Nationality Act of 1952, as amended, and all successor and other laws and regulations dealing with immigration and naturalization. The practice includes, by way of definition and not limitation,

- all aspects of securing an immigrant or non-immigrant visa or other documentation to enter the United States, including all petitions and applications filed with the U. S. Department of State, the U. S. Department of Labor, the U. S. Department of Justice, the U. S. Department of Homeland Security, and the U. S. Public Health Service;

- naturalization proceedings;

- citizenship proceedings;

- asylum applications;
- removal proceedings and related applications for relief;
- bond and custody proceedings;
- rescission proceedings;
- registry proceedings;
- administrative proceedings not listed above relating to immigration and nationality law before government agencies of competent jurisdiction;
- all administrative and judicial review of the above; and
- original proceedings in immigration matters before judicial courts.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in immigration and nationality law practice by providing such information as may be required by TBLS.

1. Certification.

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 25% of his or her time practicing immigration and nationality law during each year of the 3 years immediately preceding application as defined in Section VII, A of the Specific Area Requirements for Immigration and Nationality Law.

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in immigration and nationality law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant must exhibit substantial involvement and special competence in each of the following immigration and nationality law matters participated in within the 3 years immediately preceding application.

(a) **Administrative Hearings.** Representation of clients in at least 9 contested hearings before immigration judges involving removal or bond determination; ~~with No no~~ more than 3 of the 9 hearings may have having involved only bond matters.

(b) **Petitions and Applications.** Representation of clients before the U.S. Department of Homeland Security and/or the U.S. Department of State in the preparation and filing of petitions and applications. A minimum of 10 petitions or applications must have been filed, at least 3 of which must have been employment based petitions.

(c) **Citizenship/Naturalization.** Representation of clients before the U.S. Department of Homeland Security, U.S. Department of State, and/or judicial courts in citizenship, naturalization, and/or renunciation or revocation matters.

(2) In addition to meeting Section VII, B, 1, b, (1), (a-c) above, applicant must meet two of the following categories within the 3 years immediately preceding application.

(a) **Alien Labor Certifications.** Representation of employers and/or aliens before the various state employment services, U.S. Department of Labor, and U.S. Department of Homeland Security in preparation and filing of alien labor certification cases.

(b) **Administrative Appeals and Advisory Opinions.** Representation of clients in appeals and/or proceedings before the Board of Immigration Appeals, Administrative Appeals Office, Board of Alien Labor Certification Appeals, the U.S. Department of State Advisory Opinions office, or other administrative appellate entities with competent jurisdiction over matters related to immigration and nationality law.

(c) **Review in Judicial Courts.** Representation of clients in judicial matters relating to immigration and nationality law such as applications for writs of habeas corpus, mandamus, declaratory judgments, criminal matters involving the immigration law, petitions for review in judicial courts, and ancillary proceedings in judicial courts.

(d) **Employer Sanctions.** Representation of clients in administrative proceedings relating to employer sanction, employment discrimination, and/or document fraud matters under the Immigration Nationality Act.

(e) **Deferred Inspections, Expedited Removal, Humanitarian Parole, Documentary Waiver Requests, Deferred Action Requests, Private Bills, I-9 and LCA related Audits and Proceedings, Immigration Related Database Corrections, or other administrative proceedings not listed relating to immigration and nationality matters before governmental agencies of competent jurisdiction.** Representation of clients in these types of matters.

2. Recertification. Applicant must have devoted a minimum of 25% of his or her time practicing immigration and nationality law during each year of the 5 year period of certification as defined in Section VII, A of the Specific Area Requirements for Immigration and Nationality Law except as provided for in Part I - General Requirements, Section VI, C,1(b).

C. REFERENCE REQUIREMENTS. Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in immigration and nationality law. These persons must be substantially involved in immigration and nationality law, and be familiar with applicant's immigration and nationality law practice.

1. Certification. Applicant must submit names of persons with whom he or she has had dealings involving immigration and nationality law matters within the 3 years immediately preceding application.

2. Recertification. Applicant must submit names of persons with whom he or she has had dealings involving immigration and nationality law matters since certification or the most recent recertification.

3. Reference Types. Applicant must submit the following types of references:

a. Three attorneys who are substantially involved in immigration and nationality law.

b. One of the following:

(1) An attorney with or against whom applicant has tried an immigration and nationality law matter, or

(2) An attorney from a U.S. Department of State consular office, or

(3) A U.S. Department of Homeland Security officer whom has adjudicated a matter by applicant and reviewed and/or made a decision on applicant's filing.

c. One of the following judges as described below:

(1) One judge of any court of record before whom applicant has appeared as an advocate in an immigration and nationality law case, or

(2) An immigration judge before whom applicant has appeared in an administrative hearing.

SECTION XI

OIL, GAS AND MINERAL LAW

(Area ID: OG / Year Started: 1986)

A. DEFINITION. Oil, gas and mineral law comprises law applicable to oil, gas and other minerals and interests in oil, gas and other min-

erals and to the acquisition, ownership, leasing, development, transfer, disposition and financing of these substances. The practice of oil, gas and mineral law requires, without limitation,

- knowledge of land titles and surface use;
- conveyances, contracts and other documents typically used in oil, gas and other mineral transactions;
- statutes and regulations affecting oil, gas and minerals;
- litigation involving oil, gas and mineral rights; and
- the taxation of oil, gas and other minerals and of transactions concerning them.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in Texas oil, gas and mineral law practice by providing such information as may be required by TBLs.

1. Certification.

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 35% of his or her time practicing Texas oil, gas and mineral law during each year of the 3 years immediately preceding application as defined in Section XI, A of the Specific Area Requirements for Oil, Gas and Mineral Law. Any time during which the applicant worked as a landman will not count toward the percentage of practice requirement.

b. **Task Requirements.** Applicant must provide information as required by TBLs concerning specific tasks he or she has performed in Texas oil, gas and mineral law. In evaluating experience, TBLs may take into consideration the nature, complexity, and duration of the tasks handled by applicant. For the 3 years immediately preceding application:

(1) Applicant must provide the number of matters or transactions he or she has handled in the following categories: within the 3 years immediately preceding application:

- (a) Oil, gas and mineral leases,
- (b) Lease assignments,
- (c) Drilling or division order title opinions,
- (d) Division orders,
- (e) Gas purchase Purchase and sales contracts for oil, gas and minerals,
- (f) Lease ratifications,
- (g) Pooling or unitization agreements,
- (h) Farmout agreements,
- (i) Drilling and service contracts,
- (j) Operating agreements,
- (k) Mineral or royalty deeds,
- (l) Easements, surface use and/or damage agreement,
- (m) Surface use and/or damage Gathering, processing and transportation agreements,
- (n) Oil, gas and mineral deeds of trust,
- (o) Oil, gas and mineral financing transactions,
- (p) Sales, and purchases and trades of oil, gas and mineral properties,
- (q) Lease operations disputes,
- (r) Oil, gas and mineral litigation,
- (s) Ad valorem and other tax matters,

(ts) Environmental issues, agreement or claims, including those related to hydraulic fracturing,

(ut) Seismic agreements and the right of oil and gas operators to conduct seismic operations,

(vu) Mineral contractor liens,

(v) Issues related to royalty payment, including production valuation and the deduction of post-production costs,

(w) Administration or other regulatory matters, and Issues arising out of horizontal drilling, including regulatory issues and the ownership or production,

(x) Areas of mutual interest, participation and development agreements, and

(xy) Other oil, gas and mineral law matters or transactions.

(2) Applicant must list regulatory agency(s) and the number of clients he or she has represented before that agency within the 3 years immediately preceding application.

(2) Applicant must provide the number of matters in which he or she has provided substantive oil, gas and mineral law representation before regulatory agencies (e.g., the Railroad Commission of Texas, the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, the Federal Energy Regulatory Commission) along with a summary of the nature of such representation.

(3) Applicant must provide the number of matters in which he or she has provided substantive oil, gas or mineral law representation before any tribunals (e.g. trial courts, appellate courts, arbitration panels, mediations) along with a summary of the nature of such representation.

c.(3) Additionally, Applicant applicant must submit a resume or job summary reflecting his or her activities for at least 5 years immediately preceding application.

2. **Recertification.** Applicant must have devoted a minimum of 35% of his or her time practicing Texas oil, gas, and mineral law during each year of the 5 year period of certification as defined in Section XI, A of the Specific Area Requirements for Oil, Gas and Mineral Law except as provided for in Part I - General Requirements, Section VI, C, 1(b).

C. REFERENCE REQUIREMENTS. Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in oil, gas and mineral law. These persons must be substantially involved in oil, gas and mineral law, and be familiar with applicant's oil, gas and mineral law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving oil, gas and mineral law matters within the 3 years immediately preceding application.

2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving oil, gas and mineral law matters since certification or the most recent recertification.

3. **Reference Types.** Applicant must submit the names of 5 Texas attorneys who are substantially involved in oil, gas and mineral law.

TRD-201502042
Martha Newton
Rules Attorney
Supreme Court of Texas
Filed: June 3, 2015

◆ ◆ ◆
Sul Ross State University

Request for Proposals

RFP #15-009, Consulting Services

Pursuant to Texas Government Code, Article 2254, Sul Ross State University, a member of the Texas State University System, announces the solicitation for consultant services to support the University's implementation of Ellucian Degree Works (DW) degree audit tool.

Project Summary: Sul Ross State University is seeking consulting services to support the University's implementation of Ellucian Degree Works (DW) degree audit tool. SRSU has a mandated go-live date of February 1, 2016. To reach this goal we require training in the functional, technical and roll-out tasks that must be accomplished prior to the go-live date. We are seeking a company that will assist us in establishing best practices in the implementation and future use of DW.

In accordance with the provisions of Texas Government Code §2254.028(c), the president of Sul Ross State University has approved the use of a private consultant and has determined that the required fact exists.

Proposals are to be received no later than 3:00 p.m. Friday, June 19, 2015. A copy of the request for proposal packet is available upon request from Noe Hernandez, Director of Purchasing, Sul Ross State Uni-

versity, P.O. Box C-116, Alpine, Texas 79832, phone (432) 837-8045, fax (432) 837-8046.

Vendors will be evaluated on credentials for the work to be done, previous successful experience on similar projects and interpersonal and written communication skills. Proposals will be evaluated on the fulfillment of the requirements as outlined in the specifications, a fee schedule which is appropriate to the proposed activities, and the quality of performance on previous contracts or experience on similar projects.

The University reserves the right to reject any and all proposals received if it is determined to be in the best interest of the University. All material submitted in response to this request becomes the property of the University and may be reviewed by other vendors after the official review of the proposals.

TRD-201502040
William Kibler
President
Sul Ross State University
Filed: June 3, 2015



How to Use the Texas Register

Information Available: The 14 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.

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.

Review of Agency Rules - notices of state agency rules review.

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 40 (2015) is cited as follows: 40 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 "40 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 40 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
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)

SALES AND CUSTOMER SUPPORT

Sales - To purchase additional subscriptions or back issues (beginning with Volume 30, Number 36 – Issued September 9, 2005), you may contact LexisNexis Sales at 1-800-223-1940 from 7am to 7pm, Central Time, Monday through Friday.

***Note:** Back issues of the *Texas Register*, published before September 9, 2005, must be ordered through the Texas Register Section of the Office of the Secretary of State at (512) 463-5561.

Customer Support - For questions concerning your subscription or account information, you may contact LexisNexis Matthew Bender Customer Support from 7am to 7pm, Central Time, Monday through Friday.

Phone: (800) 833-9844

Fax: (518) 487-3584

E-mail: customer.support@lexisnexus.com

Website: www.lexisnexus.com/printcdsc



LexisNexis[®]

It's how you know[™]