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# TEXAS REGISTER

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# TEXAS REGISTER

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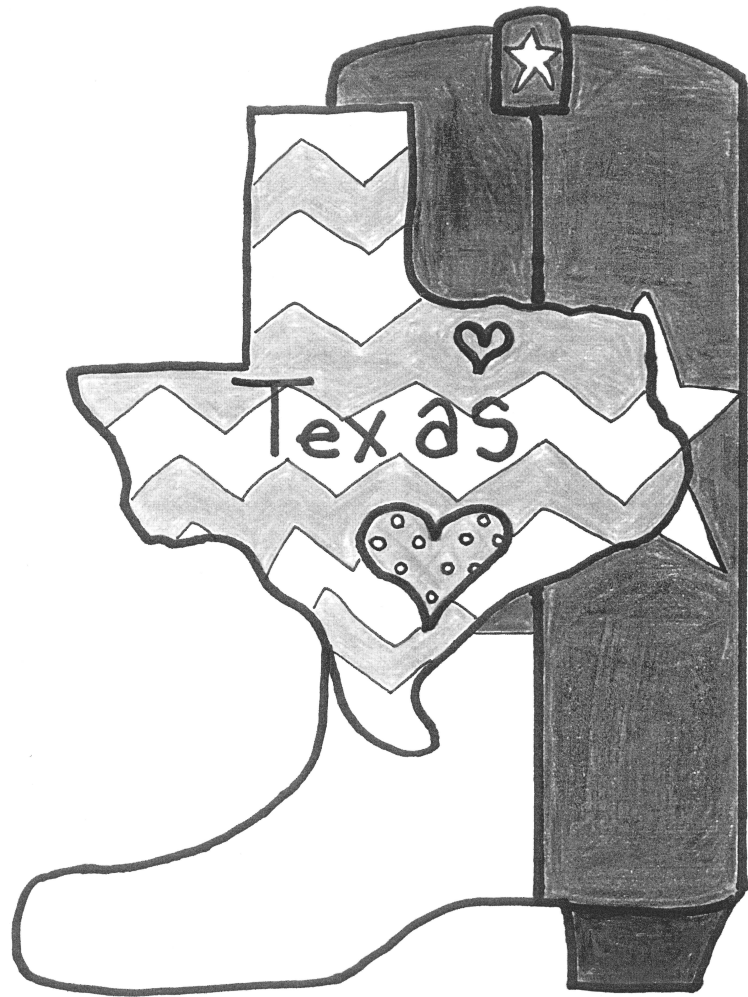
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# THE GOVERNOR

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

Proclamation 41-3973

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, the constitutional actions taken by the Texas House of Representatives on May 9, 2023, as reflected in the adoption of House Resolution No. 1542, have caused a vacancy to exist in Texas State House of Representatives District No. 2, which consists of Hopkins, Hunt, and Van Zandt Counties; and

WHEREAS, Article III, Section 13 of the Texas Constitution and Section 203.002 of the Texas Election Code require that a special election be ordered upon such a vacancy, and Section 3.003 of the Texas Election Code requires the special election to be ordered by proclamation of the Governor; and

WHEREAS, Section 203.004(a) of the Texas Election Code provides that the special election generally must be held on the first uniform date occurring on or after the 36th day after the date the election is ordered; and

WHEREAS, pursuant to Section 41.001 of the Texas Election Code, the first uniform election date occurring on or after the 36th day after the date the special election is ordered is Tuesday, November 7, 2023;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby order a special election to be held in Texas State House of Representatives District No. 2 on Tuesday, November 7, 2023, for the purpose of electing a state representative to serve out the unexpired term of Mr. Bryan Slaton.

Candidates who wish to have their names placed on the special election ballot must file their applications with the Secretary of State no later than 5:00 p.m. on Wednesday, September 6, 2023, in accordance with Section 201.054(a)(1) of the Texas Election Code.

Early voting by personal appearance shall begin on Monday, October 23, 2023, and end on Friday, November 3, 2023, in accordance with Sections 85.001(a) and (e) of the Texas Election Code.

A copy of this order shall be mailed immediately to the county judges of all counties contained within Texas State House of Representatives District No. 2, and all appropriate writs shall be issued and all proper proceedings shall be followed to the end so that said election may be held to fill the vacancy in Texas State House of Representatives District No. 2 and its result proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 29th day of May, 2023.

Greg Abbott, Governor  
TRD-202301986



Proclamation 41-3974

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

I, GREG ABBOTT, Governor of the State of Texas, by the authority vested in me by Article III, Sections 5 and 40, and Article IV, Section 8 of the Texas Constitution, do hereby call extraordinary session #1 of the 88th Legislature, to convene in the City of Austin, commencing at 9:00 p.m. on Monday, May 29, 2023, for the following purposes:

To consider and act upon the following:

Legislation to cut property-tax rates solely by reducing the school district maximum compressed tax rate in order to provide lasting property-tax relief for Texas taxpayers.

Legislation solely for the purpose of increasing or enhancing the penalties for certain criminal conduct involving the smuggling of persons or the operation of a stash house.

The Secretary of State will take notice of this action and will notify the members of the legislature of my action.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 29th day of May, 2023.

Greg Abbott, Governor  
TRD-202301987



Proclamation 41-3975

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

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

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these and other counties in Texas, with the exception of; Atascosa, Austin, Baylor, Bosque, Brown, Burnet, Callahan, Coke, Comanche, Coryell, Dimmit, Edwards, Erath, Falls, Fisher, Foard, Frio, Glasscock, Grimes, Hale, Henderson, Jones, Kinney, La Salle, Lamb, Lampasas, Llano, Mason, Maverick, McCulloch, McLennan, Menard, Montgomery, Moore, Potter, Randall, Runnels, San Saba, Shackelford, Sterling, Stonewall, Sutton, Swisher, Travis, Uvalde, Webb, and Zavala Counties.

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Andrews, Bailey, Bandera, Bexar, Blanco, Borden, Cameron, Castro, Childress, Cochran, Collingsworth, Colorado, Comal, Cottle, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Eastland, Ector, Floyd, Gaines, Garza, Gillespie, Hamilton, Hansford, Hardeman, Hartley, Hays, Hidalgo, Hockley, Howard, Hutchinson, Kendall, Kent, Kerr, Kimble, King, Lipscomb, Lubbock, Lynn, Martin, Matagorda, Medina, Midland, Mills, Mitchell, Motley, Nolan, Ochiltree, Oldham, Parmer, Real,

Roberts, Scurry, Sherman, Taylor, Terry, Wharton, and Yoakum Counties.

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

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

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

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

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

Greg Abbott, Governor

TRD-202301988





# THE ATTORNEY GENERAL

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

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

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

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Requests for Opinions

**RQ-0510-KP**

**Requestor:**

Mark Bronson, D.C.

President

Texas Board of Chiropractic Examiners

1801 North Congress, Suite 10.500

Austin, Texas 78701

Re: Whether the Texas Board of Chiropractic Examiners has discretion to suspend or revoke a chiropractor's license under Texas Occupations

Code section 201.5065 if the chiropractor is convicted of certain offenses (RQ-0510-KP)

**Briefs requested by June 26, 2023**

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-202301983

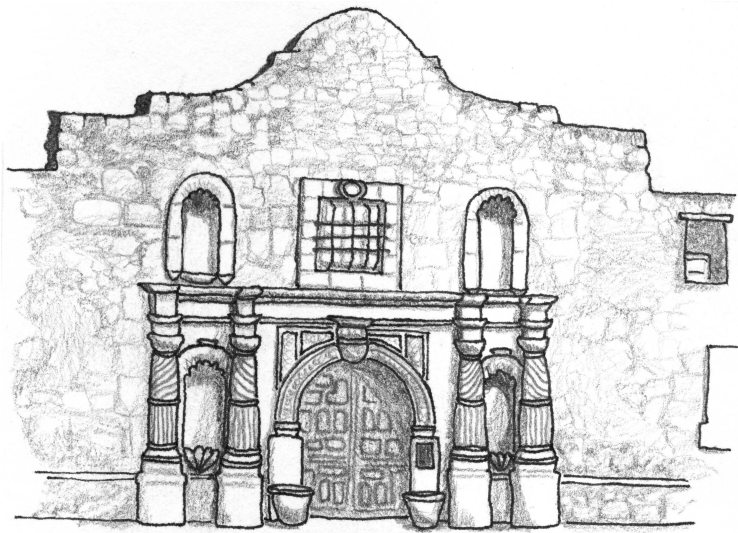
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: May 30, 2023





# EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

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## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 500. COVID-19 EMERGENCY

##### HEALTH CARE FACILITY LICENSING

##### SUBCHAPTER A. HOSPITALS

##### 26 TAC §500.4

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.4 for a 60-day period. The

text of the emergency rule was originally published in the February 3, 2023, issue of the *Texas Register* (48 TexReg 451).

Filed with the Office of the Secretary of State on May 23, 2023.

TRD-202301898

Nycia Deal

Attorney

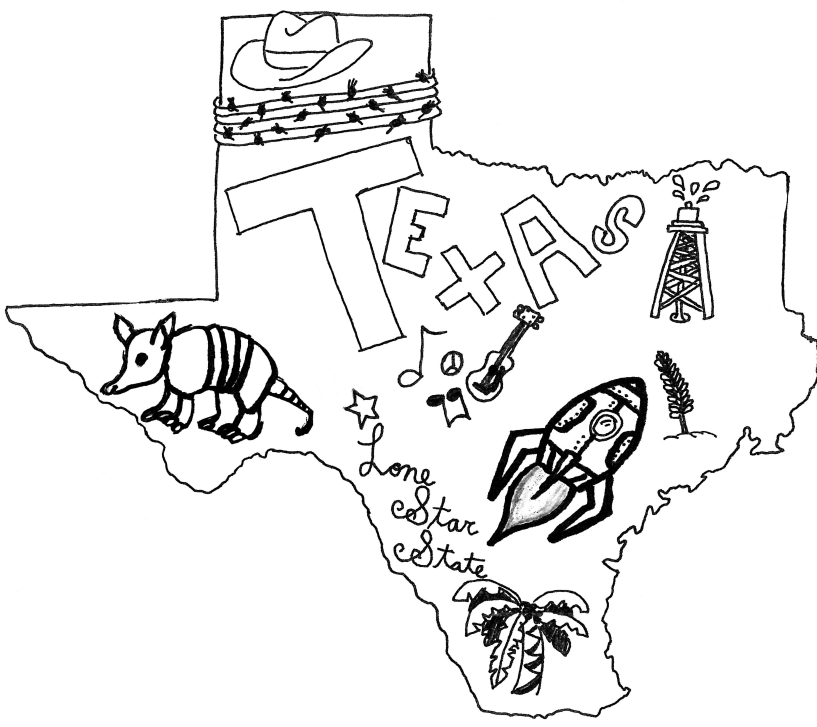
Health and Human Services Commission

Original effective date: January 29, 2023

Expiration date: July 27, 2023

For further information, please call: (512) 834-4591





# 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 22. EXAMINING BOARDS

### PART 23. TEXAS REAL ESTATE COMMISSION

#### CHAPTER 535. GENERAL PROVISIONS SUBCHAPTER D. THE COMMISSION

##### 22 TAC §535.46

The Texas Real Estate Commission (TREC) proposes new 22 TAC §535.46, Broker Responsibility Advisory Committee, in Chapter 535, General Provisions.

The proposed new rule establishes an advisory committee called the Broker Responsibility Advisory Committee, which is tasked with advising TREC as to issues surrounding broker responsibility issues within the real estate industry. This committee will also make recommendations to TREC regarding possible legislative and rule changes associated with broker responsibility issues impacting both the real estate industry and the consumer.

Vanessa E. Burgess, General Counsel, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed new rule. There is no significant economic cost anticipated for persons who are required to comply with the proposed new rule. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Burgess also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the section will be the establishment of an advisory committee with specific requirements associated with both the dedicated scope and membership of that committee.

For each year of the first five years the proposed new rule is in effect the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability; or

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Vanessa Burgess, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to [general.counsel@trec.texas.gov](mailto:general.counsel@trec.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The new rule is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapters 1101. No other statute, code or article is affected by the proposed new rule.

*§535.46. Broker Responsibility Advisory Committee.*

(a) The Commission establishes a Broker Responsibility Advisory Committee to regularly examine issues surrounding broker responsibility within the real estate industry, make recommendations regarding possible legislative changes associated with broker responsibility, and examine Commission rules related to broker responsibility.

(b) The committee consists of 9 members appointed by the Commission who must meet the following requirements:

(1) members must hold an active real estate broker license issued by the Commission; and

(2) members must have been engaged in the practice of brokerage activity for at least five years prior to appointment and be actively engaged in that practice.

(c) The Commission may appoint a non-voting member(s) from the Commission.

(d) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(e) Members of the committee serve staggered four-year terms with terms beginning on January 1.

(f) Notwithstanding subsection (e) of this section, the Commission shall initially appoint nine members as follows:

(1) three members to serve a two-year term to expire on December 31, 2026, regardless of the date the members are appointed;

(2) three members to serve a three-year term to expire on December 31, 2027, regardless of the date the members are appointed; and

(3) three members to serve a four-year term to expire on December 31, 2028, regardless of the date the members are appointed.

(g) A member whose term has expired holds office until the member's successor is appointed. If a vacancy occurs during a member's term, the Commission shall appoint a person to fill the unexpired term.

(h) At a regular meeting in January of each year, the committee shall elect from its members a presiding officer, assistant presiding officer, and secretary.

(i) The Commission may remove a committee member if the member:

(1) does not have the qualifications required by subsection (b) of this section;

(2) cannot discharge the member's duties for a substantial part of the member's term;

(3) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during each calendar year, unless the absence is excused by majority vote of the committee; or

(4) violates Chapter 1101 or Chapter 1102.

(j) If the executive director of the Commission has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the Commission that the potential ground exists.

(k) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(l) The committee may meet at the call of a majority of its members. The committee shall meet at the call of the Commission.

(m) A quorum of the committee consists of five members.

(n) The committee shall conduct its meetings in substantial compliance with Robert's Rules of Order.

(o) The secretary of the committee shall work with Commission staff to prepare and approve written minutes of each meeting and submit the minutes for filing with the Commission.

(p) At least twice a year, the presiding officer of the committee shall report on the activities of the committee to the Commission. The committee may submit its written recommendations concerning broker responsibility to the Commission at any time the committee deems appropriate. If the Commission submits a rule to the committee for development, the presiding officer of the committee or the presiding officer's designate shall report to the Commission after each meeting at which the proposed rule is discussed on the committee's consideration of the rule.

(q) The committee is automatically abolished on September 1, 2031, unless the Commission subsequently establishes a different date.

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 22, 2023.

TRD-202301889

Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 936-3284



## SUBCHAPTER I. LICENSE RENEWAL

### 22 TAC §535.92

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.92, Continuing Education Requirements, in Chapter 535, General Provisions.

The proposed amendments to §535.92 include expand a real estate license holder's opportunity to earn up to four hours of continuing education elective credit for attendance at a single Commission meeting and clarify that such credit may only be awarded for attendance at one Commission meeting per renewal cycle. The remainder of the changes are either updates to terminology or form for consistency throughout the chapter or are made to reflect updated processes.

Vanessa E. Burgess, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Burgess also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be increased opportunity for license holders to obtain continuing education credit and greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Vanessa Burgess, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to [general.counsel@trec.texas.gov](mailto:general.counsel@trec.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

*§535.92. Continuing Education Requirements.*

(a) Required continuing education. 18 hours of continuing education are required for each renewal of a real estate sales agent or broker license and must include:

- (1) a four hour Legal Update I: Laws, Rules and Forms course;
- (2) a four hour Legal Update II: Agency, Ethics and Hot Topics course;
- (3) three hours on the subject of real estate contracts from one or more Commission approved courses; and
- (4) a six hour broker responsibility course, if the license holder:

(A) sponsors one or more sales agent at any time during the current license period;

(B) is a designated broker of a business entity that sponsors one or more sales agent at any time during the designated broker's current license period; or

(C) is a delegated supervisor under §535.2(e) of this chapter (relating to Broker Responsibility) [title].

(b) Awarding continuing education credit. The Commission will award credit to a license holder for an approved continuing education course upon receipt of a course completion roster from a CE provider as required under §535.75 of this chapter (relating to Responsibilities and Operations of Continuing Education Providers) [title].

(c) Continuing education credit for qualifying courses. Real estate license holders may receive continuing education elective credit for qualifying real estate courses or qualifying real estate inspection courses that have been approved by the Commission or that are accepted by the Commission for satisfying educational requirements for obtaining or renewing a license. Qualifying real estate courses must be at least 30 classroom hours in length to be accepted for continuing education elective credit.

(d) Continuing education credit for course taken outside of Texas. A course taken by a Texas license holder to satisfy continuing education requirements of a country, territory, or state other than Texas may be approved on an individual basis for continuing education elective credit in Texas upon the Commission's determination that:

- (1) the Texas license holder held an active real estate license in a country, territory, or state other than Texas at the time the course was taken;
- (2) the course was approved for continuing education credit for a real estate license by a country, territory, or state other than Texas and, if a correspondence course, was offered by an accredited college or university;
- (3) the Texas license holder's successful completion of the course has been evidenced by a course completion certificate, a letter from the provider or [such] other proof [as is] satisfactory to the Commission;

(4) the subject matter of the course was predominately devoted to a subject acceptable for continuing education credit in Texas; and

(5) the Texas license holder has filed a Credit Request for an Out-of-State Course [Credit Request], with the Commission.

(e) Continuing education credit for courses offered by the State Bar. To request continuing education elective credit for real estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit, a license holder is required to file an Individual Credit Request for State Bar Course.

(f) Continuing education credit for attendance at Commission meeting. A real estate license holder may receive up to four hours of continuing education elective credit per license period for attendance in person at a single quarterly [February] Commission meeting. Credit will only be awarded to license holders who attend the meeting in its entirety; no partial credit for attendance will be awarded. Credit will not be awarded to license holders appearing as a party to a contested case before the Commission.

(g) Continuing education credit for instructors. Instructors may receive continuing education credit for real estate qualifying courses subject to the following guidelines:

(1) An instructor may receive credit for those segments of the course that the instructor teaches by filing an [a completed] Instructor Credit Request.

(2) An instructor may receive full course credit by attending any segment that the instructor does not teach in addition to those segments the instructor does teach.

(h) Limitations. The Commission will not award credit to a license holder who attends or instructs the same course more than once during:

(1) the term of the current license period; or

(2) the two-year period preceding the filing of a [an] renewal application for a license after the license expiration date as provided for under §535.91 [§535.93] of this subchapter (relating to Renewal of a Real Estate License) [title] or return to active status as provided for under Subchapter L of this chapter (relating to Inactive License Status) [Chapter].

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 22, 2023.

TRD-202301888

Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 936-3284



## TITLE 34. PUBLIC FINANCE

### PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

#### CHAPTER 25. MEMBERSHIP CREDIT

*(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 34 TAC §§25.162, 25.302, and 25.303 are not included in the print version of the Texas Register. The figures are available in the on-line version of the June 9, 2023, issue of the Texas Register.)*

The Teacher Retirement System of Texas (TRS) proposes amendments to §25.162 relating to State Personal or Sick Leave Credit of Chapter 25, Subchapter L, in Title 34, Part 3, of the Texas Administrative Code and §25.302 relating to Calculation of Actuarial Costs of Service Credit, and §25.303 relating to Calculation of Actuarial Cost for Purchase of Compensation Credit of Chapter 25, Subchapter P, in Title 34, Part 3, of the Texas Administrative Code.

## BACKGROUND AND PURPOSE

Each rule TRS proposes to amend currently incorporates one or more actuarial table used to calculate the cost of a service credit or compensation credit purchase. The proposed amendments incorporate new actuarial tables into each rule that have been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Proposed amended §25.162 updates the actuarial table for the purchase of one year of service credit based on accumulated state personal or sick leave. Proposed amended §25.302 updates several actuarial tables relating to the purchase of service credit that must be purchased based on the actuarial present value of the credit, such as service credit for unreported service or out-of-state service. Lastly, proposed amended §25.303 updates several actuarial tables relating to the purchase of compensation credit that statute must be purchased based on the actuarial present value of the compensation. Minor, conforming changes to text have also been made to proposed amended §25.302 and §25.303 to incorporate these tables

The proposed amended rules and updated tables are proposed to become effective on September 1, 2023 and will be used to calculate the cost of any relevant service or compensation credit purchases initiated beginning in the 2023-2024 school year and going forward.

## FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments.

## PUBLIC COST/BENEFIT

For each year of the first five years the proposed amendments will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments will be to ensure that TRS administers the TRS retirement plan in accordance with the latest actuarial assumptions adopted by the Board. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments. To the extent the newly incorporated actuarial tables increase the cost of service credit purchases under the proposed amended rules, these increased costs result from TRS's obligation to comply with its governing statutes that require TRS to calculate the cost of the relevant types of service

and compensation credit based on the actuarial present value of the additional service or compensation credit.

## ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

## LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments. Therefore, no local employment impact statement is required under Government Code §2001.022.

## GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments will be in effect the proposed amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

## TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments, a takings impact assessment is not required under Government Code §2007.043.

## COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments because the proposed new rule does not impose a cost on regulated persons.

## COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

## SUBCHAPTER L. OTHER SPECIAL SERVICE CREDIT

### 34 TAC §25.162

#### STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §823.403, which provides that an eligible member is entitled to receive service credit based on the member's accumulated sick and personal leave if the member pays to TRS at the time service credit is granted the actuarial present value of the additional standard retirement annuity benefits under the option selected by the member that would be attributable to the conversion of the unused state personal or sick leave into the



service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

#### CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service.

#### §25.162. *State Personal or Sick Leave Credit.*

(a) An eligible member may purchase one year of service credit in the Teacher Retirement System of Texas ("TRS") for accumulated state personal or sick leave in accordance with Government Code §823.403 and subject to approval of TRS.

(b) A member is eligible to purchase one year of service credit if the member has at least ten years of TRS service credit for actual service with one or more employers defined by Government Code §821.001(7), retires from such an employer, and has at least 50 days or 400 hours of accumulated state personal or sick leave on the last day of employment before retirement. Not more than an aggregate of five days of unused state personal or sick leave may be accumulated per year. State personal and sick leave may be combined, if needed, for the purpose of calculating the necessary 50 days or 400 hours. No more than one year of service credit may be purchased even if more time has been accumulated.

(c) Credit purchased under this section may be used only for the purpose of calculating the amount of a retirement plan benefits but may not be used to determine eligibility for retirement plan benefits.

(d) To establish service credit under this section, an eligible member must submit an employer certification in the form and manner prescribed by TRS. Additionally, the eligible member must deposit with TRS, in the manner prescribed by TRS, the actuarial present value of the additional standard retirement annuity benefits that would be attributable to the conversion of the unused state personal or sick leave into the service credit, as described in subsection (e) of this section.

(e) To compute these amounts, TRS will use the State Personal or Sick Leave Conversion Factor Tables furnished by the TRS actuary of record. Specifically, TRS will select the applicable conversion factor from the table based on the age of the member in full years and months at the effective date of retirement. To obtain the cost of the service credit, the conversion factor will be multiplied by the increase in the monthly standard retirement annuity resulting from the conversion of state personal or sick leave to an additional one year of service credit. The increase in the annuity will be determined using the standard retirement annuity without an adjustment for an optional service retirement annuity plan selected by the member because any optional plan selected by the member is required by Government Code §824.204(b) to be the actuarial equivalent of the member's standard retirement annuity.

Figure: 34 TAC §25.162(e)

[Figure: 34 TAC §25.162(e)]

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 26, 2023.

TRD-202301926

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 542-6506



## SUBCHAPTER P. CALCULATION OF FEES AND COSTS

### 34 TAC §25.302, §25.303

#### STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §823.401, which provides that eligible members may establish equivalent member service credit based on certain types of out-of-state service by depositing with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.402, which provides that eligible members may establish equivalent membership service credit for certain developmental leave by depositing with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.404, which provides that an eligible member may establish equivalent membership service credit for work experience for which the member is entitled to a salary step under Education Code §21.403(b) if the member deposits with TRS, for each year of service, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the conversion of the work experience into service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.406, which provides that a member may establish membership service credit for service performed during a 90-day waiting period to become a member by depositing with TRS, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the TRS actuary of record and adopted by the Board; and Government Code §825.403, which provides that to establish service or compensation credit for unreported service or compensation, a person must deposit with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service or compensation credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

#### CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service and Government Code §825.403, concerning the collection of member's contributions.

#### §25.302. *Calculation of Actuarial Costs of Service Credit.*

(a) When a member is purchasing TRS service credit for which the law requires that the actuarial cost or actuarial present value be deposited and for which the method in this section is referenced by another section of this title, TRS will calculate the cost using the cost factors obtained from the Actuarial Cost Tables adopted and method described in this section. For [Effective September 1, 2015, for] purposes of this section, TRS will use the age of the member and the ser-

vice credit established by the member on September 1 of the school year in which the cost of the purchase is established.

(b) The factors for individuals whose membership was established before September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, are shown in the tables adopted as part of this subsection~~], which shall be used when the service credit cost is paid on or after September 1, 2019, or an installment agreement is entered into on or after September 1, 2019].~~ Within each set of tables, the number of years of service credit to be purchased will determine which specific table will be used. Each of the tables cross-references the member's age in rows with years of credited service (before purchase) in columns. The intersection of the participant's age and service is the cost per \$1,000 of salary. The cost factor for a participant with more years of service credit than shown on the table is the same as the factor shown for the highest number of years of service credit on the table for the participant. TRS will calculate the cost to purchase service credit under this section by dividing the participant's salary by 1000 and multiplying the resulting quotient by the appropriate cost factor obtained from the table. The tables set forth the cost, per \$1,000 of salary, to purchase from one year to fifteen years of service credit. The number of years of service credit available for purchase is determined by the laws and rules applicable to the type of service credit to be purchased. For the purpose of calculating the required amount for a member who is not grandfathered to use a three-year salary average under §51.12 of this title (relating to Applicability of Certain Laws in Effect Before September 1, 2005), the term "salary" is defined as follows:

(1) For the upper region of the table (where the factors appear above the line), salary is the greater of the annual salary for the last year of credited service or the average of the member's highest years of compensation calculated on September 1 of the school year in which the cost of the service credit is established. The fewer of five years of compensation or all of the member's years of compensation shall be used for the average; or

(2) For the lower region of the table (where the factors appear below the line), salary is the average of the member's highest five years of compensation calculated on September 1 of the school year in which the cost of the service credit is established. A member's highest five years of compensation shall be calculated as if the member were retiring at the time the service credit is purchased. The lower region of the table (where the factors appear below the line) reflects those age and service combinations where the purchase of service credit results in immediate eligibility of the member for unreduced retirement benefits.

Figure: 34 TAC §25.302(b)(2)  
[Figure: 34 TAC §25.302(b)(2)]

(c) For the purpose of calculation of actuarial cost for service credit for a member described in subsection (b) of this section who is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. Additionally, the cost shall be 103.5 percent of the cost as calculated under subsection (b) of this section.

(d) For individuals whose membership was established on or after September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional service credit, but TRS shall use the factors in the tables adopted as part of this subsection~~], which shall be used when the service credit cost is paid on or after September 1, 2019, or an installment agreement is entered into on or after September 1, 2019].~~ If the member is not grandfathered to use a

three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section.

Figure: 34 TAC §25.302(d)  
[Figure: 34 TAC §25.302(d)]

(e) If an individual established membership on or after September 1, 2007 and has five years of service credit on August 31, 2014, and maintains membership in TRS until the time of purchase, but is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. The cost of establishing additional service credit for a grandfathered member described in this subsection, shall be 1.035 times the cost as calculated under subsection (d) of this section.

(f) An individual who first was a member of TRS before September 1, 2007, but who terminated membership through withdrawal of accumulated contributions and then again joined TRS on or after September 1, 2007, and has five years of service credit on August 31, 2014 and maintains membership in TRS until the time of purchase, is subject to the calculation of cost for additional service credit under subsections (d) and (e) of this section.

(g) For members who do not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, the methodology described in subsections (b) and (c) of this section shall be used to determine the cost of additional service credit, but TRS shall use the factors in the tables adopted as a part of this subsection.

Figure: 34 TAC §25.302(g)  
[Figure: 34 TAC §25.302(g)]

(h) For the purpose of calculation of actuarial cost for service credit for a member described in subsection (g) of this section who is not grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section.

(i) If the individual did not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, but is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. The cost of establishing additional service credit for a grandfathered member described in this subsection shall be 1.035 times the cost as calculated under subsection (g) of this section.

(j) The tables adopted in this section shall be used when the service credit cost is paid on or after September 1, 2023, or an installment agreement is entered into on or after September 1, 2023.

#### §25.303. *Calculation of Actuarial Cost for Purchase of Compensation Credit.*

(a) When a member is purchasing TRS compensation credit for which the law requires that the actuarial cost or actuarial present value be deposited and for which the method in this section is referenced by another section of this title, TRS will calculate the cost using the cost factors obtained from the Actuarial Cost Tables adopted and the method described in this section. ~~[For purchases in which the cost is established and the purchase is initiated in the 2016-17 school year or after.]~~ TRS will use the age of the member and the service credit established by the member on September 1 of the school year in which the cost of the purchase is established.

(b) Each of the tables cross-references the member's age in rows with years of credited service in columns. The intersection of the participant's age and service is the cost factor that shall be applied in determining the cost to purchase compensation credit. TRS will calculate the cost to purchase compensation credit under this section by

dividing the difference between participant's final average salary before and after the purchase by 1,000 and multiplying the quotient by the appropriate cost factor obtained from the table. The eligibility of additional compensation credit available for purchase is determined by the laws and rules applicable to the type of compensation sought to be credited.

(c) For individuals whose membership was established before September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional compensation credit, but TRS shall use the factors in the tables adopted as part of this subsection.

Figure: 34 TAC §25.303(c)

[Figure: 34 TAC §25.303(e)]

(d) For individuals whose membership was established on or after September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional compensation credit, but TRS shall use the factors in the tables adopted as part of this subsection.

Figure: 34 TAC §25.303(d)

[Figure: 34 TAC §25.303(d)]

(e) For members who do not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, the methodology described in subsection (b) of this section shall be used to determine the cost of additional compensation credit, but TRS shall use the factors in the tables adopted as a part of this subsection.

Figure: 34 TAC §25.303(e)

[Figure: 34 TAC §25.303(e)]

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 26, 2023.

TRD-202301927

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 542-6506



## CHAPTER 29. BENEFITS

*(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 34 TAC §§29.11, 29.21, and 29.71 are not included in the print version of the Texas Register. The figures are available in the on-line version of the June 9, 2023, issue of the Texas Register.)*

The Teacher Retirement System of Texas (TRS) proposes amendments to §29.11 relating to Actuarial Tables and §29.21 relating to Beneficiary Tables of Chapter 29, Subchapter A, in Title 34, Part 3, of the Texas Administrative Code and §29.71 relating to Tables of Chapter 29, Subchapter F, in Title 34, Part 3, of the Texas Administrative Code.

### BACKGROUND AND PURPOSE

Each rule TRS proposes to amend currently incorporates one or more actuarial table used to calculate the retirement benefits of TRS retirees based on various retirement selections, such as electing for early-age retirement or a partial lump-sum option payment. The proposed amendments incorporate new actuarial tables into each rule that have been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Proposed amended §29.11 updates several actuarial tables relating to early-age retirement reduction factors, reduction factors for service and disability retirement options, and reserve transfer factors. Proposed amended §29.21 updates the tables for unisex joint beneficiary life expectancy that are used when calculating life expectancy for the purposes of option beneficiary changes made under §824.1013, Government Code. Lastly, proposed amended §29.71 updates the actuarial table relating to the reduction factors to be applied to the annuity payments of retirees that elect to receive a partial lump-sum payment at the time of retirement. Minor, conforming changes to text have also been made to proposed amended §29.11 to incorporate these tables.

The proposed amended rules and updated tables are proposed to become effective on September 1, 2023, and will generally be used to calculate the benefits for all service or disability retirements or option beneficiary changes that will be effective in the 2023-2024 school year and going forward.

### FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments.

### PUBLIC COST/BENEFIT

For each year of the first five years the proposed amendments will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments will be to ensure that TRS administers the TRS retirement plan in accordance with the latest actuarial assumptions adopted by the Board. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments. To the extent the newly incorporated actuarial tables increase the reduction of a retiree's annuity payment under the proposed amended rules, these increased costs result from TRS's obligation to comply with its governing statutes that require TRS to reduce a member's retirement annuity to its actuarial equivalent based on the member's retirement selections.

### ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

### LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments. Therefore, no lo-

cal employment impact statement is required under Government Code §2001.022.

#### GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments will be in effect the proposed amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

#### TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments, a takings impact assessment is not required under Government Code §2007.043.

#### COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments because the proposed new rule does not impose a cost on regulated persons.

#### COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

### SUBCHAPTER A. RETIREMENT

#### 34 TAC §29.11, §29.21

##### STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §824.1013, which limits the monthly payments a new option beneficiary may receive after a beneficiary change under that section to the life expectancy of the beneficiary designated at retirement; Government Code §824.202, which provides the early-age retirement reduction factors and authorizes the Board to adopt tables that interpolate the application of each reduction factor by each month of age of retiree between two years of age; Government Code §824.204, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the service retirement option selected; Government Code §824.308, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the disability retirement option selected; and Government Code §825.309, which describes that if TRS transfers funds to a retired reserve account the amount transferred from the state contribution account must be an amount determined under actuarial tables adopted by the Board sufficient for the payments of benefits as they become due.

#### CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 824, Subchapter B (concerning Beneficiaries), Subchapter C (concerning Service Retirement Benefits), and Subchapter D (concerning Disability Retirement Benefits), Texas Government Code and Chapter 825, Subchapter D (concerning Management of Assets), Texas Government Code.

##### §29.11. Actuarial Tables.

(a) Actuarial tables furnished by the TRS actuary of record will be used for computation of benefits. Factors for ages or types of annuities not included in the tables will be computed from the same data by the same general formulas.

(b) The Teacher Retirement System adopts the actuary's early age reduction factors. The factor tables are as follows:

Figure: 34 TAC §29.11(b)

[Figure: 34 TAC §29.11(b)]

(c) The Teacher Retirement System adopts the actuary's factors for service retirement options. The factor tables are as follows:

Figure: 34 TAC §29.11(c)

[Figure: 34 TAC §29.11(c)]

(d) The Teacher Retirement System adopts the actuary's factors for disabled member retirement options. The factor tables are as follows:

Figure: 34 TAC §29.11(d)

[Figure: 34 TAC §29.11(d)]

(e) The Teacher Retirement System adopts the actuary's reserve transfer factors. The reserve transfer factor tables are as follows:

Figure: 34 TAC §29.11(e)

[Figure: 34 TAC §29.11(e)]

(f) The board of trustees may change the tables or adopt new tables from time to time by amending this section; provided, however, that any such change does not result in any retiree or member eligible for service retirement with an unreduced annuity as of the date of the change receiving a smaller benefit than the benefit computed immediately before the change. [If such a change would result in a smaller benefit, then TRS will use the tables in effect immediately prior to the change to calculate the benefits for any retiree or member eligible for service retirement with an unreduced annuity as of the date of the change.]

##### §29.21. Beneficiary Tables.

Tables for Unisex Joint Beneficiary Life furnished by the TRS actuary of record (actuary) will be used in calculating a life expectancy under §824.1013 of the Government Code. A fraction of a year shall be converted to whole months with any partial month being rounded upward to a full month. Life expectancy shall be determined as of the date of the retirement in question and the age of the original beneficiary at that time. The Teacher Retirement System of Texas adopts the actuary's Tables for Unisex Joint Beneficiary Life.

Figure: 34 TAC §29.21

[Figure: 34 TAC §29.21]

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 26, 2023.

TRD-202301928

Don Green  
Chief Financial Officer  
Teacher Retirement System of Texas  
Earliest possible date of adoption: July 9, 2023  
For further information, please call: (512) 542-6506



## SUBCHAPTER F. PARTIAL LUMP-SUM PAYMENT

### 34 TAC §29.71

#### STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board, and Government Code §824.2045, which requires the service retirement annuity selected by a retiree to be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, reduced for early age without the partial lump-sum distribution.

#### CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 825, Subchapter C (concerning Service Retirement Benefits), Texas Government Code.

#### §29.71. Tables.

(a) Any eligible retiree who selects a partial lump-sum option will receive an actuarially reduced annuity to reflect the selection of the lump-sum option. TRS will use Factor Tables for Partial Lump-Sum Option Payments furnished by the TRS actuary of record.

Figure: 34 TAC §29.71(a)

[Figure: 34 TAC §29.71(a)]

(b) The member's age in whole years will be used from column one and the percentage of standard annuity factor from column three, four, or five depending on the number of months of lump-sum selected, will be used to determine the percentage of standard annuity that will be paid to a person who elects to participate in the partial lump-sum option plan.

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 26, 2023.

TRD-202301929

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 542-6506



## CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS

### 34 TAC §47.17

The Teacher Retirement System of Texas (TRS) proposes amendments to §47.17 relating to Calculation for Alternate Payee Benefits Before a Member's Benefit Begins, of Chapter 47, in Title 34, Part 3, of the Texas Administrative Code.

#### BACKGROUND AND PURPOSE

TRS proposes to amend §47.17 to incorporate a new actuarial table used to calculate distributions made to an alternate payee under Government Code §804.005. The proposed new actuarial table to be incorporated into the rule that has been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial table was prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

The proposed amended rule and updated table are proposed to become effective on September 1, 2023 and will generally be used to calculate the benefits for all distributions made to an alternate payee under Government Code §804.005 and will be effective in the 2023-2024 school year and going forward.

#### FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments to rule §47.17 will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments to §47.17.

#### PUBLIC COST/BENEFIT

For each year of the first five years the proposed amendments to §47.17 will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments to §47.17 will be to ensure that TRS administers the TRS retirement plan in accordance with the latest actuarial assumptions adopted by the Board. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments to §47.17. To the extent the newly incorporated actuarial table increases the reduction to the amount of a distribution payable to an alternate payee under the proposed amended rules, this reduction results from TRS's obligation to comply with Government Code §804.005 that requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system.

#### ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments to §47.17. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments to §47.17. Therefore, no local employment impact statement is required under Government Code §2001.022.

#### GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments to §47.17 will be in effect the proposed amendments to §47.17 will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future leg-

islative appropriations to TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

#### TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments to §47.17, a takings impact assessment is not required under Government Code §2007.043.

#### COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments to §47.17 because the proposed new rule does not impose a cost on regulated persons.

#### COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

#### STATUTORY AUTHORITY

The amendments to §47.17 are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §804.005, which requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system, determined as if the member retired on the date of the alternate payee's election.

#### CROSS-REFERENCE TO STATUTE

The proposed amendments to §47.17 implements Chapter 804, Subchapter A, Texas Government Code, concerning Qualified Domestic Relations Orders.

*§47.17. Calculation for Alternate Payee Benefits Before a Member's Benefit Begins.*

(a) An alternate payee of a TRS member is eligible to receive the benefits described by Government Code §804.005 if:

- (1) the alternate payee has a qualified domestic relations order ("QDRO") approved by TRS;
- (2) the alternate payee submits a written request to TRS to receive these benefits; and
- (3) the member meets the requirements of subsection (b) of this section.

(b) The alternate payee of a TRS member may only elect to receive benefits under this section if the member:

- (1) has not retired;
- (2) has attained the greater of either the age of 62 and is eligible to retire without reduction for early age retirement, or normal retirement age and service requirements for service retirement; and
- (3) retains credit and contributions in TRS attributable to that service.

(c) If an alternate payee elects to receive benefits under this section, the benefits will become payable once TRS receives a written request for the benefits and a certified copy of the domestic relations order determined to be a QDRO.

(d) In figuring these benefits for the alternate payee and the adjusted standard annuity of the member's benefit as set forth in this section, TRS shall consider the member's benefit as a normal age standard service retirement annuity without regard to any optional annuity chosen or beneficiary designated by the member.

(e) The beginning of monthly payments under this section terminates any interest that the alternate payee who receives the payment might otherwise have in benefits that accrue to the account of the member after the date the initial payment to the alternate payee is made.

(f) An alternate payee who elects this method of payment has only a right to receive an annuity for life as calculated in this section and does not have the right to pass on any portion of his/her benefit upon his/her death. There is no reversion of the alternate payee's benefit to the member upon the alternate payee's death, irrespective of whether the death occurs before or after the member's benefit commencement.

(g) TRS will use Tables for Life Annuity Factors furnished by the TRS actuary of record to calculate the actuarially equivalent portion of the member's accrued benefit payable to an alternate payee under this section.

Figure: 34 TAC §47.17(g)  
[Figure: 34 TAC §47.17(g)]

(h) Except as otherwise provided by this section, TRS shall calculate the alternate payee's actuarial equivalent benefit in the following manner:

(1) Determine the member's accrued monthly benefit as of the alternate payee's benefit commencement date.

(2) Determine the member's age and the alternate payee's age as of the alternate payee's benefit commencement date.

(3) Determine the appropriate percent of the member's accrued benefit payable to the alternate payee under the terms of the QDRO.

(4) Multiply the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent. Then, divide that figure by the life annuity factor at alternate payee's age.

(i) Except as otherwise provided by this section, TRS shall calculate a member's adjusted standard annuity by reducing the member's standard annuity monthly benefit at the time of retirement by an amount equal to the percent of the member's benefit payable to the alternate payee under the QDRO multiplied by the member's accrued monthly benefit as of the alternate payee's benefit commencement date.

(j) If the member dies before retiring:

(1) the member's adjusted standard annuity must be used for any benefit due after death if a standard annuity is used to calculate that benefit;

(2) the balance of the accumulated contributions in the member savings account payable to a beneficiary must be adjusted to reflect the payment to the alternate payee by reducing the accumulated contributions in the member savings account by the QDRO percentage described in subsection (h)(3) of this section; and

(3) a benefit payable under Government Code §824.402(a)(1) and (2) or a lump sum payment of \$2,500.00 plus an applicable monthly benefit as described in Government Code §824.404 is not reduced by payments made to the alternate payee under this section.

(k) If the member dies after retiring:

(1) the \$10,000.00 lump sum survivor benefits or the \$2,500.00 lump sum payment plus an applicable monthly benefit

payable to a beneficiary under Government Code §824.501 and §824.404, are not reduced as a result of payments to an alternate payee under this section; and

(2) any payments paid pursuant to Government Code §824.407 must be reduced by first reducing the account balance at the time of retirement by the QDRO percentage described in subsection (h)(3) of this section.

(l) If the member elects to terminate membership in TRS before retirement, the accumulated contributions in the member account before a refund is processed must be reduced by the QDRO percentage described in subsection (h)(3) of this section.

(m) When new law provides for an increase in the benefit payable to the member after the commencement of the payment of an annuity to the member, the increase will be distributed by increasing the member's and the alternate payee's benefit as provided by the law for an increase to the member's benefit so long as there is no additional actuarial cost to TRS or unless provided otherwise by the legislature.

(n) To reinstate withdrawn service reduced under subsection (l) of this section, a person must deposit the amount withdrawn or refunded and the fees required by law. Benefits payable based wholly or in part on the terminated service will be reduced as described in this section as if the service had not been terminated.

(o) When a member who has an alternate payee receiving benefits under this section elects a partial lump-sum option, TRS will use the member's adjusted standard annuity in the calculation for the member's partial lump-sum payment.

(p) If the total distribution amount awarded to the alternate payee in a QDRO is limited to a specific dollar amount, TRS shall calculate the alternate payee's actuarial equivalent benefit as follows:

(1) Determine the alternate payee's age as of the alternate payee's benefit commencement date.

(2) Calculate the alternate payee's actuarial equivalent monthly benefit by multiplying the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent. Compare the product to the specific dollar limit amount. If the specific dollar limit amount is the smaller amount, divide the specific dollar limit amount awarded to the alternate payee by the life annuity factor at alternate payee's age to determine the alternate payee's monthly benefit. If the specific dollar limit amount is larger than the product of the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent, divide the product by life annuity factor at alternate payee's age to determine the alternate payee's monthly benefit.

(q) When a member who is participating in the deferred retirement option plan ("DROP") has an alternate payee begin a distribution under this section, TRS will calculate the alternate payee's actuarial equivalent benefit by multiplying the member's accrued benefit times the life annuity factor at member's age plus the balance of the DROP times the alternate payee's percent. That figure shall then be divided by the life annuity factor at alternate payee's age.

(r) When a member who is participating in DROP has an alternate payee begin a distribution under this section, TRS will reduce the DROP account by applying the percentage of the member's accrued benefit payable to the alternate payee under the terms of the qualified domestic relations order beginning with the initial month that a distribution is payable to the alternate payee.

(s) If the amount of monthly retirement benefit awarded to the alternate payee in the QDRO is a stated monthly amount rather than a percentage, TRS shall determine the alternate payee's actuarial equivalent

benefit by multiplying the stated monthly amount times the life annuity factor at the member's age and then dividing the product by the life annuity factor at the alternate payee's age.

(t) If the amount of monthly retirement benefit awarded to the alternate payee in the QDRO is a percentage of the benefit but limited to no more than a stated monthly amount, TRS shall determine the alternate payee's actuarial equivalent benefit by multiplying the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent, then dividing that product by the life annuity factor at alternate payee's age. If the amount derived from this calculation is smaller than the stated monthly amount, the amount calculated is the alternate payee's actuarial equivalent benefit. If the amount derived from this calculation is larger than the stated monthly amount, the alternate payee's actuarial equivalent benefit is calculated by dividing the stated monthly amount by the life annuity factor at the alternate payee's age.

(u) If the amount of the monthly retirement benefit awarded to the alternate payee in the QDRO is a percentage of the benefit but limited to no more than a stated monthly amount, TRS shall determine the member's adjusted standard annuity by reducing the member's standard annuity monthly benefit at the time of retirement by the lesser of the stated monthly amount and the amount of the reduction calculated under subsection (i) of this section.

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

Filed with the Office of the Secretary of State on May 26, 2023.

TRD-202301930

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 542-6506



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 9. TEXAS COMMISSION ON JAIL STANDARDS

#### CHAPTER 265. ADMISSION

##### 37 TAC §265.7

The Texas Commission on Jail Standards (TCJS) proposes an amendment to TAC, Title 37, §265.7, relating to telephone use. Current law requires that a telephone directory shall be available for inmates' use within the processing area. The proposed amendment will repeal this requirement and replace it with a provision allowing jails to allow inmates access to their contact lists upon booking. Inmate contact lists are usually on their cell phone, which is confiscated at booking. This change will allow inmates to make telephone calls to people whose phone number the inmates have not memorized. This amendment originates from a public petition the Commission received on February 9, 2023, from William Pailles, member of the public, who observed that telephone directories are no longer available widely, having been replaced by cell phones with internet access. This obsolescence of telephone directories makes the current rule obsolete.

Brandon Wood, Executive Director, has determined that for each year of the first five years that the sections will be in effect there will be no fiscal implications to state or local governments by enforcing and administering the rule as proposed.

TCJS has determined that during the first five years that the sections will be in effect:

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

Mr. Wood has also determined that the amendment will not have any adverse economic effect on small businesses, micro-businesses, or rural communities because they will not be required to alter their business practices, and the rules do not impose any additional costs on those required to comply with the rules.

The Commission anticipates no economic costs to persons who are required to comply with the sections as proposed.

Texas Government Code, §2001.0045 does not apply to this proposal because it does not impose a cost on regulated persons; is amended to reduce the burden or responsibilities imposed on regulated persons by the rules; and is necessary to protect the health, safety, and welfare of the residents of this state.

Mr. Wood has determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption

of the rules. The Commission anticipates that jails will be able to remain in compliance despite the obsolescence of telephone directories, and inmates will be able to use their own contact lists to make telephone calls.

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

Comments on the proposed rule may be submitted in writing to William Turner, P.O. Box 12985, Austin, Texas 78711, Fax (512) 463-3185, or e-mail at will.turner@tcjs.state.tx.us

#### STATUTORY AUTHORITY

The amendment is proposed under the authority of Government Code, Chapter 511, which authorizes the Texas Commission on Jail Standards to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This proposed change does not affect other rules or statutes.

#### §265.7. Telephone Use.

A telephone [~~and telephone directory~~] shall be available for inmates' use within the processing area. The facility shall allow reasonable access to a written or electronic contact list that is in the inmate's possession upon booking.

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 23, 2023.

TRD-202301901

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 463-2690





# 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 22. EXAMINING BOARDS

### PART 23. TEXAS REAL ESTATE COMMISSION

#### CHAPTER 535. GENERAL PROVISIONS

##### SUBCHAPTER I. LICENSE RENEWAL

###### 22 TAC §535.92

The Texas Real Estate Commission withdraws the proposed amendment to §535.92, which appeared in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1256).

Filed with the Office of the Secretary of State on May 22, 2023.

TRD-202301887

Vanessa E. Burgess

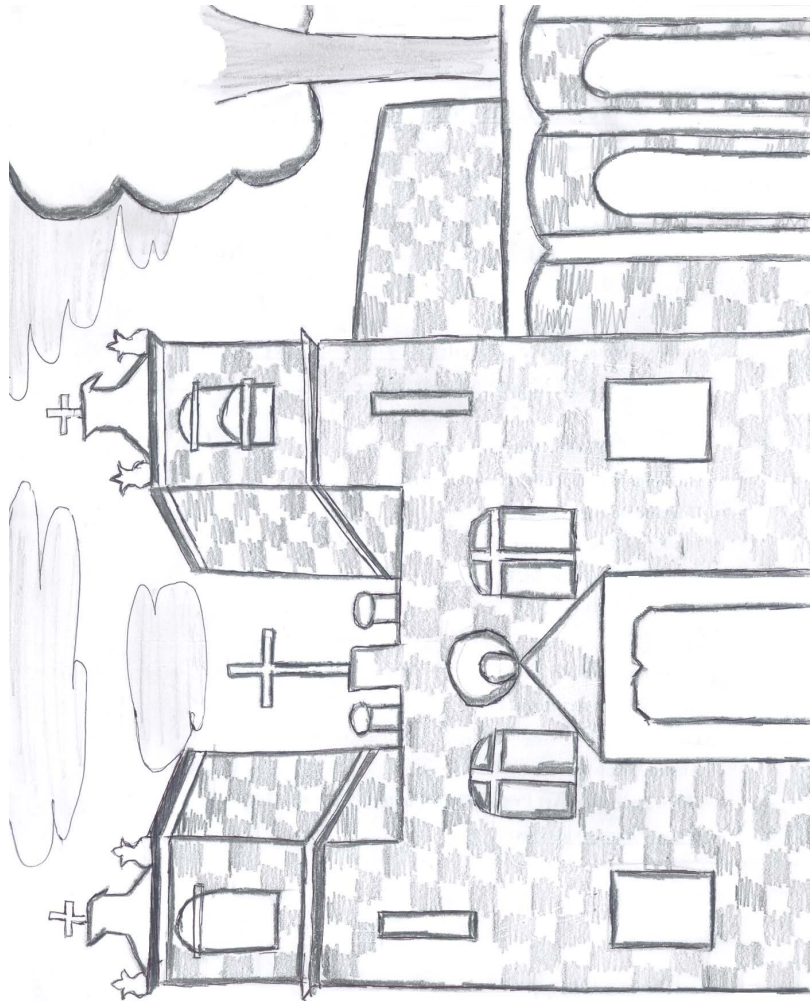
General Counsel

Texas Real Estate Commission

Effective date: May 22, 2023

For further information, please call: (512) 936-3284





# 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 16. ECONOMIC REGULATION

### PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

#### CHAPTER 50. ALCOHOLIC BEVERAGE SELLER SERVER AND DELIVERY DRIVER TRAINING

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to rules 16 TAC §§50.4, 50.15, 50.17, 50.19, 50.20, 50.23, and 50.31, relating to Alcoholic Beverage Seller Server and Delivery Driver Training. The amendments are adopted without changes to the proposed text as published in the April 14, 2023, issue of the *Texas Register* (48 TexReg 1934). The amended rules will not be republished.

**REASONED JUSTIFICATION.** The amendments are necessary to ensure the rules accurately reflect their scope and use proper grammar. The amendment to §50.23 removes the word "Location" from the rule title because the rule does not actually address location changes for seller server schools. The remaining amendments to §§50.4, 50.15, 50.17, 50.19 - 50.20, and 50.31 simply insert or delete commas and hyphens, all of which the agency consider to be non-substantive changes.

**SUMMARY OF COMMENTS.** TABC did not receive any comments on the proposed amendments.

#### SUBCHAPTER B. MANDATORY CURRICULUM AND COURSE OF INSTRUCTION

##### 16 TAC §50.4

**STATUTORY AUTHORITY.** TABC adopts the amendments under §5.31 and §106.14(b) of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 106.14(b) provides that TABC shall adopt rules or policies establishing the minimum requirements for approved seller training programs.

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 25, 2023.

TRD-202301923

James Person  
General Counsel  
Texas Alcoholic Beverage Commission  
Effective date: June 14, 2023  
Proposal publication date: April 14, 2023  
For further information, please call: (512) 206-3230



#### SUBCHAPTER C. SELLER SERVER SCHOOL CERTIFICATES AND REQUIREMENTS

##### 16 TAC §§50.15, 50.17, 50.19, 50.20, 50.23

**STATUTORY AUTHORITY.** TABC adopts the amendments under §5.31 and §106.14(b) of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 106.14(b) provides that TABC shall adopt rules or policies establishing the minimum requirements for approved seller training programs.

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 25, 2023.

TRD-202301924  
James Person  
General Counsel  
Texas Alcoholic Beverage Commission  
Effective date: June 14, 2023  
Proposal publication date: April 14, 2023  
For further information, please call: (512) 206-3230



#### SUBCHAPTER E. SELLER SERVER CERTIFICATES

##### 16 TAC §50.31

**STATUTORY AUTHORITY.** TABC adopts the amendments under §5.31 and §106.14(b) of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 106.14(b) provides that TABC shall adopt rules or policies establishing the minimum requirements for approved seller training programs.

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 25, 2023.

TRD-202301925

James Person

General Counsel

Texas Alcoholic Beverage Commission

Effective date: June 14, 2023

Proposal publication date: April 14, 2023

For further information, please call: (512) 206-3230



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 74. CURRICULUM REQUIREMENTS

##### SUBCHAPTER A. REQUIRED CURRICULUM

###### 19 TAC §74.5

The State Board of Education (SBOE) adopts an amendment to §74.5, concerning the academic achievement record. The amendment is adopted without changes to the proposed text as published in the March 3, 2023 issue of the *Texas Register* (48 TexReg 1214) and will not be republished. The adopted amendment adds a new requirement that a student who earns a diploma by satisfying the requirements of the Texas First Early High School Completion Program must have successful completion of the program indicated on the academic achievement record, or transcript.

**REASONED JUSTIFICATION:** The 87th Texas Legislature, Regular Session, 2021, passed Senate Bill 1888, adding new Texas Education Code (TEC), §28.0253, to establish the Texas First Early High School Completion Program. The Texas Education Agency, in coordination with the Texas Higher Education Coordinating Board, is required to establish the program to allow public high school students who demonstrate early readiness for college to graduate early from high school. A student is entitled to early high school graduation under the Texas First Early High School Completion Program if the student meets the criteria established by rule by the Texas Higher Education Coordinating Board. Additionally, students who graduate under the program are considered to have earned the distinguished level of achievement and are eligible to receive a scholarship at participating institutions of higher education. The proposed amendment would require school districts and open-enrollment charter schools to indicate on a student's transcript completion of the Texas First Early High School Completion Program.

The SBOE approved the amendment for first reading and filing authorization at its February 3, 2023 meeting and for second reading and final adoption at its April 14, 2023 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2023-2024 school year. The earlier effective date will allow districts to indicate successful completion of the Texas First Early High School Completion Program for students who meet the requirements during the current school year. The effective date is 20 days after filing as adopted with the Texas Register.

**SUMMARY OF COMMENTS AND RESPONSES:** The public comment period on the proposal began March 3, 2023, and

ended at 5:00 p.m. on April 7, 2023. The SBOE also provided an opportunity for registered oral and written comments at its April 2023 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

**Comment.** One counselor asked whether the increase in average daily attendance funding offsets the reduction from a district's foundation school program entitlement.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One counselor expressed concern that there needs to be more follow-up and clearer communication on how to implement the Texas First Early High School Completion Program.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One counselor expressed concern that the program requirements for the Texas First Early High School Completion Program do not appear to align with requirements to enroll in one of the participating universities because there is not a requirement for students to complete all State of Texas Assessments of Academic Readiness end-of-course tests and Algebra II.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One counselor asked what information is needed to ensure that students have enrolled at one of the participating universities.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One counselor asked about the reporting mechanisms for a student to enroll at one of the participating universities.

**Response.** This comment is outside the scope of the proposed rulemaking.

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code (TEC), §7.102(c)(13), which requires the State Board of Education to adopt transcript forms and standards for differentiating high school performance for purposes of reporting academic achievement under TEC, §28.025.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §7.102(c)(13).

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 26, 2023.

TRD-202301943

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: June 15, 2023

Proposal publication date: March 3, 2023

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



## CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER

# DEVELOPMENT AND CAREER AND TECHNICAL EDUCATION SUBCHAPTER A. MIDDLE SCHOOL

The State Board of Education (SBOE) adopts the repeal of §§127.1, 127.2, and 127.3 and new §127.2, concerning Texas Essential Knowledge and Skills (TEKS) for career development and career and technical education. Repealed §§127.1, 127.2, and 127.3 are adopted without changes to the proposed text as published in the December 23, 2022 issue of the *Texas Register* (47 TexReg 8448) and will not be republished. New §127.2 is adopted with changes to the proposed text as published in the December 23, 2022 issue of the *Texas Register* (47 TexReg 8448) and will be republished. The adopted revisions repeal two existing middle school courses, add a new middle school course, and repeal implementation language that will no longer be relevant.

**REASONED JUSTIFICATION:** Texas Education Code (TEC), §28.016, requires each school district to ensure that at least once in Grade 7 or 8 each student receives instruction in high school, college, and career preparation. The instruction must include information regarding the creation of a high school personal graduation plan, the distinguished level of achievement, each endorsement, college readiness standards, and potential career choices and the education needed to enter those careers. School districts are permitted to provide the instruction as part of an existing career and technical education course designated by the SBOE as appropriate for that purpose.

At the request of a board member, the board approved replacing two existing courses with a single updated course in college and career investigation and preparation. New §127.2 will be available for districts to use in meeting the requirements of TEC, §28.016.

The implementation section for the subchapter has been repealed and new implementation language added to new §127.2 to align with the changes.

In response to public comment, the section title for new §127.2 was modified at adoption to be Career and College Exploration.

The SBOE approved the revisions for first reading and filing authorization at its November 18, 2022 meeting and for second reading and final adoption at its April 14, 2023 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the revisions for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2023-2024 school year. The earlier effective date will allow all school districts, including districts of innovation, to implement the new course at the beginning of their school year. The effective date is August 1, 2023.

**SUMMARY OF COMMENTS AND RESPONSES:** The public comment period on the proposal began December 23, 2022, and ended at 5:00 p.m. on January 27, 2023. The SBOE also provided an opportunity for registered oral and written comments at its January-February and April 2023 meetings in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

**Comment.** Five teachers, five counselors, and thirty-five administrators stated that the course title Flight Plans is confusing and does not clearly indicate the purpose or content of the course.

**Response.** The SBOE agrees and took action to amend the course title to Career and College Exploration.

**Comment.** One administrator asked if the proposed new course affects accountability.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One administrator stated that Advancement Via Individual Determination (AVID) coursework in their district aligns with and would fulfill the TEKS for the proposed new course.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One administrator asked if districts could use the innovative course General Employability Skills instead of the proposed new course.

**Response.** The SBOE provides the following clarification. TEC, §28.016, requires each school district to provide instruction in Grades 6-8 in preparing for high school, college, and career and identifies specific topics that must be addressed. General Employability Skills is a state-approved high school innovative course and would not meet the requirements of TEC, §28.016.

**Comment.** Four administrators stated that the proposed new course allows students to complete one year of career and technical education (CTE) credit while the two existing courses allow for students to complete up to two years.

**Response.** The SBOE disagrees and provides the following clarification. State credit is awarded for the successful completion of state-approved high school courses only. Middle school courses are not eligible for state credit. Additionally, the SBOE has indicated that students would be permitted to take the new Career and College Exploration course up to two times.

**Comment.** One counselor stated that the existing courses can be offered for one semester and have successfully been paired with one-half credit CTE high school courses such as Touch System Data Entry and Professional Communications in their district.

**Response.** This comment is outside the scope of the proposed rulemaking.

**Comment.** One administrator expressed concern that the proposal to replace the existing courses with a new Flight Plans course would create gaps in student schedules. The commenter stated that districts are able to use the two existing courses in all three middle school grades: sixth, seventh, and eighth.

**Response.** The SBOE disagrees and has determined that replacing the two current courses, Investigating Careers and College and Career Readiness, with the proposed new course is appropriate. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

**Comment.** One teacher and three administrators expressed concern that the proposed new Flight Plans course is a year-long course, whereas the current courses can be taught in a semester. The commenters stated that a year-long course does not provide flexibility for districts to build the curriculum in a way that meets scheduling demands.

**Response.** The SBOE disagrees and provides the following clarification. Local education agencies determine instructional time, such as whether a course is offered for a semester or full year.

Additionally, the SBOE has indicated that students would be permitted to take the new Career and College Exploration course up to two times. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

Comment. Three administrators stated that reducing the two existing courses, Investigating Careers and College and Career Readiness, to one course will hurt opportunities for students to explore interests and high school programs of study available to them.

Response. The SBOE disagrees and has determined that the proposed new Career and College Exploration TEKS provide adequate opportunities for students to explore interests and high school programs of study available to them. Additionally, the SBOE has indicated that students would be permitted to take the new Career and College Exploration course up to two times.

Comment. One teacher and two administrators stated that the two existing courses, Investigating Careers and College and Career Readiness, serve distinct purposes.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One teacher and one administrator stated that districts offer many multiple Investigating Careers classes with an emphasis on different career clusters.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One teacher and one administrator suggested that instead of replacing Investigating Careers and College and Career Readiness, the proposed new Flight Plans course could be added to the two existing courses.

Response. The SBOE disagrees and has determined that replacing Investigating Careers and College and Career Readiness with the proposed new course is appropriate. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

Comment. Two teachers, eight administrators, and one community member stated the TEKS for the proposed new Flight Plans course are very similar to the two existing courses and suggested that the TEKS for the existing courses should be revised instead of creating a new course.

Response. The SBOE disagrees and has determined that replacing the two current courses, Investigating Careers and College and Career Readiness, with the proposed new course is appropriate. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

Comment. Two administrators stated the proposed new Flight Plans course is unnecessary because the existing College and Career Readiness course prepares students for high school career pathways.

Response. The SBOE disagrees and has determined that replacing the two current courses, Investigating Careers and College and Career Readiness, with the proposed new course is appropriate and that the new course adequately prepares students for high school career pathways. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

Comment. One teacher stated that instead of removing the existing Investigating Careers course, the TEKS for the course should be revised to include more opportunities for college and career skill development and field experiences.

Response. The SBOE disagrees and has determined that replacing the two current courses, Investigating Careers and College and Career Readiness, with the proposed new Career and College Explorations course is appropriate.

Comment. One administrator stated there would be a financial impact on the state and districts because moving CTE principles courses down to middle school would require more formalized labs that do not currently exist in many middle schools without the funding these courses receive at the high school level.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One administrator suggested that the proposed new Flight Plans course be a high school course rather than offered at middle school so it can earn funding.

Response. The SBOE disagrees and has determined that the proposed new course is appropriate for middle school. In response to other comments, the SBOE took action to retitle the proposed new course Career and College Exploration.

Comment. One teacher and one administrator asked if districts would receive funding for the proposed new Flight Plans course.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One counselor stated that students need to be prepared and have a path to take when reaching high school.

Response. The SBOE agrees and has determined that the new Career and College Exploration course will sufficiently prepare students to choose a path as they transition into high school.

Comment. One teacher, one counselor, and four administrators stated that the general requirements for the proposed new course should permit the course to be offered at Grade 6.

Response. The SBOE disagrees and has determined that the recommended grade levels, Grades 7 and 8, in the general requirements for the proposed new course are appropriate as proposed. The SBOE also provides the following clarification. The grade levels identified in the general requirements are a recommendation, and school districts may offer the proposed new Career and College Exploration course at any grade level in middle school.

Comment. One administrator stated that districts need more middle school options, not fewer options.

Response. The SBOE agrees that CTE options for middle school are beneficial to students. However, the SBOE disagrees that additional CTE TEKS for middle school are necessary and has determined that the proposed new course provides sufficient options for middle school.

Comment. One administrator suggested incorporating military academies in the TEKS for the proposed new Flight Plans course.

Response. The SBOE disagrees that the suggestion to add military academies is necessary and has determined that the TEKS for the proposed new course sufficiently address college, career, and military readiness as proposed. In response to other com-

ments, the SBOE took action to retitle the proposed new course Career and College Exploration.

Comment. One administrator asked whether students who have already developed their personal graduation plans in Grade 8 would still be required to take the proposed new Flight Plans course.

Response. The SBOE provides the following clarification. Students are not required to take the new course. TEC, §28.016, requires each school district to provide instruction in Grades 6-8 in preparing for high school, college, and career and identifies specific topics that must be addressed. School districts may meet this requirement in a variety of ways, including by offering instruction in the new course or through locally developed courses. Additionally, there is nothing in law or rule that would prohibit school districts from modifying or updating a student's personal graduation plan at any time. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

Comment. One administrator stated that the implementation date of August 2023 would be problematic for districts because it does not allow time for changes needed to incorporate the proposed new course. The commenter suggested that the course be implemented no earlier than August 2024 for the 2024-2025 school year.

Response. The SBOE disagrees and has determined that implementation of the proposed new course beginning with the 2023-2024 school year is appropriate as proposed.

Comment. One administrator stated that districts need updates about the proposed new Flight Plans course prior to March 2023 to have time to plan for the upcoming year.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One administrator stated that the Texas Education Agency suggested several years ago that high school courses be introduced in middle school so students could start programs of study earlier to enable students to take more advanced CTE courses once in high school. The commenter expressed concern that the proposed new Flight Plans course contradicts that suggestion.

Response. The SBOE disagrees and has determined that the proposed new course would not impact districts' ability to offer high school courses at earlier grade levels. In response to other comments, the SBOE took action to change the proposed course title from Flight Plans to Career and College Exploration.

Comment. One administrator asked how the proposed new Flight Plans course would be enforced.

Response. The SBOE provides the following clarification. TEC, §28.016, requires each school district to provide instruction in Grades 6-8 in preparing for high school, college, and career and identifies specific topics that must be addressed. Districts may meet this requirement in a variety of ways, including by offering instruction in the new course or through locally developed courses. It is the responsibility of the local board of trustees to ensure that districts are in compliance with all laws and rules. In response to other comments, the SBOE took action to retitle the proposed new course Career and College Exploration.

Comment. One administrator asked if the proposed new Flight Plans course would be mandatory.

Response. The SBOE provides the following clarification. TEC, §28.016, requires each school district to provide instruction in Grades 6-8 in preparing for high school, college, and career and identifies specific topics that must be addressed. Districts may meet this requirement in a variety of ways, including by offering instruction in the new course or through locally developed courses. In response to other comments, the SBOE took action to retitle the proposed new course Career and College Exploration.

Comment. One teacher expressed support for the proposed Flight Plans course. The commenter explained that the TEKS for Investigating Careers and College and Career Readiness are so closely aligned it is redundant for students to take both courses.

Response. The SBOE agrees and has determined that replacing the existing courses, Investigating Careers and College and Career Readiness, with a single course is appropriate. In response to other comments, the SBOE took action to retitle the proposed new course Career and College Exploration.

### 19 TAC §§127.1 - 127.3

STATUTORY AUTHORITY. The repeals are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.016, which requires each school district to ensure that at least once in Grade 7 or 8 each student receives instruction in high school, college, and career preparation. TEC, §28.016(c)(2), permits school districts to provide the instruction as part of an existing career and technical education course designated by the SBOE as appropriate for that purpose.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4), 28.002(a) and (c), and 28.016.

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 26, 2023.

TRD-202301944

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



### 19 TAC §127.2

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and

skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.016, which requires each school district to ensure that at least once in Grade 7 or 8 each student receives instruction in high school, college, and career preparation. TEC, §28.016(c)(2), permits school districts to provide the instruction as part of an existing career and technical education course designated by the SBOE as appropriate for that purpose.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §§7.102(c)(4), 28.002(a) and (c), and 28.016.

*§127.2. Career and College Exploration.*

(a) **Implementation.** The provisions of this section shall be implemented by school districts beginning with the 2023-2024 school year.

(b) **General requirements.** This course is recommended for students in Grades 7 and 8.

(c) **Introduction.**

(1) Career and technical education (CTE) instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? Will my desired career path provide a self-sufficient wage? What occupations are in the highest demand that align to my values and interests? It is vital that students have a clear sense of direction for their career choice. Education and career planning is a critical step and is essential to success.

(3) The career development process is unique to every person and evolves throughout one's life. In Flight Plans, students use decision-making and problem-solving skills for individual career and academic planning. Students explore valid, reliable educational and career information to learn more about themselves and their interests and abilities. Students integrate skills from academic subjects, information technology, and interpersonal communication to make informed decisions. This course is designed to guide students through the process of investigating and developing a college and career readiness flight plan. Students use aptitude and interest inventory assessments, software, or other tools available to explore college and career areas of personal interest. Students use this information to explore a variety of career paths, especially those in demand, and begin mapping their anticipated secondary coursework and potential postsecondary experiences that are in alignment with their goals.

(4) The goal of this course is to help students build career awareness and engage in deep exploration and study of the Texas CTE career clusters to create a foundation for success in high school, possible postsecondary studies, and careers. Students research labor market information, learn job-seeking skills, and create documents required for employment.

(5) Students are encouraged to explore and participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student takes one or more career interest surveys, aptitude tests, or career assessments and explores various college and career options. The student is expected to:

(A) analyze and discuss the initial results of the assessments;

(B) explore and describe the CTE career clusters;

(C) identify various career opportunities within one or more career clusters; and

(D) research and evaluate emerging occupations related to career interest areas.

(2) The student investigates educational and training requirements for career and education pathways in one or more of the career clusters. The student is expected to:

(A) research and describe applicable academic, technical, certification, and training requirements for one or more of the careers in an identified career cluster; and

(B) use available resources to research and evaluate educational and training options for one or more of the careers in an identified career cluster.

(3) The student analyzes educational and career opportunities. The student is expected to:

(A) describe academic requirements for transitioning from middle school to high school and from high school to career or postsecondary education;

(B) explore and list opportunities for earning college credit in high school such as Advanced Placement examinations, International Baccalaureate examinations, dual credit courses, and local and statewide articulated credit courses;

(C) investigate and describe various methods available to pay for college and other postsecondary training, including financial aid, scholarships, college savings, employee benefits, and other sources of income;

(D) discuss the impact of effective college and career planning;

(E) identify how performance on assessments such as the PSAT/NMSQT®, SAT®, ACT®, ASVAB®, and Texas Success Initiative (TSI®) impact personal academic and career goals;

(F) investigate and describe the importance of co-curricular, extracurricular, career preparation, and extended learning experiences in developing college applications or resumes;

(G) investigate and report on the steps required to participate or enroll in a variety of career and educational opportunities, including entry-level employment, military service, apprenticeships, community and technical colleges, and universities, as applicable to the career;

(H) identify professional associations affiliated with a particular career pathway; and

(I) define entrepreneurship and identify entrepreneurial opportunities within a field of personal interest.

(4) The student develops skills for personal success. The student is expected to:

(A) demonstrate effective time-management and goal-setting strategies;



(B) identify skills that can be transferable among a variety of careers;

(C) give oral professional presentations on a topic related to career and college exploration using appropriate technology;

(D) apply core academic skills to meet personal, academic, and career goals;

(E) explain the value of community service and volunteerism; and

(F) define and identify examples in the workplace of characteristics required for personal and professional success such as work ethic, integrity, dedication, and perseverance.

(5) The student investigates labor market information and recognizes the impact of college and career choices on personal lifestyle. The student is expected to:

(A) analyze labor market trends related to a career of interest;

(B) classify evidence of high-skill, high-wage, or high-demand occupations based on analysis of labor market information;

(C) analyze the effects of changing employment trends, societal needs, and economic conditions on career choices;

(D) prepare a personal budget reflecting the student's desired lifestyle; and

(E) use resources to compare salaries of at least three careers in the student's interest area.

(6) The student investigates job-seeking skills. The student is expected to:

(A) identify the steps of an effective job search;

(B) describe appropriate appearance for an interview; and

(C) participate in a mock interview.

(7) The student creates professional documents required for employment. The student is expected to:

(A) write a resume;

(B) write appropriate business correspondence such as a cover letter and a thank you letter;

(C) complete sample job applications; and

(D) explain protocol for selecting and using references.

(8) The student creates an individual career and academic plan. The student is expected to:

(A) select a career pathway in a desired field, such as military service, entrepreneurship, or industry;

(B) document high school courses and postsecondary educational requirements for that career pathway; and

(C) write a plan for starting one's career after the completion of high school and any post-secondary education.

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

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## TITLE 22. EXAMINING BOARDS

### PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

#### CHAPTER 465. RULES OF PRACTICE

##### 22 TAC §465.38

The Texas Behavioral Health Executive Council adopts amendments to §465.38, relating to Psychological Services for Schools. Section 465.38 is adopted with changes to the proposed text as published in the December 16, 2022, issue of the *Texas Register* (47 TexReg 8212) and will be republished. Proposed §465.38(d) stated that an LSSP could use the title school psychologist or licensed school psychologist, as referenced in the Education Code. Turning to Education Code §21.003(b), the title school psychologist is listed but the title licensed school psychologist is not. Therefore, §465.38(d) is adopted with a change; the title licensed school psychologist has been removed but the title school psychologist remains so that this adopted amendment matches the exact language of the Education Code.

##### Reasoned Justification.

The adopted amendments allow a licensed specialist in school psychology (LSSP) to use the title school psychologist, as referenced in the Education Code. The Council has received comments regarding the public's confusion and unfamiliarity with the title LSSP. The intent behind this rule change is to help address the public's confusion regarding this license type, so the public can better understand and recognize who they are and what activities they are licensed to perform.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The Council has received approximately 10 public comments that were not in support of this proposed rule change. These commenters believe that allowing LSSPs to use the title school psychologist will cause public confusion. Many of these commenters believe that due to the differences in education, training, and experience requirements for licensure between psychologists and LSSPs, using a similar title for both of these license types will confuse the public and they will not understand the distinction between the two. Some commenters compare the LSSP and psychologist titles to those in the medical profession, such as medical doctors and physician assistants, and the commenters believe the distinctions in titles are necessary to denote the differences in the level of independent practice and training. Several commenters opined that the title psychologist should only be permitted to be used by an individual that has completed a doctoral degree.

One commenter opposes this rule change because the commenter believes only doctoral level providers are able to diag-

nose conditions, and a masters level provider is not able to diagnose disabilities. Therefore the commenter believes this title change will confuse the public.

One commenter suggested that there should be a distinction in the use of the title school psychologist which lists the level of the degree next to the title, such as school psychologist - specialist or school psychologist - doctorate.

Another commenter believes that the current LSSP title makes it clear to the public that an LSSP's services are school based and changing the name to school psychologist does not provide the public any additional clarity. The commenter claims that this rule change is ultimately intended to be used as a steppingstone for LSSPs to gain full autonomy to function outside of a school setting, which will further confuse the public.

One commenter believes that the current rule as written is anticompetitive, and that it unfairly restricts the practice of psychologists without an LSSP. The commenter asserts that psychologists are just as competent to provide LSSP services and this rule creates an unfair practice and income protection for LSSPs by only allowing non-LSSP licensees to contract for specific types of psychological services but not the broad range of school psychological services listed in the rule.

One commenter opines that this change is only being made due to the voice of the majority of persons voicing support for this change, and majority opinion should not be the reason for the change.

List of interested groups or associations for the rule.

Texas Association of School Psychologists.

Summary of comments for the rule.

The Council has received approximately 1031 public comments in support of this proposed rule change. These commenters believe that the current LSSP title has created a significant amount of confusion and frustration in the education system, which includes school staff and the parents of students, and most do not recognize the LSSP title or have any idea what the LSSP means or does. The proposed change will allow LSSPs to use the same title that is used in 48 other states which is far better recognized and understood by all, thereby greatly reducing public confusion.

Agency Response.

The Council thanks the commenters for the supportive comments, adopts the rule with amendments as explained and described above, and declines to further amend the rule as requested by other commenters.

On May 1, 2023, the Texas Attorney General issued Opinion No. KP-0443, which concluded that an Executive Council rule that allows an LSSP to use the title school psychologist does not contravene specific statutory authority, is not contrary to the general objectives of Chapter 501 of the Occupations Code, and does not impose additional burdens, conditions, or restrictions. Therefore a court would likely conclude that such a rule is within the Executive Council's authority to adopt.

Section 501.260 of the Occupations Code requires the Executive Council to issue the LSSP license which it currently does, and this statute makes it clear that this is the specific license required to provide psychological services in a school district, grades K through 12. Therefore a commenter's assertion that this rule is anticompetitive is inaccurate, this rule follows the statutory requirements established by the Texas Legislature. Additionally,

licensed psychologists can and do apply for an LSSP so they can work in a school setting. This rule does not restrict or prohibit psychologists from obtaining an LSSP, therefore this rule is not anticompetitive as the commenter suggested.

A commenter's assertions that masters level licensees of the Executive Council cannot diagnose is incorrect. LPCs, LCSWs, LMFTs, LSSPs, and LPAs all require a minimum graduate level degree for licensure and all can use their license to diagnose mental disorders listed in the DSM-5. Therefore the commenter's assertion that the public will be further confused by this rule change allowing LSSPs to use the title school psychologist is incorrect.

The assertion made by a commenter that this rule change may in the future allow for LSSP independent practice outside of a school setting is inaccurate. As discussed above, Section 501.260 of the Occupations Code makes clear that the LSSP license is required to provide psychological services in a school setting, and this rule, in subsection (c), makes it clear that the LSSP license can be used to provide school psychological services only in public and private schools.

Contrary to the commenters' assertion that this rule change will cause greater public confusion, the Executive Council believes this rule change will reduce public confusion and the Executive Council cites to the approximately 1031 comments it received in favor of this change to support this conclusion. Many, if not most, of the commenters in support of the change are individuals that work in a public school setting and have first-hand knowledge of the confusion that has been caused by the title LSSP. All of these commenters agree that this rule change will reduce public confusion. Since the LSSP license is only allowed to be used in a school setting then the Executive Council does not anticipate that there will be public confusion caused in other settings by this rule change.

This rule change is not being done because it is the will of a majority opinion, this rule change was considered and voted on by the Texas State Board of Examiners of Psychologists because the Board believes this rule change will benefit the state of Texas. The Executive Council also reviewed this rule proposal and agreed that it will have a positive impact. The Executive Council declines to require LSSPs to use the title school psychologist - specialist as this would create a new title not used in other states which would likely cause public confusion and defeat the purpose of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall

propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

*§465.38. Psychological Services for Schools.*

(a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Council recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.

(b) Scope of Practice.

(1) An LSSP is a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

(2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

(3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Council rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.

(c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.

(d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychol-

ogy or (LSSP), or the individual may use the title School Psychologist as referenced in §21.003 of the Education Code. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.

(e) Providers of Psychological Services Within the Public Schools.

(1) School psychological services may be provided in Texas public schools only by individuals authorized by this Council to provide such services. Individuals who may provide such school psychological services include:

(A) LSSPs; and

(B) interns and post-doctoral fellows working towards licensure as a psychologist.

(2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this section.

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) of this section.

(f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

(1) Texas Education Code;

(2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;

(3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;

(4) Texas Public Information Act, Texas Government Code, Chapter 552;

(5) Section 504 of the Rehabilitation Act of 1973;

(6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and

(7) HIPAA when practicing in a private school.

(g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Council rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) of this section, or in a private school however, must obtain informed consent as otherwise required by the Council 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.

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## PART 23. TEXAS REAL ESTATE COMMISSION

### CHAPTER 535. GENERAL PROVISIONS

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §§535.1, 535.3-535.5, 535.20, 535.31, 535.33, 535.34, 535.43, 535.45, 535.50-535.53, 535.57, 535.58, 535.60, 535.61, 535.63, 535.65-535.67, 535.71, 535.72, 535.74, 535.75, 535.82, 535.121, 535.122, 535.133, 535.141, 535.147, 535.148, 535.208-535.210, 535.213, 535.214, 535.218-535.220, 535.224, 535.400-535.405 and new 535.120 in Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1216) and will not be republished.

First, the changes to §535.218(f) serve to extend the amount of time an instructor of a ride-along inspection course can provide a certificate of course completion to receive continuing education credit. Now, such instructors can provide documentation within the instructor's current license period for a course taught within that same term. The changes were recommended by the Texas Real Estate Inspector Committee.

The remainder of the amendments to Chapter 535 are made as a result of the Commission's quadrennial rule review. The changes update terminology for consistency and clarity throughout the chapter. Additionally, the following changes are being made:

-Subsections (a) of 22 TAC §§535.51, 535.208, and 535.400 are being amended to correct a typographical error in the subsection.

-In 22 TAC §535.52(b)(4), the term "denial" is added to better reflect current agency practice.

-The change in subsection (j)(1) of §535.65 is made to account for the agency's updated education reporting system, whereby providers can post course credit on behalf of certain students.

-The changes to 22 TAC §535.57 are being made to better reflect current contractual provisions.

-In 22 TAC §535.58 and §535.133, changes are made to remove references to residency requirements, which were removed from Chapter 1101, Texas Occupations Code, as a result of the agency's most recent Sunset review.

-The removal of the venue provision in subsections (j)(2) of 22 TAC §535.61, (b)(5) of §535.67, and (e)(2) of §535.71 is made to be consistent with current State Office of Administrative Hearing processes.

-The changes to 22 TAC §§535.63, 535.72, 535.74, 535.214, and 535.218 are being made to reflect the fact that in 2021, a new eight-hour non-elective course, the Inspector Legal and Ethics and Standards of Practice Review replaced the two four-hour courses in 2021.

-The changes to 22 TAC §535.213 are also being made to streamline the rule. The topics and units will continue to be listed in the forms adopted by reference.

-The additions to 22 TAC §535.65 are being made to clarify the timing requirements for execution of pre-enrollment agreements and certain distance education delivery requirements for providers. The change to subsection (i)(2) corrects a rule reference.

-The change in 22 TAC §535.66(c)(1) is made to reflect current course approval practice by the Texas Higher Education Coordinating Board.

-In 22 TAC 535.67(c) and (d), the time period is being changed from 15 to 14 days to be more consistent with other similar rules.

-The removal of the term "author" in 22 TAC §535.72(h)(1)(B) is being made because the agency is the author of these courses.

-The changes to 22 TAC §535.75(d) clarify that a provider is not prohibited from providing a course completion certificate to a student.

-New 22 TAC §535.120 makes clear that a license holder cannot engage in real estate brokerage activity while on inactive status. Although this is currently prohibited by statute, there was no corresponding, discrete rule.

-The changes to §535.141 are made to better track Chapter 1101, Occupations Code, and to better reflect the potential for consumer harm. The change in now subsection (c)(2)(D) corrects a rule reference. Finally, subsection (i) is removed to more appropriately reflect agency practice and jurisdiction.

-Subsections (f) and (g) of 22 TAC §535.148, as well as the form adopted by reference, are amended to reflect updated terminology used by the Texas Department of Licensing and Regulation.

-The repeal of certain language in §535.209 and §535.213 reflects the expiration of those sections by rule.

-The repeal of subsection (c) in 22 TAC §535.218 is the result of duplicative language. -Subsection (d)(1) is removed to account for the scenario whereby an inspector renews the inspector's license after the license's expiration date.

-The changes to 22 TAC §535.219 correct a reference to another rule.

-The changes to 22 TAC §535.224 more fully cite the applicable rules.

One comment was received for §535.4 asking TREC to examine the practice of wholesaling as unlicensed activity. One comment was received for §535.5, which was commentary on other topics related to the real estate industry and unrelated to the proposed changes. One comment was received for §535.51, which was commentary related to education hours required for a license and unrelated to the proposed changes. The Commission declined to make changes based on the comments received.

### SUBCHAPTER A. DEFINITIONS

#### 22 TAC §535.1

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Vanessa E. Burgess  
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Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## SUBCHAPTER B. GENERAL PROVISIONS RELATING TO THE REQUIREMENTS OF LICENSURE

### 22 TAC §§535.3 - 535.5, 535.20

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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## SUBCHAPTER C. EXEMPTIONS TO REQUIREMENTS OF LICENSURE

### 22 TAC §§535.31, 535.33, 535.34

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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## SUBCHAPTER D. THE COMMISSION

### 22 TAC §§535.43, §535.45

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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## SUBCHAPTER E. REQUIREMENTS FOR LICENSURE

### 22 TAC §§535.50 - 535.53, 535.57, 535.58

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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## SUBCHAPTER F. REQUIREMENTS FOR EDUCATION PROVIDERS, COURSES

## AND INSTRUCTORS FOR QUALIFYING EDUCATION

### 22 TAC §§535.60, 535.61, 535.63 - 535.67

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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## SUBCHAPTER G. REQUIREMENTS FOR CONTINUING EDUCATION PROVIDERS, COURSES AND INSTRUCTORS

### 22 TAC §§535.71, 535.72, 535.74, 535.75

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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## SUBCHAPTER H. RECOVERY FUND

### 22 TAC §535.82

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics

for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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## SUBCHAPTER L. INACTIVE LICENSE STATUS

### 22 TAC §§535.120 - 535.122

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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## SUBCHAPTER M. NONRESIDENTS

### 22 TAC §535.133

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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**SUBCHAPTER N. SUSPENSION AND  
REVOCATION OF LICENSURE**

**22 TAC §§535.141, 535.147, 535.148**

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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**SUBCHAPTER R. REAL ESTATE  
INSPECTORS**

**22 TAC §§535.208 - 535.210, 535.213, 535.214, 535.218 -  
535.220, 535.224**

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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**SUBCHAPTER T. EASEMENT OR  
RIGHT-OF-WAY AGENTS**

**22 TAC §§535.400 - 535.405**

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Texas Real Estate Commission  
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**SUBCHAPTER B. GENERAL PROVISIONS  
RELATING TO THE REQUIREMENTS OF  
LICENSURE**

**22 TAC §535.2**

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.2, Broker Responsibility, in Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1254), and will not be republished.

The amendments contain two types of changes: (i) those changes made as a result of the Commission's quadrennial rule review; and (ii) those changes recommended by the Commission appointed Broker Responsibility Working Group (BRWG).

The changes made as a result of the Commission's quadrennial rule review update terminology and rule citations for consistency and clarity throughout the chapter. The change in subsection (e) of §535.2 is made to clarify who may notify the Commission of the end of delegated supervision in a situation where the delegated supervisor is or later becomes a broker.

There are two additional amendments that were recommended by the BRWG. The first change is found in subsection (i)(5). It increases the minimum number of times that a sales agent who performs a type of real estate brokerage activity must receive coaching or assistance from a competent, experienced license holder from one time to three times. The second change is found in §535.2(j). That change modifies the language of that subsection to accommodate the new rule 22 TAC §535.157, which requires both brokers and sales agents to respond to principals to a real estate transaction or their license holders within two calendar days.

Ten comments were received. One commenter expressed concern over how the rule would be enforced and stated it was too onerous a standard on the broker, especially in terms

of tracking sales agents coming from other brokerages. One commenter stated the number of supervised brokerage activity transactions should be increased to five instead of three. One commenter expressed concern over the definition of "coaching." Two comments generally supported the proposed changes but provided suggested edits. Five comments expressed support for the changes as proposed. The BRWG discussed the comments, including concerns over enforcement and increase to three transactions instead of five, ultimately noting the changes proposed moved the issue forward and that enforcement would need to be addressed by TREC Enforcement staff. The BRWG declined to make changes to the rule.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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## CHAPTER 535. GENERAL PROVISIONS

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.54, Hearing on License Denial: Probationary Licenses; §535.55, Education and Sponsorship Requirements for a Sales Agent License; §535.56, Education and Experience Requirements for a Broker License; §535.91, Renewal of a Real Estate License; §535.101, Fees; and §535.132, Eligibility for Licensure, in Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1256) and will not be republished.

The amendments to §535.91 eliminate the "lookback period" currently found in §535.93 (currently being repealed), which allows a license holder to renew after the expiration date of their license without any lapse in active licensure, as long as certain certifications are made. Under these changes, a license holder who late renews (meaning no later than 6 months after the expiration date) would automatically renew on inactive status. A corresponding change is made to §535.216 relating to inspector licenses. Section 535.91 also adds a new, single subsection addressing license reinstatement--the requirements of which are currently found in several different rule sections--as well as a subsection regarding renewing on inactive status, to be more consistent with §535.216. As a result, language related to license reinstatement is removed from §535.55 and §535.56.

The change to §535.54 reflects the repeal of §535.93. The change to §535.101 would remove the late reporting fee of

\$250 to reactivate a license, as a result of the elimination of the lookback period in §535.91.

In 22 TAC §535.132, changes are made to remove references to the waiver provisions in §535.55 and §535.56, as well as residency requirements, which were removed from Chapter 1101, Texas Occupations Code, as a result of the agency's most recent Sunset review.

In order to mirror the format of §535.216 (which relates to inspectors), the relevant language of §535.93 has been added to §535.91.

Subsection (b) of §535.55 also contains a change recommended by the Education Standards Advisory Committee that would require a sales agent to complete the 30-hour qualifying real estate brokerage course as part of the additional 90 hours of qualifying courses that must be completed by the expiration date of the sales agent's initial licensing period.

The remainder of the changes are either updates to terminology or form for consistency throughout the chapter or are made to reflect updated processes.

Fourteen comments were received on §535.55. Two comments opposed making the real estate brokerage course a mandatory component of a sales agent's initial license renewal stating that did not seem like the appropriate place for this information to be taught. Multiple comments did not like that broker applicants would now be required to take the course twice. One comment suggested the requirement to take the course would be better received during pre-licensure. Multiple comments were in support of the comment, noting the importance of the course in educating new sales agents. The Education Standard Advisory Committee (ESAC) discussed these comments, noting course is valuable to both new sales agents and broker applicants and that new sales agents would be introduced to concepts of the broker-agent relationship and responsibilities associated with both roles within the first two years of practice. One comment stated there would be an adverse effect on small and micro-businesses but did not provide any further detail. TREC General Counsel had conducted and provided the appropriate analysis regarding economic impact with the proposed rule and found no impact. ESAC declined to make changes in response to comments received on §535.55 and recommends adoption of the rule as published.

Four comments were received on §535.91. Two comments indicated confusion as to why the changes were being made. One comment was generally not in favor and one comment indicated concern a license holder would be set to inactive in the event TREC experienced technical issues prevent a license holder from timely renewal. The Commission declined to make changes based on the comments and noted TREC would not penalize a license holder for renewing late because of technical issues on the part of the agency.

## SUBCHAPTER E. REQUIREMENTS FOR LICENSURE

### 22 TAC §§535.54 - 535.56

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.



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

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Vanessa E. Burgess

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Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## SUBCHAPTER I. LICENSE RENEWAL

### 22 TAC §535.91

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## SUBCHAPTER J. FEES

### 22 TAC §535.101

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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## SUBCHAPTER M. NONRESIDENTS

### 22 TAC §535.132

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Texas Real Estate Commission

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## SUBCHAPTER F. REQUIREMENTS FOR EDUCATION PROVIDERS, COURSES AND INSTRUCTORS FOR QUALIFYING EDUCATION

### 22 TAC §535.64

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.64 in Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1216) and will not be republished.

First, the changes to §535.64 streamline the rule and modify two of qualifying course approval forms that are adopted by reference. Although the changes remove the specific topics and units listed in the rule itself, those topics and units will continue to be listed in the forms adopted by reference. The changes to the agency's Real Estate Brokerage course approval form are being made to better address the broker-agent relationship and associated responsibilities. The changes to the Property Management course outline (being renamed *Residential* Property Management) are made to more accurately reflect the agency's jurisdiction and ensure relevancy. These course approval form revisions were recommended by the Education Standards Advisory Committee.

The remainder of the amendments to §535.64 are made as a result of the Commission's quadrennial rule review. The changes update terminology for consistency and clarity throughout the rule.

Three comments were received for §535.64, two of which were unrelated to the changes proposed and one of which requested more information related to business finance and broker responsibility. The Commission declined to make changes based on the comments received.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission

to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Vanessa E. Burgess

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Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## SUBCHAPTER I. LICENSE RENEWAL

### 22 TAC §535.93

The Texas Real Estate Commission (TREC) adopts the repeal of 22 TAC §535.93, Late Renewal Applications, in Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1264) and will not be republished.

The purpose of the repeal is to eliminate the "lookback period" currently found in §535.93, which currently allows a license holder to renew after the expiration date of their license without any lapse in active licensure, as long as certain certifications are made. With this repeal and the additional changes in 22 TAC Chapter 535, a license holder who late renews (meaning no later than 6 months after the expiration date) would automatically renew on inactive status. In order to mirror the format of rule 22 TAC §535.216 (which relates to inspectors), the relevant language of §535.93 has been added to 22 TAC §535.91. As a result, §535.93 is no longer necessary.

No comments were received on the repeal as published.

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## SUBCHAPTER N. SUSPENSION AND REVOCATION OF LICENSURE

### 22 TAC §535.157

The Texas Real Estate Commission (TREC) adopts new 22 TAC §535.157, Obligation to Respond Timely, in Chapter 535, General Provisions, without changes as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1265) and will not be republished.

The new §535.157 requires a broker or sales agent to respond to their principal, a broker or sales agent representing another party to a real estate transaction, or an unrepresented party to a real estate transaction within two calendar days.

The new rule was recommended by the Commission appointed Broker Responsibility Working Group (BRWG).

Sixty-six comments were received. The majority of comments were identical and addressed what commenters believed to be an issue with license holders engaged in property management and a request to change calendar day to business days. The commenters did not believe property managers who do not work on weekends should be held to such a standard. The BRWG noted the rule as proposed is tied to a transaction and is not a general requirement that all license holders respond within two calendar days at all times. The BRWG also noted in response to multiple comments received that the rule does not require resolution of a matter related to a transaction but a response. The BRWG also noted the response time of two calendar days is a standard already applied to broker. Many comments were in favor of the proposed changes and some comments questioned enforcement of the rule if adopted. The BRWG deferred the matter of enforcement to TREC enforcement staff. The BRWG also noted the significant impact of this rule on consumer protection as real estate transactions often have deadlines that must be met and that license holders should be accountable for responding to communications as detailed in the rule. The BRWG declined to make changes in response to the comments received.

The new rule is adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

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Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## SUBCHAPTER R. REAL ESTATE INSPECTORS

## 22 TAC §535.212

The Texas Real Estate Commission (TREC) adopts the repeal of 22 TAC §535.212, Education and Experience Requirements for a License, in Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1265), as a result of the expiration of this section by rule, and will not be republished.

The repeal was recommended by the Texas Real Estate Inspector Committee.

No comments were received on the repeal as published.

The repeal is adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statutes affected by this repeal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the adopted repeal.

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 22, 2023.

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Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## 22 TAC §535.216

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.216, Renewal of License, in Subchapter R of Chapter 535, General Provisions, with non-substantive changes to the rule text, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1256), and will be republished.

The amendments to §535.216 eliminate the "lookback period", which allows a license holder to renew after the expiration date of their license without any lapse in active licensure, as long as certain certifications are made. Under these proposed changes, a license holder who late renews (meaning no later than 6 months after the expiration date) would automatically renew on inactive status.

The Texas Real Estate Inspector Committee recommends the amendments.

No comments were received, however the Texas Real Estate Inspector Committee made non-substantive changes to better clarify requirements related to reactivation of an inactive license.

The amendments are adopted under Texas Occupations Code §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics

for its license holders to fulfill the purposes of Chapters 1101 and 1102.

### §535.216. *Renewal of License.*

#### (a) Renewal application.

(1) A license issued by the Commission under Chapter 1102 expires on the date shown on the face of the license issued to the license holder.

(2) If a license holder intends to renew an unexpired license, the license holder must, on or before the expiration date of the current license:

(A) file a renewal application through the online process on the Commission's website or on the applicable form approved by the Commission;

(B) pay the appropriate fee as required by §535.210 of this subchapter (relating to Fees);

(C) comply with the fingerprinting requirements of Chapter 1102;

(D) satisfy the applicable continuing education requirements of Chapter 1102 and this subchapter; and

(E) provide proof of financial responsibility as required in Chapter 1102 on a form approved by the Commission.

(3) An apprentice inspector or a real estate inspector must be sponsored by a licensed professional inspector in order to renew a license on an active status.

#### (b) Renewal Notice.

(1) The Commission will send a renewal notice to each license holder at least 90 days before the license expiration date.

(2) If a license holder intends to renew a license, failure to receive a renewal notice does not relieve the license holder from responsibility of applying for renewal as required in this section.

#### (c) Request for information.

(1) The Commission may request a license holder to provide additional information to the Commission in connection with a renewal application.

(2) A license holder must provide the information requested by the Commission within 30 days after the date of the Commission's request.

(3) Failure to provide the information requested within the required time is grounds for disciplinary action under Chapter 1102.

#### (d) Renewal on inactive status.

(1) Licensed professional inspectors, real estate inspectors and apprentice inspectors may renew a license on inactive status.

(2) Inspectors are not required to complete continuing education courses as a condition of renewing a license on inactive status, but must satisfy continuing education requirements before returning to active status.

#### (e) Late Renewal.

(1) If a license has been expired for less than six months, a license holder may renew the license by:

(A) filing a renewal application through the online process on the Commission's website or on the applicable form approved by the Commission; and

(B) paying the appropriate late renewal fee as required by §535.210 of this subchapter;

(2) Provided the license holder meets all the requirements of this subsection, the Commission will renew the license on an inactive status.

(3) Reactivation of a license on inactive status under this subsection is governed by §535.211 of this subchapter (relating to Professional Liability Insurance, or Any other Insurance that Provides Coverage for Violations of Subchapter G of Chapter 1102) and §535.215 of this subchapter (relating to Inactive Inspector Status).

(f) License Reinstatement.

(1) If a license has been expired for more than six months, a license holder may not renew the license.

(2) A license holder may reinstate an expired license if the license holder:

(A) has held a professional inspector or real estate inspector license during the 24 months preceding the date the reinstatement application is filed;

(B) submits evidence satisfactory to the commission of successful completion of the continuing education hours required for the renewal of that license; and

(C) satisfies the commission as to the applicant's honesty, trustworthiness, and integrity.

(3) Applicants for a real estate inspector license must submit evidence of sponsorship by a professional inspector.

(4) An applicant for reinstatement is not required to take an examination.

(g) Denial of Renewal or Reinstatement. The Commission may deny an application for license renewal or reinstatement if a license holder is in violation of the terms of a Commission order.

(h) Renewal of license for military service member. A license holder on active duty in the United States armed forces is entitled to two years of additional time to renew an expired license without being subject to any increase in fee, any education or experience requirements or examination if the license holder:

(1) provides a copy of official orders or other official documentation acceptable to the Commission showing that the license holder was on active duty during the license holder's last renewal period; and

(2) pays the renewal application fee in effect when the previous license expired.

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

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Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## 22 TAC §535.222

The Texas Real Estate Commission (TREC) adopts amendments to §535.222, Inspection Reports, in Subchapter R of Chapter 535, General Provisions, without changes, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1266) and will not be republished.

The amendments to §535.222 address the situation where payment is received prior to the scheduled inspection and require the report to be delivered to the client within two days of completion of the inspection.

The Texas Real Estate Inspector Committee recommends the amendments.

Four comments were received. One comment requested clarification about payment received prior to inspection and was not in opposition to the proposed changes. One comment requested clarification, which the Texas Real Estate Inspector Committee (TREIC) noted is answered in the form's instructions. Two comments requested a different timeframe be used. All comments were considered by TREIC who ultimately declined to recommend changes to the rule text as published.

The amendments are adopted under Texas Occupations Code §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102.

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

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Vanessa E. Burgess

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Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## CHAPTER 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS

### 22 TAC §537.1

The Texas Real Estate Commission (TREC) adopts new rule 22 TAC, §537.1, Definitions, in Chapter 537, Professional Agreements and Standard Contracts, with changes as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1267), and will be republished.

The new rule adds a definitions section for ease of reading and for consistency with other Commission rule chapters. This includes a definition for the new term "informational items," which is intended to better describe the type of information that a license holder can add to a contract form.

One comment was received for §537.1, which was in support of the rule. The Commission's Unauthorized Practice of Law Working Group recommended the new rule be adopted as published.

The new rule is adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

§537.1. *Definitions.*

The following terms and phrases, when used in this chapter, have the following meanings:

- (1) Commission--The Texas Real Estate Commission.
- (2) Contract forms--Contracts and related addenda, including notices, amendments, and other documents, used in the sale, exchange, option, or lease of any interest in real property.
- (3) Informational item--A statement that completes a blank in a contract form, discloses factual information, or provides instructions.
- (4) License holder--A real estate broker or sales agent licensed under Chapter 1101, Texas Occupations Code.
- (5) Mandatory use--Unless an exception applies under subsection (a) of section 537.11 (relating to Use of Standard Contract Forms; Unauthorized Practice of Law), use of the contract form is required by a license holder.
- (6) Voluntary use--A license holder may, but is not required to, use the contract form.

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

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Vanessa E. Burgess

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Texas Real Estate Commission

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For further information, please call: (512) 936-3284



**22 TAC §537.11**

The Texas Real Estate Commission (TREC) adopts amendments to §537.11, Use of Standard Contract Forms, in Chapter 537, Professional Agreements and Standard Contracts, with changes to the rule text, as published in the March 3, 2023, issue of the *Texas Register* (48 TexReg 1267), and will be republished.

The amendments to §537.11 reorganize and consolidate the rule for clarity, and simplify the language regarding when a license holder is required to use a Commission-approved contract form and what is considered the unauthorized practice of law. Specifically, the proposed changes in subsection (a) align the rule language more closely with the applicable statutory language and simplify the list of exceptions related to contract form use by license holders.

Subsections (b) - (d) provide further guidance to license holders and members of the public on what the Commission considers to be the unauthorized practice of law. Of note, subsection (d)(2) provides that it is not the practice of law to add language to

or strike language from a contract form, if specifically instructed in writing by a principal, as long as any change is made conspicuous, including underlining additions, striking through deletions, or employing some other method which clearly indicates the change being made.

Finally, the changes to subsection (h) update the language regarding reproduction of Commission-approved contract forms to better account for changes in technology.

Four comments were received for §537.11. Two comments were against the rule because commenters believe license holders do not understand the implications of the contract forms in the same way as an attorney. One comment was generally in favor of the rule. One comment did not like the change to the term "informational items," stating the term could be loosely interpreted.

The Commission's Unauthorized Practice of Law Working Group discussed the comments received and ultimately disagreed with comments regarding a license holder's understanding of appropriate practice related to contract forms. The group also determined the change to "informational items" was more clear than the prior language related to factual business details. The group declined to make any changes to the rules based on the comments received but did recommend a change to §537.11(b)(6) to clarify what a license holder may not do as it relates to the unauthorized practice of law.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

§537.11. *Use of Standard Contract Forms; Unauthorized Practice of Law.*

(a) When negotiating contracts binding the sale, exchange, option, or lease of any interest in real property, a license holder shall use only those contract forms approved for mandatory use by the Commission for that type of transaction with the following exceptions:

- (1) transactions in which the license holder is functioning solely as a principal, not as an agent;
- (2) transactions in which an agency of the United States government requires a different form to be used;
- (3) transactions for which a contract form has been prepared by the property owner or prepared by an attorney and required by a property owner; or
- (4) transactions for which no contract form has been approved for mandatory use by the Commission, and the license holder uses a form:

(A) prepared by an attorney licensed by this state, or a trade association in consultation with an attorney licensed by this state that contains:

- (i) the name of the attorney or trade association who prepared the form;
- (ii) the name of the broker or trade association for whom the form was prepared;
- (iii) a statement indicating the type of transaction for which the attorney or trade association has approved the use of the form;
- (iv) any restrictions on the use of the form; and

(v) if applicable, an explanation of how the form changes the rights, obligations, or remedies of a party under a contract form approved for mandatory use by the Commission and a statement that license holders may not practice law or give legal advice; or

(B) prepared by the Texas Real Estate Broker-Lawyer Committee and approved by the Commission for voluntary use by license holders.

(b) A license holder may not:

- (1) practice law;
- (2) directly or indirectly offer, give or attempt to give legal advice;
- (3) give advice or opinions as to the legal effect of any contract forms or other such instruments which may affect the title to real estate;
- (4) give opinions concerning the status or validity of title to real estate;
- (5) draft or recommend language to be included in a contract form defining or affecting the rights, obligations, or remedies of the principals of a real estate transaction, including escalation, appraisal, or contingency clauses;
- (6) add informational items to a form approved by the Commission if the Commission has approved another form for mandatory use for that purpose;
- (7) attempt to prevent or in any manner whatsoever discourage any principal to a real estate transaction from employing an attorney; or
- (8) obtain legal advice from an attorney, directly or indirectly, for a principal in a real estate transaction in which the license holder is acting as an agent.

(c) This section does not:

- (1) limit a license holder's fiduciary obligation to disclose to the license holder's principals all pertinent facts that are within the knowledge of the license holder, including such facts which might affect the status of or title to real estate;
- (2) prevent the license holder from explaining to the license holder's principals the meaning of informational items or choices in a contract form, as long as the license holder does not practice law or give legal advice;
- (3) limit a license holder from employing and paying for the services of an attorney to represent only the license holder in a real estate transaction; or
- (4) limit a license holder from reimbursing a principal for attorney's fees incurred.

(d) It is not the practice of law for a license holder to:

- (1) add informational items to a contract form authorized for use by this section; or
- (2) if specifically instructed in writing by a principal, add language to or strike language from a contract form, as long as any change is made conspicuous, including underlining additions, striking through deletions, or employing some other method which clearly indicates the change being made.

(e) When a transaction involves unusual matters that should be reviewed by an attorney before an instrument is executed, or if the instrument must be acknowledged and filed of record, the license holder

shall advise the license holder's principals to consult an attorney before executing the instrument.

(f) A license holder shall advise the license holder's principals that the instrument they are about to execute is binding on them.

(g) Contract forms approved by the Commission are published by and available from the Commission at [www.trec.texas.gov](http://www.trec.texas.gov).

(h) Contract forms approved by the Commission may be reproduced, including through use of a software application, provided that the text and format of the form, including the sizing, spacing, and pagination, is identical to the Commission's published version, except that:

(1) the business name or logo of a broker, trade association, or other organization may appear outside the form's border; and

(2) a form may be scaled to accommodate viewing on smaller screens, including mobile devices, as long as the final executed copy of the form otherwise complies with this subsection.

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

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Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3284



## PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

### CHAPTER 781. SOCIAL WORKER LICENSURE

#### SUBCHAPTER C. APPLICATION AND LICENSING

##### 22 TAC §781.401

The Texas Behavioral Health Executive Council adopts amendments to §781.401, relating to Qualifications for Licensure. Section 781.401 is adopted without changes to the proposed text as published in the December 16, 2022, issue of the *Texas Register* (47 TexReg 8231) and will not be republished.

Reasoned Justification.

The adopted amendments delete the 48 and 60 month maximums for completing required supervised experience for licensure as a Licensed Clinical Social Worker or for Independent Practice Recognition.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

One commenter voiced opposition to these rule amendments and opined that these standards should not be changed. The

commenter believes that if someone is not able to complete their supervision hours or required work or practicum hours within five years then that indicates to the commenter that the individual would not be able to perform well in the profession. Without maximum time requirements an individual may take up to 20 years to complete their required hours of supervised experience and other professions, such as psychology, have similar standards regarding the timelines a program must be completed and when an individual must apply for licensure.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

Comments voiced support for these rule amendments. One commenter opined that these changes will help part-time, prn, and contract workers who many not be able to meet the clinical or IPR requirements in the allotted maximum time periods. The commenter believes that this rule change will recognize years of experience that may not otherwise be considered for social workers seeking advanced licenses or statuses, such as independent practice recognition.

Agency Response.

The Council thanks the commenters for their supportive remarks, and declines to amend the rule as requested by the commenter who voiced opposition. The 48 and 60 month maximum time limits, which are being deleted, would sometimes result in the denial of an application where an applicant completed the required supervised experience but due to life circumstances, such as maternity leave or a family illness, the supervised experience took slightly longer than the maximum amount of time allowed under the previous rule. The initial purpose behind putting a maximum time limit for completing supervised experience was to ensure that the individual's knowledge and learning was still relevant and had not become stale. Currently under the Texas State Board of Social Worker Examiners' rules, all initial or upgrade applicants must receive a passing score on the applicable ASWB national examination within two years of application, so the Board believes that these applicants' knowledge will have been recently tested and therefore will not be stale. Additionally, the Texas State Board of Examiners of Psychologists recently amended its rules and deleted requirements that a gap of more than seven years between the applicant's degree and the date of application could be grounds for the denial of an application, unless good cause can be shown. Therefore keeping these requirements, as suggested by the commenter, would not conform with the requirements of other professions, but deleting this standard would.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle 1, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 26, 2023.

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Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Effective date: June 15, 2023

Proposal publication date: December 16, 2022

For further information, please call: (512) 305-7706



## 22 TAC §781.404

The Texas Behavioral Health Executive Council adopts amendments to §781.404, relating to Recognition as a Council-approved Supervisor and the Supervision Process. Section 781.404 is adopted with changes to the proposed text as published in the December 16, 2022, issue of the *Texas Register* (47 TexReg 8233) and will be republished. Proposed §781.404(b)(3)(B) listed an implementation date of May 1, 2023, for new §781.404(b)(3)(A) which pertains to the minimum requirements for the 40-hour supervisor's training program. The implementation date was intended to provide licensees with some additional advanced notice of this rule change. Since this date has already passed a new implementation date of September 1, 2023, has been adopted to provide the additional advanced notice of this change as originally intended.

Reasoned Justification.

The adopted amendments delete the 48 and 60 month maximums for completing the required supervised experience for licensure as a clinical social worker (LCSW) or for independent practice recognition (IPR) status. The adopted amendments also provide more specific details regarding the minimum stan-

dards for the 40 hours of education required to apply for supervisor status. Additionally, the adopted changes delete some duplicative language regarding the Council's ability to discipline a licensee that continues to provide supervision after the licensee no longer possesses supervisor status, and the outdated subparagraph that initially required the 40 hours supervision training back in 2014.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

Comments voiced support for these rule amendments. One commenter opined that these changes will help part-time, prn, and contract workers who many not be able to meet the clinical or IPR requirements in the allotted maximum time periods. The commenter believes that this rule change will recognize years of experience that may not otherwise be considered for social workers seeking advanced licenses or statuses, such as independent practice recognition.

Agency Response.

The Executive Council thanks the commenters for their supportive remarks.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has com-

plied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

*§781.404. Recognition as a Council-approved Supervisor and the Supervision Process.*

(a) Types of supervision include:

(1) administrative or work-related supervision of an employee, contractor or volunteer that is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(2) clinical supervision of a Licensed Master Social Worker in a setting in which the LMSW is providing clinical services; the supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, Licensed Clinical Social Worker or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(3) clinical supervision of a Licensed Master Social Worker, who is providing clinical services and is under a supervision plan to fulfill supervision requirements for achieving the LCSW; a Licensed Clinical Social Worker who is a Council-approved supervisor delivers this supervision;

(4) non-clinical supervision of a Licensed Master Social Worker or Licensed Baccalaureate Social Worker who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition; this supervision is delivered by a Council-approved supervisor; or

(5) Council-ordered supervision of a licensee by a Council-approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(b) A person who wishes to be a Council-approved supervisor must file an application and pay the applicable fee.

(1) A Council-approved supervisor must be actively licensed in good standing by the Council as an LBSW, an LMSW, an LCSW, or be recognized as an Advanced Practitioner (LMSW-AP), or hold the equivalent social work license in another jurisdiction. The person applying for Council-approved status must have practiced at his/her category of licensure for two years. The Council-approved supervisor shall supervise only those supervisees who provide services that fall within the supervisor's own competency.

(2) The Council-approved supervisor is responsible for the social work services provided within the supervisory plan.

(3) The Council-approved supervisor must have completed a 40-hour supervisor's training program acceptable to the Council.

(A) At a minimum, the 40-hour supervisor's training program must meet each of the following requirements:

(i) the course must be taught by a licensed social worker holding both the appropriate license classification, and supervisor status issued by the Council;

(ii) all related coursework and assignments must be completed over a time period not to exceed 90 days; and

(iii) the 40-hour supervision training must include at least:



(I) three (3) hours for defining and conceptualizing supervision and models of supervision;

(II) three (3) hours for supervisory relationship and social worker development;

(III) twelve (12) hours for supervision methods and techniques, covering roles, focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (race, ethnic, and gender issues), and evaluation methods;

(IV) twelve (12) hours for supervision and standards of practice, codes of ethics, and legal and professional issues; and

(V) three (3) hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.

(B) Subparagraph (A) of this paragraph is effective September 1, 2023.

(4) The Council-approved supervisor must submit required documentation and fees to the Council.

(5) When a licensee is designated Council-approved supervisor, he or she may perform the following supervisory functions.

(A) An LCSW may supervise clinical experience toward the LCSW license, non-clinical experience toward the Independent Practice Recognition (non-clinical), and Council-ordered probated suspension;

(B) An LMSW-AP may supervise non-clinical experience toward the non-clinical Independent Practice Recognition; and Council-ordered probated suspension for non-clinical practitioners;

(C) An LMSW with the Independent Practice Recognition (non-clinical) who is a Council-approved supervisor may supervise an LBSW's or LMSW's non-clinical experience toward the non-clinical Independent Practice Recognition; and an LBSW or LMSW (non-clinical) under Council-ordered probated suspension;

(D) An LBSW with the non-clinical Independent Practice Recognition who is a Council-approved supervisor may supervise an LBSW's non-clinical experience toward the non-clinical Independent Practice Recognition; and an LBSW under Council-ordered probated suspension.

(6) The approved supervisor must renew the approved supervisor status in conjunction with the biennial license renewal. The approved supervisor may surrender supervisory status by documenting the choice on the appropriate Council renewal form and subtracting the supervisory renewal fee from the renewal payment. If a licensee who has surrendered supervisory status desires to regain supervisory status, the licensee must reapply and meet the current requirements for approved supervisor status.

(7) A supervisor must maintain the qualifications described in this section while he or she is providing supervision.

(8) A Council-approved supervisor who wishes to provide any form of supervision or Council-ordered supervision must comply with the following:

(A) The supervisor is obligated to keep legible, accurate, complete, signed supervision notes and must be able to produce such documentation for the Council if requested. The notes shall document the content, duration, and date of each supervision session.

(B) A social worker may contract for supervision with written approval of the employing agency. A copy of the approval must accompany the supervisory plan submitted to the Council.

(C) A Council-approved supervisor may not charge or collect a fee or anything of value from his or her employee or contract employee for the supervision services provided to the employee or contract employee.

(D) Before entering into a supervisory plan, the supervisor shall be aware of all conditions of exchange with the clients served by her or his supervisee. The supervisor shall not provide supervision if the supervisee is practicing outside the authorized scope of the license. If the supervisor believes that a social worker is practicing outside the scope of the license, the supervisor shall make a report to the Council.

(E) A supervisor shall not be employed by or under the employment supervision of the person who he or she is supervising.

(F) A supervisor shall not be a family member of the person being supervised.

(G) A supervisee must have a clearly defined job description and responsibilities.

(H) A supervisee who provides client services for payment or reimbursement shall submit billing to the client or third-party payers which clearly indicates the services provided and who provided the services, and specifying the supervisee's licensure category and the fact that the licensee is under supervision.

(I) If either the supervisor or supervisee has an expired license or a license that is revoked or suspended during supervision, supervision hours accumulated during that time will be accepted only if the licensee appeals to and receives approval from the Council.

(J) A licensee must be a current Council-approved supervisor in order to provide professional development supervision toward licensure or specialty recognition, or to provide Council-ordered supervision to a licensee. Providing supervision without having met all requirements for current, valid Council-approved supervisor status may be grounds for disciplinary action against the supervisor.

(K) The supervisor shall ensure that the supervisee knows and adheres to Subchapter B, Rules of Practice, of this Chapter.

(L) The supervisor and supervisee shall avoid forming any relationship with each other that impairs the objective, professional judgment and prudent, ethical behavior of either.

(M) Should a supervisor become subject to a Council disciplinary order, that person is no longer a Council-approved supervisor and must so inform all supervisees, helping them to find alternate supervision. The person may reapply for Council-approved supervisor status by meeting the terms of the disciplinary order and having their license in good standing, in addition to submitting an application for Council-approved supervisor, and proof of completion of a 40-hour Council-approved supervisor training course, taken no earlier than the date of execution of the Council order.

(N) Providing supervision without Council-approved supervisor status is grounds for disciplinary action.

(O) A supervisor shall refund all supervisory fees the supervisee paid after the date the supervisor ceased to be Council-approved.

(P) A supervisor is responsible for developing a well-conceptualized supervision plan with the supervisee, and for updating that plan whenever there is a change in agency of employment, job function, goals for supervision, or method by which supervision is provided.

(9) A Council-approved supervisor who wishes to provide supervision towards licensure as an LCSW or towards specialty recognition in Independent Practice (IPR) or Advanced Practitioner (LMSW-AP), which is supervision for professional growth, must comply with the following:

(A) Supervision toward licensure or specialty recognition may occur in one-on-one sessions, in group sessions, or in a combination of one-on-one and group sessions. Session may transpire in the same geographic location, or via audio, web technology or other electronic supervision techniques that comply with HIPAA and Texas Health and Safety Code, Chapter 611, and/or other applicable state or federal statutes or rules.

(B) Supervision groups shall have no fewer than two members and no more than six.

(C) Supervision shall occur in proportion to the number of actual hours worked for the 3,000 hours of supervised experience. No more than 10 hours of supervision may be counted in any one month, or 30-day period, as appropriate, towards satisfying minimum requirements for licensure or specialty recognition.

(D) The Council considers supervision toward licensure or specialty recognition to be supervision which promotes professional growth. Therefore, all supervision formats must encourage clear, accurate communication between the supervisor and the supervisee, including case-based communication that meets standards for confidentiality. Though the Council favors supervision formats in which the supervisor and supervisee are in the same geographical place for a substantial part of the supervision time, the Council also recognizes that some current and future technology, such as using reliable, technologically-secure computer cameras and microphones, can allow personal face-to-face, though remote, interaction, and can support professional growth. Supervision formats must be clearly described in the supervision plan, explaining how the supervision strategies and methods of delivery meet the supervisee's professional growth needs and ensure that confidentiality is protected.

(E) Supervision toward licensure or specialty recognition must extend over a full 3000 hours over a period of not less than 24 full months for LCSW or Independent Practice Recognition (IPR). Even if the individual completes the minimum of 3000 hours of supervised experience and minimum of 100 hours of supervision prior to 24 months from the start date of supervision, supervision which meets the Council's minimum requirements shall extend to a minimum of 24 full months.

(F) The supervisor and the supervisee bear professional responsibility for the supervisee's professional activities.

(G) If the supervisor determines that the supervisee lacks the professional skills and competence to practice social work under a regular license, the supervisor shall develop and implement a written remediation plan for the supervisee.

(H) Supervised professional experience required for licensure must comply with §781.401 of this title and §781.402 of this title and all other applicable laws and rules.

(10) A Council-approved supervisor who wishes to provide supervision required as a result of a Council order must comply with this title, all other applicable laws and rules, and/or the following.

(A) A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:

(i) submit one supervisory plan for each practice location to the Council for approval by the Council or its designee within 30 days of initiating supervision;

(ii) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to work, along with a statement from the potential supervisor that the supervisor has reviewed the contract and is qualified to supervise the licensee in the setting;

(iii) ensure that the supervisor submits reports to the Council on a schedule determined by the Council. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The Council may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

(iv) notify the Council immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

(B) The supervisor who agrees to provide Council-ordered supervision of a licensee who is under Council disciplinary action must understand the Council order and follow the supervision stipulations outlined in the order. The supervisor must address with the licensee those professional behaviors that led to Council discipline, and must help to remediate those concerns while assisting the licensee to develop strategies to avoid repeating illegal, substandard, or unethical behaviors.

(C) Council-ordered and mandated supervision timeframes are specified in the Council order.

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 26, 2023.

TRD-202301938

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

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Proposal publication date: December 16, 2022

For further information, please call: (512) 305-7706



## 22 TAC §781.421

The Texas Behavioral Health Executive Council adopts new §781.421, relating to Remedy for Incomplete License Requirements. Section 781.421 is adopted without changes to the proposed text as published in the December 16, 2022, issue of the *Texas Register* (47 TexReg 8236) and will not be republished.

Reasoned Justification.

The adopted new rule is necessary to allow the Texas State Board of Social Worker Examiners to make exceptions for appli-

cants that have difficulty fulfilling certain licensing requirements due to a declared disaster.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

A commenter voiced support for this new rule.

Agency Response.

The Executive Council thanks the commenter for the supportive remarks.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 26, 2023.

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Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

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Proposal publication date: December 16, 2022

For further information, please call: (512) 305-7706

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**22 TAC §781.501**

The Texas Behavioral Health Executive Council adopts amendments to §781.501, relating to Requirements for Continuing Education. Section 781.501 is adopted with changes to the proposed text as published in the December 16, 2022, issue of the *Texas Register* (47 TexReg 8238) and will be republished.

Reasoned Justification.

The adopted amendments to this rule add hospitals and hospital systems to subsection (f), and makes the effective date of subsection (f) January 1, 2024.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter voiced concern about the maximum number of hours being proposed for self-study, the commenter requests that the present method remain in place because individuals who are confined to their homes or in rural communities will have problems taking courses in person.

Another commenter requested that continuing education courses or conferences provided by the military be included in the list of providers in subsection (f) of this rule.

A commenter opined that a letter, email, or transcript from an approved supervisor should qualify as continuing education towards advanced licensure.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

A commenter voiced support for these rule amendments.

Agency Response.

The Executive Council thanks the commenter for the supportive comments and declines to amend the rule as requested by the commenters. Foremost, all of the changes requested by the commenters are beyond the scope of what was originally proposed, therefore if the Executive Council wanted to make any of the changes requested by the commenters a new rulemaking proposal would be required. Therefore none of these requested changes can be made at this time.

The comment regarding the self-study part of this rule, that it somehow limits the ability of licensees from taking online courses, is misplaced. As it currently states in part of §781.501(h)(5): "Time spent individually viewing or listening to audio, video, digital, or print media as part of an organized continued education activity, program or offering from a third-party is not subject to this self-study limitation and may count as acceptable continuing education under other parts of this rule." Therefore there is no one hour limit for online continuing educa-

tion. Self-study is defined in the rule as: "credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of social work."

The comment regarding adding military continuing education courses or conferences to subsection (f) is already covered by this rule. Section 781.501(f)(3) states: "city, county, state, or federal governmental entities" and the United States military is a federal government entity.

Lastly, the comment regarding a letter, email, or transcript from an approved supervisor should qualify as continuing education is covered by the current rule. Section 781.501(f) states that licensees must obtain at least fifty percent of their continuing education hours from a provider listed in subsection (f), and in subsection (f)(6) it lists a licensee that is a Council-approved supervisor. Additionally, a letter, email or transcript is what is required by §781.501(e)(3) to document the continuing education course was completed by the licensee. As for counting these continuing education courses towards advanced licensure, that is not the purpose of this rule. The continuing education rule, §781.501, lists some of the requirements for the renewal of a license but the rule has never been intended to be used for the standards for initial licensure or the upgrade of a license.

#### Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires

state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### §781.501. *Requirements for Continuing Education.*

##### (a) Minimum Continuing Education Hours Required:

(1) A licensee must complete 30 hours of continuing education during each renewal period that they hold a license. The 30 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.

(2) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

##### (b) Special Continuing Education Requirements.

(1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.

(2) The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a) of this section.

(c) Acceptable ethics hours include, but are not limited to continuing education on:

(1) state or federal laws, including agency rules, relevant to the practice of social work;

(2) practice guidelines established by local, regional, state, national, or international professional organizations;

(3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and

(4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.

(d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.

##### (e) Acceptable Continuing Education Activities.

(1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(2) of this section, and be directly related to the practice of social work;

(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of social work;

(3) Except for hours claimed under subsection (h) of this section, all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned; and

(4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.

(f) Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:

(1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;

(2) public school districts, charter schools, or education service centers;

- (3) city, county, state, or federal governmental entities;
- (4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;
- (5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;
- (6) a licensee that is a Council-approved supervisor;
- (7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or
- (8) any provider approved or endorsed by a provider listed herein.

(g) Notwithstanding subsection (f) of this section, licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.

(h) Licensees may claim continuing education credit for each of the following activities:

(1) Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of continuing education in ethics.

(2) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.

(3) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.

(4) Teaching or attending a university or college level course. The maximum number of hours that may be claimed for this activity is 5 hours.

(5) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. Self-study is credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of social work. Time spent individually viewing or listening to audio, video, digital, or print media as part of an organized continuing education activity, program or offering from a third-party is not subject to this self-study limitation and may count as acceptable continuing education under other parts of this rule.

(6) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.

(i) The Council does not pre-evaluate or pre-approve continuing education providers or hours.

(j) Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

(k) Subsection (f) of this section is effective January 1, 2024. 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 26, 2023.

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 Darrel D. Spinks  
 Executive Director  
 Texas State Board of Social Worker Examiners  
 Effective date: June 15, 2023  
 Proposal publication date: December 16, 2022  
 For further information, please call: (512) 305-7706

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## PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

### CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES

#### SUBCHAPTER A. DEFINITIONS

#### 22 TAC §851.10

The Texas Board of Professional Geoscientists (TBPG) adopts an amendment to 22 TAC §851.10 Definitions.

This amendment is adopted as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1506) without changes and will not be republished.

The adopted amendment to 22 TAC §851.10 adds the definition for "digital signature."

No public comments were received regarding the proposal.

This amendment is authorized by the Texas Geoscience Practice Act, Texas Occupations Code §1002.151, which authorizes the Board to adopt and enforce all rules and regulations consistent with the Act as necessary for the performance of its duties, and the regulation of the practice of geoscience in this state.

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 25, 2023.

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 Rene Truan  
 Executive Director  
 Texas Board of Professional Geoscientists  
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 Proposal publication date: March 17, 2023  
 For further information, please call: (512) 936-4428

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### SUBCHAPTER B. P.G. LICENSING, FIRM REGISTRATION, AND GIT CERTIFICATION

#### 22 TAC §851.43

The Texas Board of Professional Geoscientists (TBPG) adopts an amendment to 22 TAC §851.43 GIT Certification Period and Renewal.

This amendment is adopted as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 11) and will not be republished.

The adopted amendment to 22 TAC §851.43 removes the restriction that a GIT renewal after the eighth year may only be granted at the discretion of the appointed Board. Requiring appointed-board review of GIT renewals was an unnecessary procedural hurdle for GIT certificate holders. Current rules regarding continuing education and annual certificate renewal are adequate to ensure the GIT certificate holder remains qualified even after the 8th year.

No public comments were received regarding the proposal.

This amendment is authorized by the Texas Geoscience Practice Act, Texas Occupations Code §1002.151, which authorizes the Board to adopt and enforce all rules and regulations consistent with the Act as necessary for the performance of its duties, and the regulation of the practice of geoscience in this state.

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

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TRD-202301919

Rene Truan

Executive Director

Texas Board of Professional Geoscientists

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For further information, please call: (512) 936-4428



## SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

### 22 TAC §851.156

The Texas Board of Professional Geoscientists (TBPG) adopts an amendment to 22 TAC §851.156 Professional Geoscientists Seals and Geoscience Firm Identification.

This amendment is adopted as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1511) and will not be republished.

The adopted amendment to 22 TAC §851.156 adds provisions for Professional Geoscientists to use digitally generated signatures and seals to sign and seal geoscience work in the state of Texas. This rule amendment allows the Professional Geoscientist and the Geoscience Firm to use convenient and secure technology to comply more easily with signature and seal requirements, including those in Texas Occupations Code sections 1002.258, 1002.263, and 1002.351.

No public comments were received regarding the proposal.

This amendment is authorized by the Texas Geoscience Practice Act, Texas Occupations Code §1002.151, which authorizes the Board to adopt and enforce all rules and regulations consistent with the Act as necessary for the performance of its duties, and the regulation of the practice of geoscience in this state.

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

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Rene Truan

Executive Director

Texas Board of Professional Geoscientists

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Proposal publication date: March 17, 2023

For further information, please call: (512) 936-4428



## PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

### CHAPTER 882. APPLICATIONS AND LICENSING

#### SUBCHAPTER A. LICENSE APPLICATIONS

##### 22 TAC §882.10

The Texas Behavioral Health Executive Council adopts the repeal of §882.10, relating to Applicants with Pending Complaints. Section 882.10 is adopted without any changes, as published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1716) and will not be republished.

Reasoned Justification.

The repeal of this rule is necessary because it is replaced with a new rule that is adopted in this issue of the *Texas Register*. The new rule will allow for the abeyance of an application up to 180 days when there is a pending complaint against the applicant that involves sexual misconduct or imminent physical harm to the public. All other applicants with complaints will have their application processed as normal, the complaint will not impact the licensure application. The pending complaint will still be investigated and processed according to the normal route as well.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

#### STATUTORY AUTHORITY

The rule repeal is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks  
Executive Director  
Texas Behavioral Health Executive Council  
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Proposal publication date: March 31, 2023  
For further information, please call: (512) 305-7706



## 22 TAC §882.10

The Texas Behavioral Health Executive Council adopts new §882.10, relating to Applicants with Pending Complaints. Section 882.10 is adopted without changes to the proposed text as published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1717) and will not be republished.

Reasoned Justification.

The adopted new rule changes the way Council staff will process applications when the applicant has a pending complaint. If the applicant has a pending complaint that involves sexual misconduct or imminent physical harm to the public then the application may be held in abeyance for up to 180 days while a determination on the complaint is made. All other applicants with complaints will have their application processed as normal, the complaint will not impact the licensure application. The pending complaint will still be investigated and processed according to the normal route as well.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

A commenter voiced support for this rule change. The commenter believes that this rule change will help prevent supervisors or group practice owners from using the agency's complaint process in a retaliatory way. The commenter asserts that a false complaint was filed against her by her former employer when she left a group practice and applied for an upgrade or change in licensure. Further, the commenter states that the complaint was eventually dismissed but the complaint and investigation slowed the approval of her application by several months. Therefore, the commenter believes, this rule change will not cause the same problems for applicants if they are leaving a group practice or supervisory relationship for their own independent practice and their former employer files a retaliatory complaint against them.

Agency Response.

The Executive Council appreciates the supportive comment.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 26, 2023.

TRD-202301934  
Darrel D. Spinks  
Executive Director  
Texas Behavioral Health Executive Council  
Effective date: June 15, 2023  
Proposal publication date: March 31, 2023  
For further information, please call: (512) 305-7706



## CHAPTER 884. COMPLAINTS AND ENFORCEMENT SUBCHAPTER B. INVESTIGATIONS AND DISPOSITION OF COMPLAINTS

### 22 TAC §884.10

The Texas Behavioral Health Executive Council adopts amendments to §884.10, relating to Investigation of Complaints. Section 884.10 is adopted without changes to the proposed text as published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1718) and will not be republished.

Reasoned Justification.

The adopted amendments reduce the priority rating system for complaints from four levels to two. The high priority shall be for all complaints involving sexual misconduct or imminent physical harm and all other complaints shall be a normal priority.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

Comments voiced support for these rule amendments. One commenter suggested adding the word "alleged" to subsection (a)(1) of the rule.

#### Agency Response.

The Executive Council appreciates the supportive comments. The Executive Council declines to add the word "alleged" to this rule as requested by the commenter because the Executive Council believes clarity is not currently an issue with this rule, so the suggested change is not necessary at this time.

#### Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 26, 2023.

TRD-202301935

Darrel D. Spinks  
Executive Director

Texas Behavioral Health Executive Council

Effective date: June 15, 2023

Proposal publication date: March 31, 2023

For further information, please call: (512) 305-7706



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 9. TEXAS COMMISSION ON JAIL STANDARDS

#### CHAPTER 269. RECORDS AND PROCEDURES

##### SUBCHAPTER D. JUVENILE JUSTICE REPORTS

#### 37 TAC §§269.40 - 269.43

The Commission on Jail Standards adopts the repeal of 37 TAC §§269.40 - 269.43, concerning Juvenile Justice Reports, without changes to the proposed text as published in the March 10, 2023, issue of the *Texas Register* (48 TexReg 1439). The rules will not be republished.

The Commission reviewed these rules as part of its statutory four-year rule review, which was published in the December 23, 2022, issue of the *Texas Register* (47 TexReg 8759). HB 1545 of the 87th Legislative Session repealed Government Code § 511.009(a)(12). That statute required the Commission to report annually the juveniles in county jails. The repeal effectively ended the requirement that the agency collect and report this data. Because TCJS is no longer required to report this data, Chapter 269 Subchapter D is obsolete.

Repealing these rules will help keep the minimum jail standards uncluttered by obsolete regulations.

No public comments were received regarding the rule review.

The repeal is adopted under statutory authority of Government Code, Chapter 511, which authorizes the Texas Commission on Jail Standards to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails. This adoption does not affect other rules or statutes.

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 23, 2023.

TRD-202301899

Brandon Wood  
Executive Director

Texas Commission on Jail Standards

Effective date: June 12, 2023

Proposal publication date: March 10, 2023

For further information, please call: (512) 463-5505



## PART 13. TEXAS COMMISSION ON FIRE PROTECTION

### CHAPTER 421. STANDARDS FOR CERTIFICATION

#### 37 TAC §421.17

The Texas Commission on Fire Protection (commission) adopts the proposed amendments to 37 Texas Administrative Code Chapter 421, Standards for Certification, concerning the proposed amendment to §421.17, Requirement to Maintain Certification.

#### BACKGROUND AND PURPOSE

The purpose of the proposed title change is to reflect the new title of the head of the agency.

Chapter 421, Standards for Certification, §421.17, Requirement to Maintain Certification, is adopted without changes to the text as published in the December 30, 2022, issue of the *Texas Register* (47 TexReg 8959). These rules will not be republished.

No comments were received from the public regarding the adoption of the amendment.

The rule is adopted under Texas Government Code §419.008, which authorizes the commission to adopt or amend rules to perform the duties assigned to the commission. The rule is also adopted under Texas Government Code §419.032, which



authorizes the commission to adopt rules establishing the requirements for certification; and §419.0325, which authorizes the commission to obtain the criminal history record information for the individual seeking certification by the commission.

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 26, 2023.

TRD-202301931

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Effective date: June 15, 2023

Proposal publication date: December 30, 2022

For further information, please call: (512) 936-3841



**CHAPTER 433. DRIVER/OPERATOR  
SUBCHAPTER A. MINIMUM STANDARDS  
FOR DRIVER/OPERATOR-PUMPER**

**37 TAC §433.5**

The Texas Commission on Fire Protection (the commission) adopts the amendment to Chapter 433, Driver/Operator, concerning, Subchapter A, Minimum Standards for Driver/Operator-Pumper, §433.5, Examination Requirements.

The amendment corrects a grammatical error.

Chapter 433, Driver/Operator, concerning, Subchapter A, Minimum Standards for Driver/Operator-Pumper, §433.5, Examination Requirements, is adopted without changes to the text as published in the December 23, 2022, issue of the *Texas Register* (47 TexReg 8518). These rules will not be republished.

No comments were received from the public regarding the adoption of the amendment.

The rule is adopted under Texas Government Code §419.008, which authorizes the commission to adopt or amend rules to perform the duties assigned to the commission. The rule is also adopted under Texas Government Code §419.032, which authorizes the commission to adopt rules establishing the requirements for certification; and §419.0325, which authorizes the commission to obtain the criminal history record information for the individual seeking certification by the commission.

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 26, 2023.

TRD-202301932

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Effective date: June 15, 2023

Proposal publication date: December 23, 2022

For further information, please call: (512) 936-3841





# REVIEW OF AGENCY RULES

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

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

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

## Proposed Rule Reviews

Health and Human Services Commission

### Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in **Title 26, Part 1**, of the Texas Administrative Code:

#### Chapter 88, State Long-Term Care Ombudsman Program

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of **Chapter 88, State Long-Term Care Ombudsman Program**, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [HHSRulesCoordinationOffice@hhs.texas.gov](mailto:HHSRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 88" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in **Title 26, Part 1**, of the Texas Administrative Code on the Secretary of State's website.

TRD-202301921

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: May 25, 2023



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

CHAPTER 711. INVESTIGATIONS OF INDIVIDUALS RECEIVING SERVICES FROM CERTAIN PROVIDERS

SUBCHAPTER A. INTRODUCTION

SUBCHAPTER C. DUTY TO REPORT

SUBCHAPTER E. CONDUCTING THE INVESTIGATION

SUBCHAPTER F. PROVISION OF SERVICES

SUBCHAPTER G. RELEASE OF REPORT AND FINDINGS

SUBCHAPTER J. APPEALING THE INVESTIGATION FINDING

SUBCHAPTER L. EMPLOYEE MISCONDUCT REGISTRY

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 711, INVESTIGATIONS OF INDIVIDUALS RECEIVING SERVICES FROM CERTAIN PROVIDERS, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [HHSRulesCoordinationOffice@hhs.texas.gov](mailto:HHSRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review 26 TAC Chapter 711" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=26&pt=1&ch=711](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=711).

TRD-202301920

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: May 25, 2023



## Adopted Rule Reviews

Texas Alcoholic Beverage Commission

### Title 16, Part 3

The Texas Alcoholic Beverage Commission (TABC) has completed its review of 16 TAC §§50.1, 50.3 - 50.5, 50.8, 50.12 - 50.20, 50.23, and 50.26 - 50.33, relating to Alcoholic Beverage Seller Server and Delivery Driver Training. This review was done pursuant to Texas Government Code §2001.039, which directs state agencies to review and consider for re adoption each of their rules. The proposed rule review was published in the April 14, 2023, issue of the *Texas Register* (48 TexReg 1973).

SUMMARY OF COMMENTS. TABC did not receive any comments on this rule review.

READOPTION OF RULES. After review, TABC finds that the reasons for adopting 16 TAC §§50.1, 50.3 - 50.5, 50.8, 50.12 - 50.20, 50.23,

and 50.26 - 50.33 continue to exist. Therefore, TABC readopts those rules.

TRD-202301922  
James Person  
General Counsel  
Texas Alcoholic Beverage Commission  
Filed: May 25, 2023



Texas Education Agency

**Title 19, Part 2**

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 75, Curriculum, Subchapter AA, Commissioner's Rules Concerning Driver Education Standards of Operation for Public Schools, Education Service Centers, and Colleges or Universities, and Subchapter BB, Commissioner's Rules Concerning Provisions for Career and Technical Education, pursuant to Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 75, Subchapters AA and BB, in the January 27, 2023 issue of the *Texas Register* (48 TexReg 418).

Relating to the review of 19 TAC Chapter 75, Subchapter AA, TEA finds that the reasons for adopting the rules continue to exist and readopts the rules. TEA received no comments related to the review. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 75, Subchapter BB, TEA finds that the reasons for adopting the rules continue to exist and readopts the rules. TEA received no comments related to the review. In the future, TEA anticipates updating §75.1022 to clarify the types of certificates referenced and §76.1023 to update cross-references.

This concludes the review of 19 TAC Chapter 75.

TRD-202301946  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: May 26, 2023



# TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 34 TAC §47.17(g)

## Teacher Retirement System of Texas Life Annuity Factors Per \$1 of Monthly Benefit

Age at Retirement	Annuity Factor	Age at Retirement	Annuity Factor
21	174.712	61	142.241
22	174.536	62	140.284
23	174.342	63	138.210
24	174.131	64	136.015
25	173.902	65	133.695
26	173.655	66	131.246
27	173.391	67	128.666
28	173.108	68	125.953
29	172.806	69	123.108
30	172.484	70	120.137
31	172.139	71	117.038
32	171.771	72	113.815
33	171.378	73	110.469
34	170.957	74	106.999
35	170.508	75	103.412
36	170.028	76	99.717
37	169.514	77	95.930
38	168.967	78	92.076
39	168.381	79	88.175
40	167.756	80	84.256
41	167.090	81	80.334
42	166.384	82	76.435
43	165.625	83	72.569
44	164.814	84	68.741
45	163.948	85	64.961
46	163.026	86	61.240
47	162.047	87	57.610
48	161.009	88	54.102
49	159.908	89	50.760
50	158.743	90	47.629
51	157.513	91	44.717
52	156.224	92	42.001
53	154.879	93	39.451
54	153.488	94	36.988
55	152.056	95	34.549
56	150.584	96	32.124
57	149.065	97	29.711
58	147.486	98	27.371
59	145.831	99	25.179
60	144.087	100	23.195



# IN ADDITION

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

## Comptroller of Public Accounts

### Certification of the Average Closing Price of Gas and Oil - April 2023

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period April 2023 is \$48.72 per barrel for the three-month period beginning on January 1, 2023, and ending March 31, 2023. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of April 2023, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period April 2023 is \$1.51 per mcf for the three-month period beginning on January 1, 2023, and ending March 31, 2023. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of April 2023, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of April 2023 is \$79.44 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of April 2023, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of April 2023 is \$2.22 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of April 2023, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

Issued in Austin, Texas, on May 30, 2023.

TRD-202301960

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Filed: May 30, 2023

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission

may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 11, 2023**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **July 11, 2023**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: BRAZOS PAVING INCORPORATED; DOCKET NUMBER: 2022-0923-WQ-E; IDENTIFIER: RN11528451; LOCATION: Bryan, Brazos County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Ellen Ojeda, (512) 239-2581; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Busy B Septic Services, LLC; DOCKET NUMBER: 2020-1497-SLG-E; IDENTIFIER: RN110641081; LOCATION: Boerne, Kendall County; TYPE OF FACILITY: sludge transporter business; RULES VIOLATED: 30 TAC §312.143(a), by failing to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the wastes and the Texas facility has written authorization by permit or registration issued by the Executive Director to receive wastes; 30 TAC §312.144(a), by failing to prominently mark vehicles used to collect and transport wastes; and 30 TAC §312.147(a), by failing to prevent the storage of waste in a mobile closed container for more than four days; PENALTY: \$25,938; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: City of Austin; DOCKET NUMBER: 2021-0900-MWD-E; IDENTIFIER: RN102077328; LOCATION: Austin, Travis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1),

and Texas Pollutant Discharge Elimination System Permit Number WQ0012971001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$8,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,600; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(4) COMPANY: City of Mason; DOCKET NUMBER: 2021-0836-MWD-E; IDENTIFIER: RN101917599; LOCATION: Mason, Mason County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010670001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: \$19,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$15,400; ENFORCEMENT COORDINATOR: Ellen Ojeda, (512) 239-2581; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(5) COMPANY: City of Mount Vernon; DOCKET NUMBER: 2021-0853-MWD-E; IDENTIFIER: RN102962230; LOCATION: Mount Vernon, Franklin County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and TWC, §26.121(a)(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011122002, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(1) and §319.5(b) and TPDES Permit Number WQ0011122002, Effluent Limitations and Monitoring Requirements Number 1, by failing to collect and analyze samples at the intervals specified in the permit; PENALTY: \$17,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$13,900; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(6) COMPANY: Eggemeyer Land Clearing, LLC; DOCKET NUMBER: 2023-0309-WQ-E; IDENTIFIER: RN106324650; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(7) COMPANY: EMJ CONSTRUCTION LLC; DOCKET NUMBER: 2022-0791-WQ-E; IDENTIFIER: RN111168993; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Ellen Ojeda, (512) 239-2581; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(8) COMPANY: NORTHWEST HARRIS COUNTY MUD 20; DOCKET NUMBER: 2022-0821-WQ-E; IDENTIFIER: RN103907002; LOCATION: Houston, Harris County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Ellen Ojeda, (512) 239-2581; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Shell USA, Incorporated f/k/a Shell Oil Company; DOCKET NUMBER: 2021-0294-AIR-E; IDENTIFIER: RN100211879; LOCATION: Deer Park, Harris County; TYPE OF

FACILITY: oil refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), 116.715(a), and 122.143(4), Flexible Permit Numbers 21262 and PSDTX928, Special Conditions Number 1, Federal Operating Permit Number O1669, General Terms and Conditions and Special Terms and Conditions Numbers 24 and 30.A, by failing to prevent unauthorized emissions; PENALTY: \$25,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,500; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: UBANOSKI, DERRICK S; DOCKET NUMBER: 2023-0633-LII-E; IDENTIFIER: RN104283437; LOCATION: Magnolia, Montgomery County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Carlos Flores, (915) 834-4964; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202301958

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: May 30, 2023



#### Enforcement Orders

An agreed order was adopted regarding VICTORY ROCK TEXAS, LLC, Docket No. 2021-0751-AIR-E on May 30, 2023 assessing \$7,004 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding G-N-K, INC. dba Road Runner Food Mart 33, Docket No. 2021-1145-PST-E on May 30, 2023 assessing \$7,258 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202302000

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 31, 2023



#### Enforcement Orders

An agreed order was adopted regarding Poly-America, L.P., Docket No. 2021-0625-AIR-E on May 31, 2023 assessing \$9,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Valero Refining-Texas, L.P., Docket No. 2021-0429-AIR-E on May 31, 2023 assessing \$81,938 in administrative penalties with \$16,387 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.



An agreed order was adopted regarding Ball Metal Beverage Container Corp., Docket No. 2021-0474-AIR-E on May 31, 2023 assessing \$7,750 in administrative penalties with \$1,550 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texmark Chemicals, Inc., Docket No. 2021-1528-AIR-E on May 31, 2023 assessing \$9,300 in administrative penalties with \$1,860 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sekisui Specialty Chemicals America, LLC, Docket No. 2021-1496-AIR-E on May 31, 2023 assessing \$27,200 in administrative penalties with \$5,440 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Magellan E & P Holdings, Inc., Docket No. 2021-0933-AIR-E on May 31, 2023 assessing \$85,032 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Weatherford Aerospace, LLC, Docket No. 2022-0686-AIR-E on May 31, 2023 assessing \$57,125 in administrative penalties with \$11,425 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Holcim (US) Inc., Docket No. 2022-1408-AIR-E on May 31, 2023 assessing \$93,267 in administrative penalties with \$18,653 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding WEINRITTER REALTY, LP and WRR COMMERCE LLC, Docket No. 2019-0842-IHW-E on May 31, 2023 assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TA Operating LLC dba Petro Stopping Center 307, Docket No. 2021-1402-IHW-E on May 31, 2023 assessing \$12,092 in administrative penalties with \$2,418 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas Environmental, LLC, Docket No. 2021-0871-IWD-E on May 31, 2023 assessing \$37,050 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ellen Ojeda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Prasek's Hillje Smokehouse, INC., Docket No. 2021-1252-IWD-E on May 31, 2023 assessing

\$17,550 in administrative penalties with \$3,510 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Gulf West Landfill TX, LP, Docket No. 2022-0462-IWD-E on May 31, 2023 assessing \$9,501 in administrative penalties with \$1,900 deferred. Information concerning any aspect of this order may be obtained by contacting Cecilio Banuelos, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of New Home, Docket No. 2022-0744-MLM-E on May 31, 2023 assessing \$8,998 in administrative penalties with \$1,799 deferred. Information concerning any aspect of this order may be obtained by contacting Daphne Greene, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Brand Technologies (TX), Inc., Docket No. 2019-0983-MSW-E on May 31, 2023 assessing \$2,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Fast Recycling, Inc., Docket No. 2021-0639-MSW-E on May 31, 2023 assessing \$46,649 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Memorial Villages Water Authority, Docket No. 2021-1556-MWD-E on May 31, 2023 assessing \$31,500 in administrative penalties with \$6,300 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Town of Anthony, Docket No. 2021-0855-MWD-E on May 31, 2023 assessing \$114,062 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ellen Ojeda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Austwell, Docket No. 2021-0542-MWD-E on May 31, 2023 assessing \$17,687 in administrative penalties with \$3,537 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2021-1119-MWD-E on May 31, 2023 assessing \$45,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cecilio Banuelos, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LEASE BUILDERS, L.L.C., Docket No. 2021-1568-MWD-E on May 31, 2023 assessing \$12,750 in administrative penalties with \$2,550 deferred. Information concerning any aspect of this order may be obtained by contacting Cecilio Banuelos, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding UNIVERSAL FOREST PRODUCTS TEXAS LLC, Docket No. 2022-0857-MWD-E on May 31, 2023 assessing \$10,500 in administrative penalties with \$2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Ellen Ojeda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding IMEX ENTERPRISES, LLC and Grapeland Investments, LLC, Docket No. 2022-0259-PST-E on May 31, 2023 assessing \$9,400 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding F.S. DEVELOPMENT, LTD., Docket No. 2021-1598-PST-E on May 31, 2023 assessing \$7,666 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JW Sands, LLC, Docket No. 2021-1527-AIR-E on May 31, 2023 assessing \$131,000 in administrative penalties with \$26,200 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Gerald Holmes, Docket No. 2021-0870-MLM-E on May 31, 2023 assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Kelly Chittum, Docket No. 2020-0715-MSW-E on May 31, 2023 assessing \$3,937 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Kenny Hughes, Docket No. 2021-1105-MLM-E on May 31, 2023 assessing \$8,372 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202302001  
Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: May 31, 2023



#### Notice of Correction to Shutdown/Default Order Number 1

In the March 3, 2023, issue of the *Texas Register* (48 TexReg 1341), the Texas Commission on Environmental Quality (commission) published notice of a Shutdown/Default Order, specifically Item Number 1, for F.S. DEVELOPMENT, LTD.; Docket Number 2021-1598-PST-E. The error is as submitted by the commission.

The reference to the Order Type should be corrected to read: "Default"

For questions concerning the error, please contact William Hogan at (512) 239-5918.

TRD-202301963  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: May 30, 2023



#### Notice of District Petition

Notice issued May 26, 2023

TCEQ Internal Control No. D-04042023-004; 67213, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of Blue Grass Acres Municipal Utility District of Johnson County (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 is one lienholder, Harper Cattle, LLC, a Texas limited liability company, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 648.6 acres located within Johnson County, Texas; and (4) some of the land within the proposed District is partially within the extraterritorial jurisdiction of the City of Venus. The petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$117,500,000 (\$92,000,000 for water, wastewater, and drainage and \$25,500,000 for roads). The Property is located partially within the extraterritorial jurisdiction of the City of Venus, Johnson County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District.

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must

submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202301993

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 31, 2023



#### Notice of District Petition

Notice issued May 26, 2023

TCEQ Internal Control No. D-03292023-049; TCCI Sanctuary, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of Sanctuary Municipal Utility District No. 1 of Denton County (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 two lienholders, Grandview Bank and J. Young and Cattle, Ltd., on the property to be included in the proposed District, notification of creation was sent via certified mail to each lienholder; (3) the proposed District will contain approximately 433.92 acres located within Denton County, Texas; and (4) the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Denton. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of, and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional

facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$34,375,000 (\$27,695,000 for water, wastewater, and drainage and \$6,680,000 for roads). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District.

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202301994

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 31, 2023



#### Notice of District Petition

Notice issued May 26, 2023

TCEQ Internal Control No. D-03292023-051; TCCI Sanctuary, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of Sanctuary Municipal Utility District No. 2 of Denton County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 377.11 acres located within Denton County, Texas; and (4) the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Denton. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of, and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$26,750,000 (\$21,160,000 for water, wastewater, and drainage and \$5,590,000 for roads). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District.

#### INFORMATION SECTION

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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. Re-

quests 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](http://www.tceq.texas.gov).

TRD-202301995

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 31, 2023



#### Notice of District Petition

Notice issued May 26, 2023

TCEQ Internal Control No. D-03152023-025; LB Warren, LLC (Petitioner) filed a petition for creation of Williamson County Municipal Utility District No. 39 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, First National Bank Texas, on the property to be included in the proposed District and the aforementioned entity has consented to the creation of the District; (3) the proposed District will contain approximately 232.441 acres of land, more or less, located within Williamson County, Texas; and (4) the land to be included within the proposed District is not within the extraterritorial jurisdictions of any city. The petition further states that the proposed District will construct, purchase, acquire, maintain, own and operate water, wastewater, drainage, road and park and recreational facilities within the proposed District. It further states that the planned residential and commercial development of the area and the present and future inhabitants of the area will be benefited by the above-referenced work, which will promote the purity and sanitary condition of the State's waters and the public health and welfare of the community. 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 \$50,060,000 (\$43,370,000 for water, wastewater, and drainage facilities, \$3,470,000 for recreation facilities, and \$3,220,000 for road facilities).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202301996

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 31, 2023



#### Notice of District Petition

Notice issued May 26, 2023

TCEQ Internal Control No. D-01302023-038; Macedonia Asset LLC, a Texas limited liability company (Petitioner) filed a petition for creation of Woodside Manor Municipal Utility District (District) of Waller County with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Prosperity Bank, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 79.106 acres located within Waller County, Texas; and (4) all of the land within the proposed District is located outside the corporate boundaries and the extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) to collect, transport, process, dispose of and control domestic, and commercial wastes; to gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water in the District; (3) to design, acquire, construct, finance, improve, operate,

and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; (4) design, acquire, construct, finance, improve, and maintain parks and recreational facilities; and (5) and to purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$17,640,000 (\$10,370,000 for water, wastewater, and drainage plus \$1,000,000 for recreation plus \$6,270,000 for roads).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202301997

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 31, 2023



#### Notice of District Petition

Notice issued May 26, 2023

TCEQ Internal Control No. D-02152023-060; RESERVE AT BALCONES LAND HOLDINGS, LLC (Petitioner) filed a petition for creation of The Reserve at Balcones Municipal Utility District of Williamson County (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 is one lienholder, Citizens National Bank, on the property to be included in the proposed district and information provided in the petition indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 248.93 acres of land located within Williamson County, Texas; and (4) no portion of the land to be included within the proposed District is located within the corporate limits or extraterritorial jurisdiction of any city, town or village in Texas. The petition further states that the proposed District will (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) to gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water or provide adequate drainage in the District; and (3) to purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants and enterprises as shall be consistent with all of the purposes for which the proposed District is created. Additional work and services which may be performed by the proposed District include the purchase, construction, acquisition, provision, operation, maintenance, repair, improvement, extension, and development of a roadway system for the inhabitants of the District. 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 \$14,050,000 (including \$9,050,000 for utilities plus \$5,000,000 for roads).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at

(512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202301998  
Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: May 31, 2023

#### ◆ ◆ ◆ Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 11, 2023**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 11, 2023**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: OLMOS EQUIPMENT, INC.; DOCKET NUMBER: 2019-0973-MLM-E; TCEQ ID NUMBER: RN101381820; LOCATION: 440 Pinn Road, San Antonio, Bexar County; TYPE OF FACILITY: construction warehouse; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tanks (USTs); TWC, §26.3475(d) and 30 TAC §334.49(a)(2), by failing to ensure the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; Texas Health and

Safety Code, §371.041, 30 TAC §324.4(1), and 40 Code of Federal Regulations (CFR) §279.22(b), by failing to maintain containers used to store used oil in good condition and not leaking; 30 TAC §324.15 and 40 CFR §279.22(d)(3), by failing to clean up and properly manage a release of used oil; and 30 TAC §330.15(c), by causing, suffering, allowing, or permitting the unauthorized disposal of municipal solid waste; PENALTY: \$52,197; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-202301962  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: May 30, 2023



### Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 11, 2023**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 11, 2023**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: City of Strawn; DOCKET NUMBER: 2019-1804-MWD-E; TCEQ ID NUMBER: RN101424968; LOCATION: South Front Street, approximately 0.05 miles west of the intersection of South Front Street and McKinley Avenue near Strawn, Palo Pinto County; TYPE OF FACILITY: water treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and §319.11(d), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010326002, Effluent Limitation and Monitoring Requirement Number 1 and Operational Requirement Number 5, by failing to comply with flow measurements, equipment, installation, and procedures that conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director; and 30 TAC §305.125(1) and §319.11(c), and TPDES Permit Number

WQ0010326002, Effluent Limitations and Monitoring Requirements Numbers 1, 2, and 4, by failing to properly collect and analyze effluent samples according to the permit; PENALTY: \$38,000; Supplemental Environmental Project offset amount of \$38,000 applied to Wastewater Treatment Plant Improvements; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: RCH WATER SUPPLY CORPORATION; DOCKET NUMBER: 2021-0601-PWS-E; TCEQ ID NUMBER: RN102689635; LOCATION: approximately 0.25 miles south of State Highway 205 on Lofland Circle, Rockwall, Rockwall County; TYPE OF FACILITY: public water system; RULE VIOLATED: 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or backflow prevention assembly, as identified in 30 TAC §290.47(f); PENALTY: \$3,150; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202301961  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: May 30, 2023



### Notice of Water Quality Application

The following notice was issued on May 25, 2023:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 **WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS ISSUED**.

#### INFORMATION SECTION

City of Alpine has applied for a minor amendment to the Texas Pollutant Discharge Elimination System Permit No. WQ0014349001 to authorize reduced discharge of treated domestic wastewater at an annual average flow not to exceed 1,480,000 gallons per day to daily average flow 900,000 gallon per day. The facility is approximately 2.5 miles northeast of the City of Alpine, on the west bank of Alpine Creek, in Brewster County, Texas 79830.

TRD-202301999  
Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: May 31, 2023



### 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 26. Requests for federal consistency review were deemed administratively complete for the following

project(s) during the period of May 22, 2023 to May 25, 2023. 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 §§30.25, 30.32, and 30.41, 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 2, 2023. The public comment period for this project will close at 5:00 p.m. on Sunday, July 2, 2023.

#### FEDERAL AGENCY ACTIONS:

**Applicant:** Cape Velero Homeowners Association

**Location:** The project site is located in Port Bay, within an existing dredged canal and along the south and southwest shores of the Cape Velero Estates Development, in Rockport, Aransas County, Texas.

Latitude and Longitude:

Canal: 28.04033, -97.12442

DMPA 1 (upland): 28.04321, -97.12712

DMPA 2 (upland): 28.04545, -97.12324

Channel/Breakwater: 28.03950, -97.12780

Reef Ball Breakwater East End: 28.03964, -97.12790

Reef Ball Breakwater West End: 28.03953, -97.12865

**Project Description:** The applicant proposes to conduct maintenance dredging of 1.97 acres of an existing boat launch basin and boat canal. The boat launch basin and canal fronting the Cape Velero Subdivision was originally excavated in the mid-1980s. The existing 1.97-acre canal/basin area would be dredged to a depth of -3.0 feet mean sea level (MSL) and would yield an estimated 6,356 cubic yards (CY) of dredged material. In addition, the applicant proposes to establish a dredged-and-marked 30-foot-wide by 150-foot-long access channel into Port Bay from the existing boat canal. The proposed channel would confine boat traffic to a single channel until reaching navigable depths in Port Bay, thus minimizing possible seagrass and bay bottom damage by boat traffic where no channel currently exists. The proposed channel would have a 4- by 185-foot limestone breakwater (740-square-foot) installed on the southeast side to reduce wave energy and bay bottom creep, and to minimize sedimentation and reduce the frequency of future maintenance dredging requirements. This feature would affect 0.01 acre of bay bottom. Four 8-inch-diameter pilings would be installed at 37-foot intervals along the edge of the breakwater as markers to aid navigation. The new 0.11-acre boat access channel would be dredged to a depth of -3.0 feet MSL. The calculated dredge material volume would be 292 CY of material.

The dredged material would be mechanically excavated using a Wilco amphibious excavator. The contractor unit is 16-foot-wide and 32-foot-long with two 5-foot-wide pontoons and weighs 58,000 pounds. The drive system is hydraulic, powered by the Caterpillar 330 Excavator engine and hydraulic system, and has pyramid or flotation shoes on the drive system. This excavator floats in -4.5 feet of water and has a 50-foot operating reach. Dredging would start at the launch ramp basin and then proceed out the boat canal. Initially, the dredged material would be placed within a ring of hay bales on the uplands adjacent to the boat basin for dewatering until the excavator is beyond reach of the shoreline. A backhoe onshore would transfer the dewatered material to a dump truck that would transport the material to one of two upland disposal areas for unloading and leveling. Silt fencing would be utilized at the upland placement areas to hold the material in place until stabilized. When dredging beyond reach of the boat basin shoreline, and through the extent of the boat canal and proposed channel into Port Bay, the dredged materials would be placed on a set of small

barges with sidewalls. When barge loading capacity is reached, the individual barges would be pushed by a small outboard motor to the launch ramp and offloaded by backhoe into dump trucks. The dump trucks would relay the material to the upland disposal areas for unloading and leveling. Weighted sediment curtains would be used when working in open waters to minimize turbidity outside the work area. After the material has been placed within the upland disposal areas and one to two weeks of drying time has occurred, a small bulldozer would spread the material evenly within the disposal area. Based upon the anticipated dredge volume, an approximately 1-foot layer of material would be spread within each of the disposal areas. Once settling and conditioning of the materials is achieved over several months, the disposal areas would be seeded with common bermudagrass to establish vegetative cover. The expected time to complete dredging of the canal and associated access channel with breakwater is 22 days.

The applicant also proposes to install a 275-foot-long by 8-foot-wide (2,200-square-foot) breakwater consisting of a double row of 36-inch-diameter reef balls. The reef balls would be installed on a staggered offset with 3 feet of separation. The expected time to complete installation of the reef ball breakwater is 3 days.

In addition, the project would include launch ramp improvements through the addition of a 4- by-25-foot wing pier; a 4- by-60-foot walkway, and three 3- by-20-foot finger piers within the canal.

An estimated 4,585-square-foot of Widgeon grass (*Ruppia maritima*) would be directly impacted from the dredging and placement of the channel breakwater as currently proposed.

The applicant has stated that they have avoided and minimized the environmental impacts by the use of weighted sediment curtains during dredging operations to minimize turbidity outside the work area, and would use an upland contained disposal area for dewatering of dredged material.

Out of Kind - On-Site mitigation is offered to offset the seagrass impacts summarized above. The construction of a breakwater using a double row of 36-inch-diameter reef balls is proposed for the offset of impacts caused by the proposed mechanical dredging. The reef balls would be installed on a staggered offset with 3 feet of separation. This breakwater would dissipate wave energy from the prevailing winds that impact this impaired shoreline and slow or stop scouring of the nearshore water bottom. The shadow effect of the breakwater should allow for the expansion and/or establishment of submerged aquatic vegetation in the shadow of the breakwater within the bare bay bottoms fronting the wetland shoreline, and bare bottoms within the shallow waters behind the wetland shoreline. This action is expected to restore water quality and aquatic function through the re-colonization of seagrasses within the wave energy shadow. The placement of the breakwater would be aligned where areas of bare bay bottom interface with existing submerged aquatic vegetation. An indirect effect of the breakwater would be to slow or stop the continuing loss of the emergent wetlands downwind of the structure and potentially allow for some recovery. The wave energy shadow behind the proposed breakwater covers approximately 5,000-square-foot (0.11 acre) of bay bottom fronting the wetland shoreline.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2005-00696. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 23-1274-F1

**Applicant:** City of Palacios



**Location:** The project site is located in Tres Palacios Bay, at two locations: the first being south of Fisherman's Memorial adjacent to Margerum Boulevard then southwest to the terminus of County Road 321; the second site runs parallel to a portion of East Bayshore Drive/County Road 305, in Matagorda County, Texas.

**Latitude and Longitude:**

North Project Site: 28.731785, -96.201372

South Project Site: 28.694422, -96.235024

**Project Description:** The applicant proposes to install approximately 6,620 linear feet of 20-foot-wide breakwaters into open waters of Tres Palacios Bay for shoreline protection. The applicant proposes to discharge approximately 13,515 cubic yards of clean rock fill to a height of 3 feet above the mean high water line (MHWL) into approximately 1.68 acres of unvegetated open water for the northern breakwater which would be comprised of five individual segments.

The southern breakwater would require the discharge of approximately 8,850 cubic yards of clean rock fill to a height of 3 feet above the MHWL into approximately 1.34 acres of unvegetated open water which would be comprised of three individual segments. The dimensions of each segment are located within the plans.

The applicant has stated that they have avoided and minimized the environmental impacts by orienting the design and location of the breakwater reefs to avoid impacts to waters of the U.S. as much as possible and designing the temporary workspace to be as close as possible to where the breakwater reefs will be constructed, yet still be located in unvegetated portions of the bay with no seagrass beds or oyster reefs, and being located as close as possible to the marina boat channel so barges and equipment have convenient, close access to the project site.

The applicant is not proposing mitigation since the project will serve to protect existing wetland habitat. The applicant has stated that although approximately 1.36 acres of potential oyster habitat may be impacted by the proposed project, the breakwaters would create an additional 3.28 acres of oyster habitat resulting in a net gain of 1.72 acres of oyster habitat.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2023-00171. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 23-1276-F1

**Applicant:** Seahawk Shorelines System, LLC

**Location:** The project site is located in the Gulf of Mexico, at the Matagorda Ship Entrance, approximately 2.5 miles offshore from the Matagorda Peninsula jetties, in Matagorda County, Texas.

**Latitude and Longitude:**

Beginning of Pipeline: 23.388411° N, 096.289683° W;

End Of Pipeline: 23.3909° N, 096.286783° W

**Project Description:** The applicant proposes to remove an approximately 1,300-foot section of an existing, out-of-service 24-inch pipeline from the eastern side of the Matagorda Ship Channel to the western side of the channel. The pipeline will be exposed, cut into 40- to 80-foot lengths, and manually removed from the channel and placed on a construction barge and removed. If dredging is required for pipeline removal, up to 12,000 cubic yards of material will be excavated by a barge mounted clamshell dredge, placed in a barge, and transported for placement in open water Placement Area (PA) 7.

The ends of the remaining pipeline outside of the channel setback will be capped by a diver.

To avoid and minimize environmental impacts, a designated placement area will be utilized for project spoils. The contractor will closely monitor all excavation activities to ensure only the minimum amount of excavation is utilized to permit access to the pipeline using sonar survey equipment. Dredge spoils will be placed in an established PA-7, which has been used for dredge spoil discharge. This project will not disturb any known environmentally sensitive areas or cultural resources, per the Sampling, Chemical Analysis, and Bioassessment Report of Matagorda Ship Channel Improvement Project. No mitigation is required because all impacts are temporary, and waters would be restored to pre-construction contours and elevations following completion of the activity.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2022-00397. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by The Railroad Commission of Texas as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 23-1277-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at [pialegal@glo.texas.gov](mailto:pialegal@glo.texas.gov). Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov).

TRD-202301959

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: May 30, 2023



## Texas Health and Human Services Commission

### Notice of Public Hearing on Proposed Changes to Payment Rates Related to Nursing Facility (NF) Services

Notice of Public Hearing on proposed changes to payment rates related to Nursing Facility (NF) services, proposed to be effective June 10, 2023, through August 31, 2023.

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on June 13, 2023, at 9:00 a.m. to receive public comments on proposed changes to payment rates related to NF services resulting from Legislative Reviews.

Members of the public may attend the rate hearing in person, which will be held in the HHSC John H Winters Building, Public Hearing Room 125, First Floor, at 701 W. 51st Street, Austin, Texas 78751. HHSC will also broadcast the public hearing; the broadcast can be accessed on the HHS webpage (<https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>). The broadcast will be archived and accessible on demand at the same website. HHSC will hold the hearing in compliance with Texas Human Resources Code Section 32.0282, which requires public notice of hearings on proposed Medicaid reimbursements.

Proposal. HHSC is proposing to implement temporary add-on rates for NFs for miscellaneous costs to be effective June 10, 2023, through August 31, 2023.

Methodology and Justification. The proposed payment rates maintain the emergency add-on reimbursement rate increase for NFs originally implemented for the federally declared COVID-19 public health emergency as described in Senate Bill 30, 88th Legislature, Regular Session, 2023. The proposed payment rates were calculated following S.B. 30, 88th Legislature, Regular Session.

Rate Hearing Packet. A briefing package describing the proposed payment rates will be available on the Provider Finance Department webpage (<https://pfd.hhs.texas.gov/rate-packets>) no later than June 1, 2023. Interested parties may obtain a copy of the briefing package before the hearing by contacting the HHSC Provider Finance Department by telephone at (737) 867-7817; by fax at (512) 730-7475; or by email at [PFD-LTSS@hhs.texas.gov](mailto:PFD-LTSS@hhs.texas.gov). The briefing package will also be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted instead of, or in addition to, oral testimony until 5:00 p.m. on the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by email to [PFD-LTSS@hhs.texas.gov](mailto:PFD-LTSS@hhs.texas.gov). In addition, written comments may be sent by overnight mail or hand delivered to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 W. Guadalupe St., Austin, Texas 78751.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact the HHSC Provider Finance Department by calling (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202301984

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 30, 2023



### Public Notice: Amendment to the Waiver Application for the Home and Community-based Services (HCS) Program

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Home and Community-based Services (HCS) program. HHSC administers the HCS Program under the authority of Section 1915(c) of the Social Security Act. CMS has approved the HCS waiver application through August 31, 2023. The proposed effective date for this amendment is August 31, 2023.

This amendment request proposes to make the following changes:

#### Appendix B

HHSC updated waiver year (WY) 5 to reflect an increase in the Point-in-Time (PIT) and unduplicated participants (Factor C).

#### Appendix J

HHSC revised the unduplicated number of participants (Factor C) and PIT calculations for the overall projected cost of waiver services (Factor D) and the overall projected cost of other Medicaid services furnished to waiver participants (D Prime (D')) for WY5.

The HCS waiver program provides services and supports to individuals with intellectual disabilities who live in their own homes, in the home of a family member, or another community setting such as a three-person or four-person residence operated by an HCS program provider.

Services and supports are intended to enhance quality of life, functional independence, and health and well-being in continued community-based living and to supplement, rather than replace, existing informal or formal supports and resources. Services in the HCS waiver program include individualized skills and socialization, respite, supported employment, adaptive aids, audiology, occupational therapy, physical therapy, prescribed drugs, speech and language pathology, financial management services, support consultation, behavioral support, cognitive rehabilitation therapy, dental treatment, dietary services, employment assistance, minor home modifications, nursing, residential assistance, social work, supporting home living, and transition assistance services.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by July 10, 2023.

The HHSC local offices of social services will post this notice for 30 days.

#### Addresses:

##### U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

##### Telephone

(512) 438-4330

##### Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

##### Email

[TX\\_Medicaid\\_Waivers@hhs.texas.gov](mailto:TX_Medicaid_Waivers@hhs.texas.gov)

TRD-202301992

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2023



### Public Notice: CLASS Amendment 9-1-2023

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Community Living Assistance and Support Services (CLASS) program. HHSC administers the CLASS Program under the authority of Section 1915(c) of the Social Security Act. CMS has approved the CLASS waiver application through August 31, 2024. The proposed effective date for this amendment is September 1, 2023.

The amendment request proposes to make changes to Appendix J of the waiver application based on the 2024-2025 General Appropriations

Act, House Bill 1, 88th Legislature, Regular Session, 2023, (Article II, HHSC Rider 30(a)) that appropriates funding to increase attendant base wages in the CLASS program.

#### Appendix J

HHSC revised the calculations for the overall projected cost of waiver services (Factor D) of waiver year five (9/1/23 - 8/31/24). The updated projections in Appendix J account for rate increases for the following services provided by the waiver provider: prevocational services, respite, and residential habilitation as well as the Consumer Directed Services option for respite and residential habilitation.

A public rate hearing will be held on July 11, 2023, at 9:00 a.m. in Austin, Texas. The hearing will be held in the HHSC, John H Winters Building, Public Hearing Room 125, First Floor, 701 W. 51st Street, Austin, Texas 78751. Members of the public may attend the rate hearing in person. HHSC will also broadcast the public hearing; the broadcast can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. The broadcast will be archived and accessible on demand at the same website.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$1,198,333 for federal fiscal year (FFY) 2023, consisting of \$717,442 in federal funds and \$480,891 in state general revenue. For FFY 2024, the estimated annual aggregate expenditure is \$14,546,715 consisting of \$8,749,849 in federal funds and \$5,796,866 in state general revenue. For FFY 2025, the estimated annual aggregate expenditure is \$14,529,240 consisting of \$8,739,338 in federal funds and \$5,789,902 in state general revenue.

The CLASS waiver program provides community-based services and supports to individuals with a related condition who live in their own homes or in the home of another person, such as a family member. Services and supports are intended to enhance quality of life, functional independence, health and welfare, and to supplement, rather than replace, existing informal or formal supports and resources. Services in the CLASS waiver program are case management, prevocational services, residential habilitation, respite (in-home and out of home), supported employment, prescribed drugs, financial management services, support consultation, adaptive aids, auditory integration training/auditory enhancement training, behavioral support, cognitive rehabilitation therapy, continued family services, dental treatment, dietary, employment assistance, minor home modifications, nursing, occupational therapy services, physical therapy services, specialized therapies, speech and language pathology, support family services and transition assistance services.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by July 10, 2023.

The HHSC local offices of social services will post this notice for 30 days and will have copies of the amendment available for review.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

[TX\\_Medicaid\\_Waivers@hhs.texas.gov](mailto:TX_Medicaid_Waivers@hhs.texas.gov)

For the in-person hearing, persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202302003

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2023



#### Public Notice: DBMD Amendment Effective 9-1-2023

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Deaf Blind with Multiple Disabilities (DBMD) program. HHSC administers the DBMD Program under the authority of Section 1915(c) of the Social Security Act. CMS has approved the DBMD waiver application through February 29, 2028. The proposed effective date for this amendment is September 1, 2023.

The amendment request proposes to make changes to Appendix J of the waiver application based on the 2024 - 2025 General Appropriations Act, House Bill 1, 88th Legislature, Regular Session, 2023, (Article II, HHSC Rider 29 and 30(a)) that appropriates funding to increase the case management services reimbursement rate and attendant base wages in the DBMD program. Additionally, case management services will be allowed to be billed on a monthly basis, rather than hourly, as directed by Rider 29.

#### Appendix J

HHSC revised the calculations for the overall projected cost of waiver services (Factor D) for waiver years one (3/1/23 - 2/29/24) through five (3/1/27 - 2/29/28). The updated projections in Appendix J account for rate increases for the following services provided by the waiver provider: assisted living, chore services, and case management, as well as the following services provided by the waiver provider and through the Consumer Directed Services option: residential habilitation and respite.

HHSC also updated projections for the annual average per capita Medicaid costs for all non-waiver institutional services (Factor G) for waiver years one through five in Appendix J.

A public rate hearing will be held on July 11, 2023, at 9:00 a.m. in Austin, Texas. The hearing will be held in the HHSC, John H Winters Building, Public Hearing Room 125, First Floor, 701 W. 51st Street, Austin, Texas 78751. Members of the public may attend the rate hearing in person. HHSC will also broadcast the public hearing; the broadcast can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. The broadcast will be archived and accessible on demand at the same website.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$51,898 for federal fiscal year (FFY) 2023, consisting of \$31,072 in federal funds and \$20,827 in state general revenue. For FFY 2024, the estimated annual aggregate expenditure is \$626,316 consisting of \$376,729 in federal funds and \$249,587 in state general revenue. For FFY 2025, the estimated annual aggregate expenditure is \$626,271 consisting of \$376,702 in federal funds and \$249,569 in state general revenue.

The DBMD waiver program provides community-based services and supports to individuals with legal blindness, deafness, or a condition that leads to deafblindness, and at least one additional disability that limits functional abilities and who live in their own homes or in the home of another person, such as a family member or in a small group home setting. Services and supports are intended to enhance quality of life, functional independence, health and welfare, and to supplement, rather than replace, existing informal or formal supports and resources. Services in the DBMD waiver program are case management, residential habilitation, respite (in-home and out of home), supported employment, prescribed medications, financial management services, support consultation, adaptive aids and medical supplies, assisted living, audiology services, behavioral support, chore services, dental treatment, dietary services, employment assistance, intervener, minor home modifications, nursing, occupational therapy services, orientation and mobility, physical therapy services, speech, hearing and language therapy, transition assistance services and individualized skills and socialization.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by July 10, 2023.

The HHSC local offices of social services will post this notice for 30 days and will have copies of the amendment available for review.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

[TX\\_Medicaid\\_Waivers@hhs.texas.gov](mailto:TX_Medicaid_Waivers@hhs.texas.gov)

For the in-person hearing, persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202302005

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2023



## Public Notice: Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective June 10, 2023, and will end on August 31, 2023.

The purpose of the amendment is to update the payment rates for Nursing Facilities (NF). The amendment will establish a temporary add-on for NFs for miscellaneous costs pursuant to Senate Bill 30, 88th Legislature, Regular Session, 2023.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$19,312,432 for federal fiscal year 2023, consisting of \$12,045,164 in federal funds and \$7,267,268 in state general revenue.

Further detail on specific reimbursement rate changes is available on the HHSC Provider Finance Department (PFD) website under the proposed effective date at <http://pfd.hhs.texas.gov/rate-packets>.

A public rate hearing will be held on June 13, 2023, at 9:00 a.m. in Austin, Texas. The hearing will be held in the HHSC, John H Winters Building, Public Hearing Room 125, First Floor, 701 W. 51st Street, Austin, Texas 78751. Members of the public may attend the rate hearing in person. HHSC will also broadcast the public hearing; the broadcast can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. The broadcast will be archived and accessible on demand at the same website.

Information about the proposed rate changes and the hearing will be published in the *Texas Register*. Additional information and the notice of hearings can be found at <https://www.sos.state.tx.us/texreg/index.shtml>.

### Copy of Proposed Amendment(s).

Interested parties may obtain additional information or a free copy of the proposed amendments by Kenneth Anzaldua, State Plan Team Lead, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-4326; by facsimile at (512) 730-7472; or by email at [Medicaid\\_Chip\\_SPA\\_Inquiries@hhsc.state.tx.us](mailto:Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us). Copies of the proposed amendments will be available for review at the local county offices of HHSC (formerly the local offices of the Texas Department of Aging and Disability Services).

### Written Comments.

Written comments and requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission  
Attention: Provider Finance, Mail Code H-400  
North Austin Complex  
4601 West Guadalupe Street  
Austin, Texas 78751  
Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFD-LTSS@hhsc.texas.gov

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202301947

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 26, 2023



**Public Notice: Texas State Plan for Medical Assistance Amendment - Home and Community-Based Services Adult Mental Health (HCBS-AMH) §1915(i) State Plan Benefit**

The Texas Health and Human Services Commission (HHSC) announces its intent to submit transmittal number (TN) 23-0024 to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act.

The Centers for Medicare and Medicaid Services approved the Home and Community-Based Services Adult Mental Health (HCBS-AMH) §1915(i) State Plan benefit through August 31, 2025. The requested effective date for this proposed amendment is September 1, 2023.

The proposed amendment updates the Methods and Standards for Establishing Payment Rates based on the 2024 - 2025 General Appropriations Act, House Bill 1, 88th Legislature, Regular Session, 2023, (Article II, HHSC Rider 30(a) which appropriated funding to increase attendant base wages in the Adult Mental Health §1915(i) HCBS AMH State Plan benefit.

HHSC revised calculations for the overall projected cost of state plan benefit services for state plan year four (9/1/23 - 8/31/24) and five (9/1/24 - 8/31/25). The updated projections in the state plan benefit account for rate increases in the following services: assisted living and in-home respite services.

A public rate hearing will be held on July 11, 2023, at 9:00 a.m. in Austin, Texas. The hearing will be held in the HHSC, John H Winters Building, Public Hearing Room 125, First Floor, 701 W. 51st Street, Austin, Texas 78751. Members of the public may attend the rate hearing in person. HHSC will also broadcast the public hearing; the broadcast can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. The broadcast will be archived and accessible on demand at the same website.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$1,256 for federal fiscal year (FFY) 2024, consisting of \$755 in federal funds and \$501 in state general revenue. For FFY

2025, the estimated annual aggregate expenditure is \$1,348 consisting of \$811 in federal funds and \$537 in state general revenue.

Copy of Proposed Amendment - Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Nicole Hotchkiss, State Plan Coordinator, by mail or telephone at the address and telephone number provided below, or by email. Copies of the proposed amendments will be available for review at the local county offices of HHSC.

Written Comments - Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail special delivery mail, hand delivery, fax, or email. Comments must be submitted to HHSC by July 10, 2023.

U.S. Mail

Texas Health and Human Services Commission Attention: Nicole Hotchkiss, SPA Coordinator, Federal Coordination, Rules and Committees

Health and Human Services Commission

PO Box 13247

Mail Code H-310

Austin, Texas 78711

Overnight Mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Nicole Hotchkiss, SPA Coordinator, Federal Coordination, Rules and Committees

John H. Winters Building

Mail Code H-310

701 W. 51st St.

Austin, Texas 78751

Telephone

(512) 438-5035

Fax Attention: Nicole Hotchkiss at (512) 323-1905

Email

Medicaid\_Chip\_SPA\_Inquiries@hhsc.state.tx.us.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202301990

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2023



**Public Notice: TxHML Amendment Effective 9-1-2023**

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Texas Home Living (TxHmL) program. HHSC administers the TxHmL Program under the authority of Section 1915(c) of the Social Security Act. CMS has approved the TxHmL waiver application through February 28, 2027. The proposed effective date for this amendment is September 1, 2023.

The amendment request proposes to make the following changes based on the 2024-2025 General Appropriations Act, House Bill 1, 88th Legislature, Regular Session, 2023, (Article II, HHSC Rider 30(a)) which appropriated funding to increase attendant base wages in the TxHmL program:

#### Appendix J

HHSC revised the calculations for the overall projected cost of waiver services (Factor D) for waiver years two (3/1/23 - 2/28/24) through five (3/1/26 - 2/28/27). The updated projections in appendix J account for rate increases for the following services provided by the waiver provider and through the consumer directed services option: Community Support and Respite.

HHSC also updated projections for the annual average per capita Medicaid costs for all non-waiver institutional services (Factor G) for waiver years two through five in Appendix J.

A public rate hearing will be held on July 11, 2023, at 9:00 a.m. in Austin, Texas. The hearing will be held in the HHSC, John H Winters Building, Public Hearing Room 125, First Floor, 701 W. 51st Street, Austin, Texas 78751. Members of the public may attend the rate hearing in person. HHSC will also broadcast the public hearing; the broadcast can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. The broadcast will be archived and accessible on demand at the same website.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$91,817 for federal fiscal year (FFY) 2023, consisting of \$54,971 in federal funds and \$36,846 in state general revenue. For FFY 2024, the estimated annual aggregate expenditure is \$1,085,815 consisting of \$653,118 in federal funds and \$432,697 in state general revenue. For FFY 2025, the estimated annual aggregate expenditure is \$1,077,414 consisting of \$648,065 in federal funds and \$429,349 in state general revenue.

The TxHmL waiver program provides services and supports to individuals with intellectual disabilities who live in their own homes or in the home of another person, such as a family member. Services and supports are intended to enhance quality of life, functional independence, and health and well-being in continued community-based living and to supplement, rather than replace, existing informal or formal supports and resources. Services in the TxHmL waiver program are respite, supported employment, prescription medications, financial management services, support consultation, adaptive aids, minor home modifications, audiology services, behavioral support, community support, dental treatment, dietary services, employment assistance, occupational therapy services, physical therapy services, nursing, speech-language pathology services, and individualized skills and socialization.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by July 10, 2023.

The HHSC local offices of social services will post this notice for 30 days and will have copies of the amendment available for review.

#### Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

[TX\\_Medicaid\\_Waivers@hhs.texas.gov](mailto:TX_Medicaid_Waivers@hhs.texas.gov)

If an in-person hearing is necessary, persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202302004

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2023

## Texas Department of Insurance

### Company Licensing

Application for incorporation in the state of Texas for Farm Mutual Insurance, a domestic farm mutual. The home office is in Brenham, 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 John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202302002

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: May 31, 2023

## Texas Lottery Commission

### Scratch Ticket Game Number 2499 "EXTREME GREEN"

#### 1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2499 is "EXTREME GREEN". The play style is "key number match".

#### 1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2499 shall be \$5.00 per Scratch Ticket.

#### 1.2 Definitions in Scratch Ticket Game No. 2499.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play

Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, MONEY BAG SYMBOL, STACK OF CASH SYMBOL, VAULT SYMBOL, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200, \$500, \$1,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2499 - 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	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNH
30	TRTY



31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
MONEY BAG SYMBOL	WIN\$
STACK OF CASH SYMBOL	DBL
VAULT SYMBOL	WINX5
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$100,000	100TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2499), 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: 2499-000001-001.

H. Pack - A Pack of the "EXTREME GREEN" Scratch Ticket Game 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 Pack 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.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "EXTREME GREEN" Scratch Ticket Game No. 2499.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "EXTREME GREEN" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-five (55) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "MONEY BAG" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "STACK OF CASH" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "VAULT" Play Symbol, the player wins 5 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly fifty-five (55) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly fifty-five (55) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the fifty-five (55) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-five (55) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to twenty-five (25) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$100,000 will each appear at least once, except on Tickets winning twenty-five (25) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. A non-winning Prize Symbol will never match a winning Prize Symbol.

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. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$5 and 05, \$10 and 10 and \$20 and 20).

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 "MONEY BAG" (WIN\$) Play Symbol will never appear on the same Ticket as the "STACK OF CASH" (DBL) or "VAULT" (WINX5) Play Symbols.

M. The "STACK OF CASH" (DBL) Play Symbol will never appear more than once on a Ticket.

N. The "STACK OF CASH" (DBL) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the prize structure.

O. The "STACK OF CASH" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

P. The "STACK OF CASH" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Q. The "VAULT" (WINX5) Play Symbol will never appear more than once on a Ticket.

R. The "VAULT" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

S. The "VAULT" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

T. The "VAULT" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

U. The "STACK OF CASH" (DBL) and "VAULT" (WINX5) Play Symbols can appear on the same Ticket as per the prize structure.

V. The "MONEY BAG" (WIN\$) Play Symbol will win the prize for that Play Symbol.

W. The "MONEY BAG" (WIN\$) Play Symbol will never appear more than once on a Ticket.

X. The "MONEY BAG" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

Y. The "MONEY BAG" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "EXTREME GREEN" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "EXTREME GREEN" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "EXTREME GREEN" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "EXTREME GREEN" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "EXTREME GREEN" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2499. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2499 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	768,000	9.38
\$10.00	576,000	12.50
\$20.00	288,000	25.00
\$50.00	112,000	64.29
\$100	19,500	369.23
\$200	2,300	3,130.43
\$500	1,160	6,206.90
\$1,000	60	120,000.00
\$100,000	5	1,440,000.00

\*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 4.07. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2499 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2499, 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-202301985  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 31, 2023

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**Regional Water Planning Group - Area B**

**Regional Water Planning Group - Area B Solicitation of Nominations**

The Regional Water Planning Group - Area B (RWPG-B) was established by state law, including Texas Water Code Chapter 16, 31 TAC Chapters 355, 357, and 358, and the Texas Water Development Board. Region B includes the following counties: Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Montague, Wichita, Wilbarger, and the part of Young County that encompasses the City of Olney. The purpose of the RWPG-B is to provide comprehensive regional water planning and to carry out the related responsibilities placed on regional water planning groups by statute. Foremost among those responsibilities is the development of a 50-year regional water plan that identifies both short- and long-term water supply needs and recommends water management strategies for addressing those needs.

Notice is hereby given that the Regional Water Planning Group - Area B is soliciting nominations for the following interest group categories whose 5-year term expires effective August 31, 2023:

- Agriculture - Heath Ownbey
- Agriculture - Wilson Scaling
- Municipalities - Alderman Gayle Simpson
- Counties - Judge Randall Jackson
- Environmental - J. K. (Rooter) Brite

Industries - Tamela Armstrong  
River Authorities - Randy Whiteman  
Water Districts - Mike McGuire  
Water Utilities - Tommy Holub

To qualify for voting membership on the RWPG-B, nominees must represent the interest group category for which a member is sought within the Region B planning area, be willing to participate in the regional water planning process, and abide by the Bylaws of the planning group.

Nominations for one of the interest group categories listed above may be submitted to the administrative agency - Red River Authority of Texas, Attention: Stacey Green, Post Office Box 240, Wichita Falls, Texas 76307-0240, or emailed to [stacey.green@rra.texas.gov](mailto:stacey.green@rra.texas.gov). **Nominations should include nominee's name and contact information along with a resume and/or cover letter detailing their interest/qualifications. Nominations must be received or postmarked by Monday, July 17, 2023.** Nominations will be considered at the August 2023 RWPG-B Public Meeting TBA.

For additional information, please contact Red River Authority of Texas at (940) 723-2236.

TRD-202301949  
Randy Whiteman  
General Manager  
Regional Water Planning Group - Area B  
Filed: May 26, 2023

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## Texas Veterans Commission

### Correction of Error

The Texas Veterans Commission (Commission) proposed amendments to 40 TAC §450.1 and §450.3 in the May 26, 2023, issue of the *Texas Register* (48 TexReg 2688). Due to an error by the Texas Register, the first paragraph of the preamble was incorrect. The paragraph should have read as follows:

The Texas Veterans Commission (commission) proposes an amendment to Chapter 450, §450.1 and §450.3, Veterans County Service Officers Certificate of Training. Simultaneous with this proposed amendment, the commission separately posts notice that, pursuant to Texas Government Code §2001.039, the commission will review Title 40, Part 15, Chapter 450, Veterans County Service Officers Certificate of Training.

TRD-202301989

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## Workforce Solutions Deep East Texas

Request for Proposal #23-418 Lease Space for Workforce Solutions Deep East Texas Polk County Workforce Center in Livingston, Texas

Issued by

WORKFORCE SOLUTIONS DEEP EAST TEXAS

415 S. First Street, Suite 110B, Lufkin, Texas 75901

(936) 639-8898

[www.detwork.org](http://www.detwork.org)

The Deep East Texas Local Workforce Development Board dba Workforce Solutions Deep East Texas Board (Board) is soliciting proposals for lease space for its Workforce Solutions Deep East Texas Polk County Workforce Center (WFC) to be located in Livingston, (Polk County), Texas. The purpose of this Request for Proposal (RFP) is to solicit proposals to lease existing space, renovate existing space, and/or construct a facility that can be leased in whole or part to the Board.

Anyone interested in submitting a proposal should obtain a copy of the Request for Proposal (RFP) at [www.detwork.org](http://www.detwork.org) or request a copy of the RFP by emailing [procurement@detwork.org](mailto:procurement@detwork.org).

Release Date: May 26, 2023

Bidders Conference: June 22, 2023, 9:00 a.m. (CST)

Deadline for Submission of Questions: June 29, 2023, 2:00 p.m. (CST)

Proposal Due Date and Time: July 20, 2023, 4:00 p.m. (CST)

Projected Notice of Award Date: August 18, 2023

Proposals must be submitted via email to [procurement@detwork.org](mailto:procurement@detwork.org).

Workforce Solutions Deep East Texas is an equal opportunity employer/program and auxiliary aids and services are available upon request to include individuals with disabilities.

RELAY Texas service at 711 or (TDD) 1-(800) 735-2989/1-(800) 735-2988 (voice).

TRD-202301948  
Mark Durand  
Executive Director  
Workforce Solutions Deep East Texas  
Filed: May 26, 2023

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## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 48 (2023) is cited as follows: 48 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 “48 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 48 TexReg 3.”

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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