

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER L. LOCAL FUNDS

MONITORING

1 TAC §355.8707

The Texas Health and Human Services Commission (HHSC) adopts new §355.8707, concerning Notification Requirements for the Creation of a Local Provider Participation Fund (LPPF).

HHSC adopts new §355.8707 with changes to the proposed text as published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1683). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The new rule implements the requirements of House Bill 4289, 86th Legislature, Regular Session, 2019, by establishing a process that requires certain political subdivisions to notify HHSC of the creation of a new LPPF as authorized by Texas Health and Safety Code Chapter 300 or Texas Health and Safety Code Chapter 300A. This rule will ensure that HHSC receives appropriate and timely notice of newly created LPPFs, enabling the agency to maintain oversight and reduce the risk of federal recoupment.

This new rule is also necessary to comply with the requirements of 42 C.F.R. §433.51 (Public Funds as the State share of financial participation), 42 C.F.R. §433.68 (Permissible health care-related taxes), 42 C.F.R. §433.74 (Reporting requirements), and Sections 1903(w)(1)(A)(i)-(iii) of the Social Security Act.

COMMENTS

The 31-day comment period ended May 1, 2023.

During this period, HHSC received the following comments regarding the new rule from four commenters: UT Health Athens, Paris Regional Health, CHRISTUS Health, and the Texas Organization of Rural and Community Hospitals (TORCH). A summary of comments relating to the rule and HHSC's responses follows.

Comment: Two commenters requested clarification of the types of agreements that should be submitted to document relationships between the Local Governmental Entity (LGE) and private providers. The commenters thought a non-exhaustive list of types of agreements that HHSC has received from other local funds monitoring efforts would be helpful.

Response: HHSC understands the desire to have a list of potential types of agreements that must be submitted; however, HHSC

does not have access to LGE records or insight into the full array of business relationships between LGEs and private entities. We will post a list of agreements we have encountered so far in our monitoring efforts. Still, it is the LGE's sole responsibility to provide each agreement between the LGE and private providers, regardless of type. Before annual reporting opens in October 2023, the non-exhaustive list of relationship and document types will be available on the Provider Finance Department's Local Funds Monitoring (LFM) website at: <https://pfd.hhs.texas.gov/local-funds-monitoring>. No changes to the rule text were made as a result of these comments.

Comment: Two commenters expressed support for the new rule.

Response: HHSC appreciates the commenters' support of the rule. No changes were necessary in response to these comments.

Minor editorial changes were made to §355.8707(a)(2)(G) and §355.8707(a)(4)(A) to correct punctuation and spelling.

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Health and Safety Code §300.0154 and §300A.0154, which require the Executive Commissioner of HHSC to adopt rules relating to LPPF reporting.

§355.8707. *Notification Requirements for the Creation of a Local Provider Participation Fund (LPPF).*

(a) A local government, as defined in Texas Health and Safety Code Chapter 300, or a district, as defined in Texas Health and Safety Code Chapter 300A, that creates a new local provider participation fund (LPPF) as authorized by those chapters must send HHSC notice of the creation of a new LPPF according to the following procedures.

(1) HHSC must receive notice of a newly created LPPF electronically to PFD_LFM@hhs.texas.gov no later than 10 business days from the date of the local government or district's creation of the LPPF.

(2) The notice must contain the following.

(A) Contact information for at least two employees, board members, or elected officials of the local government or district authorized to implement an LPPF, as well as any individuals the local government or district authorizes to receive informational updates related to LPPF formation and reporting. Contact information shall include:

(i) full names;

(ii) titles and description of involvement with the LPPF (if not an employee, board member, or elected official of the local government or district);

(iii) email addresses; and

(iv) phone numbers.

(B) Audio recordings of discussions or written minutes from public meetings, such as commissioner's court meetings or hospital district board meetings, that document the approval of LPPF formation and any associated rate setting.

(C) Resolution approving rules and procedures for LPPF mandatory assessment payments.

(D) Resolution authorizing the formation of the LPPF, collection of a mandatory assessment payment, and use of funds from the mandatory assessment payments.

(E) Public notices from a hardcopy or digital source, such as a newspaper article, notifying providers in the jurisdiction of the intent to create an LPPF and set associated rates.

(F) Copies of written notice provided to the chief operating officer of each provider that will be required to pay a mandatory assessment.

(G) Invoices or other records of LPPF mandatory assessments and payments received from providers, if any, have been made at the time notice is provided to HHSC.

(H) Any agreements between the local government or district implementing the LPPF (including a local government that created the district under Texas Health and Safety Code §300A.0021) and a health care provider or entity related to a health care provider that is required to pay a mandatory assessment, if applicable.

(3) On receipt of a notice for the creation of an LPPF, HHSC:

(A) acknowledges receipt of the notice to the local government or district; and

(B) reviews the information submitted by the local government or district.

(i) HHSC may request additional information from the local government or district. The additional information must be received by HHSC no later than 10 business days from the date of the written request for additional information.

(ii) HHSC will extend this deadline for an additional 10 business days if it receives a request for the extension prior to the initial 10 business day due date. A request for an extension that is not received by the stated deadline will not be accepted.

(4) No local government or district may transfer local funds generated by an LPPF to HHSC via IGT until it has completed the following steps.

(A) Notify HHSC of the creation of the LPPF in accordance with this section and receive acknowledgment of receipt from HHSC.

(B) Provide HHSC with any additional information requested by HHSC as provided in this section.

(C) Establish a unique TexNet Account through the Texas Comptroller.

(D) Establish a Texas Identifier Number (TIN) through the Provider Finance Department by emailing RAD_Payments@hhs.texas.gov.

(b) Any local government or district that creates an LPPF is subject to annual reporting requirements under 1 TAC Chapter 355, Subchapter L (relating to Local Funds Monitoring).

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (737) 867-7877



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT AND CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) adopts the repeal of §§127.411, 127.633, 127.744, 127.756, 127.757, 127.765, 127.769, and 127.770, concerning Texas Essential Knowledge and Skills (TEKS) for career development and career and technical education (CTE). The repeals are adopted without changes to the proposed text as published in the May 12, 2023 issue of the *Texas Register* (48 TexReg 2471) and will not be republished. The repeals remove the TEKS for eight CTE courses that will be superseded by 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.792, 127.793, and 127.794 beginning with the 2023-2024 school year.

REASONED JUSTIFICATION: The TEKS for courses associated with 17 CTE career clusters are codified by subchapter in 19 TAC Chapters 127 and 130. In December 2020, the SBOE began initial steps to prepare for the review and revision of CTE courses in programs of study for the education and training; health science; and science, technology, engineering, and mathematics career clusters. Two additional courses eligible to satisfy a graduation requirement in science were also part of the review. The board approved for second reading and final adoption new TEKS for these courses in November 2021 and January, April, and June 2022.

Due to the current structure of Chapter 130, there were not enough sections to add the new CTE courses under consideration in their assigned subchapters. To accommodate the addition of proposed new courses, the CTE TEKS in Chapter 130 are being moved to existing 19 TAC Chapter 127, which was renamed "Texas Essential Knowledge and Skills for Career Development and Career and Technical Education."

The repeals remove the TEKS for eight CTE courses that will be superseded by new TEKS in 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.792, 127.793, and 127.794, beginning with the 2023-2024 school year.

The SBOE approved the repeals for first reading and filing authorization at its April 14, 2023 meeting and for second reading and final adoption at its June 23, 2023 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the repeals for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will repeal sections to avoid confusion with new TEKS that are being implemented at the beginning of the 2023-2024 school year. The effective date is August 1, 2023.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period began May 12, 2023, and ended at 5:00 p.m. on June 16, 2023. No comments were received on the proposal.

SUBCHAPTER I. HEALTH SCIENCE

19 TAC §127.411

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

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

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

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



SUBCHAPTER M. LAW AND PUBLIC SERVICE

19 TAC §127.633

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

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

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



SUBCHAPTER O. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS

19 TAC §§127.744, 127.756, 127.757, 127.765, 127.769, 127.770

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; and 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.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 363. EXAMINATION AND REGISTRATION

22 TAC §363.9

The Texas State Board of Plumbing Examiners (Board) adopts the amendment to 22 Texas Administrative Code (TAC), Chapter

363, §363.9 which concerns examination and registration. The rule is adopted with changes to the proposed text published in the February 10th, 2023, issue of the *Texas Register* (48 TexReg 619). The rule will be republished.

REASONED JUSTIFICATION FOR THE RULE

The rule amendment allows a nationally known and recognized certification in medical gas installation from the American Society of Sanitation Engineering (ASSE) to qualify medical gas installation endorsement candidates. The rule amendment specifically names the latest edition of the Professional Qualifications Standard for Medical Gas Systems Personnel Series 6000, Standard 6010, from the ASSE (6010) as the appropriate certification to expand qualification opportunities to potential medical gas piping installation endorsement holders.

The 6010 certification requires more rigorous training standards than the Board and is nationally recognized. This allows greater portability for candidates while not compromising the standards required by the Board. The rule allows the Board to recognize this training as an additional path to qualification for holding a medical gas piping installation endorsement and lower unnecessary regulatory barriers to qualified endorsement candidates.

SECTION-BY-SECTION SUMMARY

The rule amendment at §363.9 allows the recognition of the eligibility credential of certification in medical gas piping installation by the ASSE, specifically the 6010 certification, for a Texas medical gas piping endorsement.

SUMMARY OF COMMENT

One comment was received regarding the proposed rule amendment. An individual from ASSE International, commented in support of the amendment.

BOARD ACTION

At its meeting on June 27, 2023, the Board adopted the proposed rule as published in the *Texas Register*.

STATUTORY AUTHORITY

The rule is adopted under the authority of § 1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce the Plumbing License Law.

§363.9. *Medical Gas Piping Installation Endorsement.*

(a) To be eligible for a Medical Gas Piping Installation Endorsement an applicant must:

(1) hold a current Texas Journeyman Plumber, Master Plumber or Plumbing Inspector License; and

(2) have successfully completed an approved training program in medical gas piping installation, which is based on the standards contained in the latest edition of the National Fire Protection Association 99 Health Care Facilities Code (NFPA 99), or may demonstrate the successful completion of the Professional Qualification Standard for Medical Gas Systems Personnel Series 6000, Standard 6010, latest edition, recognized by the American Society of Sanitation Engineers (ASSE).

(b) At a minimum, the training program required by subsection (a)(2) of this section shall:

(1) consist of at least twenty-four (24) hours dedicated to classroom presentation, shop demonstration and testing of the enrollee's comprehension of the course material;

(2) address the responsibilities of an endorsement-holder as outlined in the current edition of the NFPA 99, Plumbing License Law and Board Rules;

(3) address the proper installation and testing requirements for medical gas and vacuum piping systems, as outlined in the current edition of the NFPA 99; and

(4) include at least four (4) hours of shop demonstration covering the proper assembly, purging and brazing procedures for horizontal and vertical joints.

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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Lynn Latombe

General Counsel

Texas State Board of Plumbing Examiners

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For further information, please call: (512) 936-5216



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 745. LICENSING

The Texas Health and Human Services Commission (HHSC) adopts in Texas Administrative Code (TAC), Title 26, Chapter 745, Subchapter B, Child Care and Other Operations that We Regulate, new §745.43; new Subchapter I, Non-Enforcement Voluntary Actions, new §§745.5001, 745.5003, 745.5051, 745.5101, 745.5103, 745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161, and 745.5201; new Subchapter K, Inspections, Investigations, and Confidentiality, and new §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8581, 745.8583, and 745.8585.

New §§745.5101, 745.8405, 745.8487, and 745.8493 are adopted with changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1518). These rules will be republished.

New §§745.43, 745.5001, 745.5003, 745.5051, 745.5103, 745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161, 745.5201; 745.8401, 745.8403, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8481, 745.8483, 745.8485, 745.8489, 745.8491, 745.8581, 745.8583, and 745.8585 are adopted without changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1518). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The new sections are necessary to finalize the rule compliance requirements for House Bill (H.B.) 5, 85th Legislature, Regular Session, 2017, directing the Texas Department of Family and

Protective Services (DFPS) to become a stand-alone agency that is separate from the Texas Health and Human Services Commission (HHSC) and the health and human services system. This bill also moved the regulation of child care from DFPS to HHSC, with only the responsibility for investigating allegations of child abuse, neglect, and exploitation in child care operations remaining at DFPS.

Since HHSC Child Care Regulation (CCR) is responsible for the administrative rules in TAC Title 40, Chapter 745, Licensing, that impact child care operations, these rules had to be transferred from DFPS to HHSC. In 2019, CCR administratively transferred all the rules in Title 40, Chapter 745 to Title 26, Chapter 745, except for Subchapters K and M; those subchapters could not be administratively transferred since some of the rules also applied to responsibilities that remained with DFPS. In March 2023, CCR repealed Title 40, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings, and adopted new rules in Title 26, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings.

DFPS has also adopted rules applicable to DFPS responsibilities in Title 40, Chapter 707. In addition, CCR is adopting a new rule in Title 26, Chapter 745, Subchapter B, Child Care and Other Operations that We Regulate, and new rules in new Subchapter I, Non-Enforcement Voluntary Actions, and new Subchapter K, Inspections, Investigations, and Confidentiality, all applicable to CCR responsibilities. The repeal of Title 40, Chapter 745, Subchapter K, Inspections and Investigations, is being adopted elsewhere in this issue of the *Texas Register*.

In addition to replacing the content of the Title 40, Chapter 745, Subchapter K rules with new rules in Title 26, Chapter 745, Subchapters, B, I, and K, the changes in the adopted rules (1) remove any duties directly related to any DFPS responsibilities, including the investigation of child abuse, neglect, and exploitation, as DFPS has rules to address those responsibilities; (2) update the rules with current practices; and (3) update the rules for better readability and understanding.

COMMENTS

The 31-day comment period ended April 17, 2023. During this period, HHSC received two comments regarding the proposed rules from the Texas Alliance of Child and Family Services (TACFS). HHSC also received one additional comment stating support for the TACFS comments, from Hendrick Home for Children, a general residential operation. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Regarding §745.8411, the comment urged for helpful information and training to be provided to inspectors that focus on carrying out inspections in a manner that is sensible and recognizes other needs, including the child's own need for as much normalcy and as little repeated trauma as possible, an operation's need to meet ratios and to continue serving children, and an operation's need to take immediate steps to make sure children are safe.

Response: HHSC agrees with the comment, but changes to the rule are not required. The comment relates to the implementation of the rule. The comment was forwarded to CCR management.

Comment: Regarding §745.8483, the comment recommended that HHSC preserve current rule language that addresses sharing confidential information during an open investigation with operations when it is appropriate to ensure a child's safety.

Response: HHSC agrees with the comment and made appropriate changes to §745.8487 and §745.8493, clarifying that CCR may release to a child care operation confidential information in HHSC records related to an open HHSC investigation or a DFPS investigation when the operation needs the information to protect the health, safety, or well-being of a child, as provided by state and federal law including the federal Child Abuse Prevention and Treatment Act.

HHSC also made minor editorial changes to §745.5101 and §745.8405(a).

SUBCHAPTER B. CHILD CARE AND OTHER OPERATIONS THAT WE REGULATE

26 TAC §745.43

STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



SUBCHAPTER I. NON-ENFORCEMENT VOLUNTARY ACTIONS

DIVISION 1. OVERVIEW OF VOLUNTARY ACTIONS

26 TAC §745.5001, §745.5003

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray
Chief Counsel
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For further information, please call: (512) 438-3269



DIVISION 2. NOTICE AND APPROVAL

26 TAC §745.5051

STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray
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For further information, please call: (512) 438-3269



DIVISION 3. TEMPORARY RELOCATION

26 TAC §745.5101, §745.5103

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

§745.5101. What must I do when I temporarily relocate my operation because of a renovation or damage that makes the operation temporarily unsuitable for child care?

You must:

(1) Complete the notice requirements in §745.5051 of this subchapter (relating to What notice and approval is required for a voluntary action?);

(2) Prior to a planned temporary relocation:

(A) Obtain any inspections at the temporary location that are identified in the applicable minimum standards, which may include fire, sanitation, and gas leak inspections;

(B) Ensure the temporary location complies with applicable licensing statutes, rules, and minimum standards;

(C) Allow us to conduct an inspection under §745.5103 of this division (relating to What actions will Licensing take after receiving a notice that you are temporarily relocating?); and

(D) Obtain our approval for any aspect of the temporary location that does not comply with the applicable licensing statutes, rules, and minimum standards; and

(3) For an emergency relocation:

(A) Complete each step in paragraph (1) of this section as soon as possible after the relocation; and

(B) If you are a residential child care operation, meet any additional reporting and documentation requirements under:

(i) §748.303(e)(1) and (3) of this title (relating to When must I report and document a serious incident?); or

(ii) §749.503(e)(1) and (3) of this title (relating to When must I report and document a serious incident?).

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

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Chief Counsel
Health and Human Services Commission
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DIVISION 4. VOLUNTARY SUSPENSION

26 TAC §§745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray
Chief Counsel
Health and Human Services Commission
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DIVISION 5. VOLUNTARY CLOSURE

26 TAC §745.5201

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

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For further information, please call: (512) 438-3269

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SUBCHAPTER K. INSPECTIONS, INVESTIGATIONS, AND CONFIDENTIALITY

DIVISION 1. OVERVIEW OF INSPECTIONS AND INVESTIGATIONS

26 TAC §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

§745.8405. When does Licensing inspect or investigate an operation or program?

(a) The following chart describes when we inspect or investigate an operation:

Figure: 26 TAC §745.8405(a)

(b) We may inspect or investigate your operation or program during its hours of operation.

(c) If you operate a child-placing agency main office or branch office that is not open between 8:00 a.m. and 5:00 p.m., Monday through Friday, you must ensure that the office and employees are available upon our request for the purpose of inspecting or investigating your agency.

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-202302448

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269

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DIVISION 2. NOTIFICATION

26 TAC §§745.8441, 745.8443, 745.8445, 745.8447, 749.8449

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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DIVISION 3. CONFIDENTIAL RECORDS

26 TAC §§745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

§745.8487. Are there any exceptions that allow the portions of a child care record that are confidential to be released to the public or certain persons?

Notwithstanding §745.8483 of this division (relating to What portions of a child care record are confidential?), the below exceptions allow

certain portions of a child care record that are confidential to be released in the following manner:

(1) Information obtained during an open investigation that was confidential under §745.8483(1) of this division is no longer confidential under that provision after the investigation is completed.

(2) Information obtained during an open investigation that is otherwise confidential under §745.8483(1) of this division may be released to an operation if Licensing determines it is necessary to protect the health, safety, or well-being of a child and the release is compliant with applicable state and federal law including the federal Child Abuse Prevention and Treatment Act.

(3) A foster home screening, adoptive home screening, and post-placement adoptive report is confidential under §745.8483(4)(B) of this division, but the screening or report may be released to:

(A) The individual who is the subject of the screening or report; or

(B) Any other person, if the Associate Commissioner for Child Care Regulation or designee determines the release of the screening or report is necessary to protect the health or safety of a child.

(4) The location of a family violence shelter or a victims of trafficking shelter center is confidential under §745.8483(6) of this division, except for when the location of the shelter or center must be provided in a public hearing under Texas Human Resources Code §42.0461 because the shelter or center is a general residential operation that will provide services to children with emotional disorders. The operation does not have to identify that the operation intends to provide services to victims of human trafficking.

(5) Any photograph, audio or visual recording, or documentation of a child is confidential under §745.8483(8) of this division, unless it is releasable under §745.8491 of this division (relating to Who can review or have a copy of a photograph, audio or visual recording, or documentation of a child that is in our records?).

§745.8493. *Will Licensing release any information related to a child abuse, neglect, or exploitation investigation conducted by the Texas Department of Family and Protective Services (DFPS)?*

(a) DFPS investigations of child abuse, neglect, or exploitation remain confidential after DFPS provides the information to Licensing as described in Texas Human Resources Code §40.042(f).

(b) A person must request information related to an investigation conducted by DFPS from DFPS.

(c) We may release information related to a DFPS investigation in our records to:

(1) An operation to support a licensing statute, rule, or minimum standard deficiency that we assessed against the operation, so long as we redact any confidential information;

(2) An operation if Licensing determines that the operation needs the information to protect the health, safety, or well-being of a child, and the release is compliant with state and federal law including the federal Child Abuse Prevention and Treatment Act; or

(3) Any other person or entity authorized by state or federal law to have a copy.

(d) Any operation, person, or entity that receives information related to a DFPS child abuse, neglect, or exploitation investigation under this section:

(1) May only use the DFPS investigation information for the purpose or duty that authorized the release of the information; and

(2) May not release the DFPS investigation information to any other person or entity that is not authorized to have the information under this section.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



DIVISION 4. TECHNICAL ASSISTANCE

26 TAC §§745.8581, 745.8583, 745.8585

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code §651.5 and §651.203 without changes to the text as published in the May 26, 2023, issue of the *Texas Register* (48 TexReg 2681) to change a reference from "SNP" (single-nucleotide polymorphisms) to "massively parallel sequencing" in the categories of analysis for forensic biology/DNA to harmonize the reference

with terminology used by the Commission's recognized accrediting bodies. The rules will not be republished.

Summary of Comments. No comments were received regarding the amendments to this section.

SUBCHAPTER A. ACCREDITATION

37 TAC §651.5

Statutory Authority. The amendments are adopted in accordance with the Commission crime laboratory accreditation authority under (1) Code of Criminal Procedure Article 38.01 § 4-d which directs the Commission to establish an accreditation process for crime laboratories; (2) the Commission's forensic analyst licensing authority under Code of Criminal Procedure Article 38.01 § 4-a, which directs the Commission to establish the qualifications for a forensic analyst license' and (3) the Commission's general rulemaking authority under Article 38.01 § 3-a, which generally directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01 §§ 4-a and 4-d.

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 July 3, 2023.

TRD-202302402

Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

Effective date: July 23, 2023

Proposal publication date: May 26, 2023

For further information, please call: (512) 936-0661



SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.203

Statutory Authority. The amendments are adopted in accordance with the Commission crime laboratory accreditation authority under (1) Code of Criminal Procedure Article 38.01 § 4-d which directs the Commission to establish an accreditation process for crime laboratories; (2) the Commission's forensic analyst licensing authority under Code of Criminal Procedure Article 38.01 § 4-a, which directs the Commission to establish the qualifications for a forensic analyst license' and (3) the Commission's general rulemaking authority under Article 38.01 § 3-a, which generally directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01.

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01 §§ 4-a and 4-d.

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-202302403

Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

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Proposal publication date: May 26, 2023

For further information, please call: (512) 936-0661



SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.207, §651.211

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code §651.207 and §651.211 without changes to the text as published in the May 26, 2023, issue of the *Texas Register* (46 TexReg 2683) to eliminate the fee for a temporary forensic analyst license. The rules will not be republished.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Art. 38.01 § 4-a(d)(2), which directs the Commission to establish fees for the issuance of a license, and the Commission's general rulemaking authority under Art. 38.01 § 3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Art. 38.01.

Cross-reference to statute. The proposal affects Tex. Code Crim. Proc. Art. 38.01 § 4-a(d)(2).

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

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Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

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For further information, please call: (512) 936-0661



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

CHAPTER 745. LICENSING

SUBCHAPTER K. INSPECTIONS AND INVESTIGATIONS

The Texas Health and Human Services Commission (HHSC) adopts in Texas Administrative Code (TAC), Title 40, Chapter 745, the repeal of Subchapter K, Inspections and Investigations, which consists of the repeal of §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415,

745.8417, 745.8419, 745.8421, 745.8423, 745.8425, 745.8427, 745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8451, 745.8453, 745.8455, 745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8495, 745.8511, 745.8513, 745.8515, 745.8517, 745.8519, 745.8521, 745.8523, 745.8525, 745.8527, 745.8529, 745.8531, 745.8533, 745.8551, 745.8553, 745.8555, 745.8557, 745.8559, 745.8561, 745.8581, 745.8583, and 745.8585.

All the repealed sections in TAC Title 40, Chapter 745, Subchapter K, are adopted without changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1536). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The repealed sections are necessary to finalize the rule compliance requirements for House Bill (H.B.) 5, 85th Legislature, Regular Session, 2017, directing the Texas Department of Family and Protective Services (DFPS) to become a stand-alone agency that is separate from the Texas Health and Human Services Commission (HHSC) and the health and human services system. This bill also moved the regulation of child care from DFPS to HHSC, with only the responsibility for investigating allegations of child abuse, neglect, and exploitation in child care operations remaining at DFPS.

Since HHSC Child Care Regulation (CCR) is responsible for the administrative rules in TAC Title 40, Chapter 745, Licensing, that impact child care operations, these rules had to be transferred from DFPS to HHSC. In 2019 CCR administratively transferred all the rules in Title 40, TAC, Chapter 745 to Title 26, TAC, Chapter 745, except for Subchapters K and M; those subchapters could not be administratively transferred since some of the rules also applied to responsibilities that remained with DFPS. In March 2023, CCR repealed Title 40, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings, and adopted new rules in Title 26, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings.

DFPS has also adopted rules applicable to DFPS responsibilities in Title 40, Chapter 707. In addition, CCR is adopting and publishing elsewhere in this issue of the *Texas Register* a new rule in Title 26, Chapter 745, Subchapter B, Child Care and Other Operations that We Regulate, and new rules in new Subchapter I, Non-Enforcement Voluntary Actions, and new Subchapter K, Inspections, Investigations, and Confidentiality, all applicable to CCR responsibilities. Accordingly, CCR is adopting the repeal of Title 40, Chapter 745, Subchapter K, Inspections and Investigations, including the repeal of the rules in that subchapter.

COMMENTS

The 31-day comment period ended April 17, 2023. During this period, HHSC did not receive any comments regarding the proposed repeal.

DIVISION 1. OVERVIEW OF INSPECTIONS AND INVESTIGATIONS

40 TAC §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8419, 745.8421, 745.8423, 745.8425, 745.8427

STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Department of Family and Protective Services

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For further information, please call: (512) 438-3269



DIVISION 2. NOTIFICATION

40 TAC §§745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8451, 745.8453, 745.8455

STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Department of Family and Protective Services

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For further information, please call: (512) 438-3269



DIVISION 3. CONFIDENTIALITY

40 TAC §§745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8495

STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Department of Family and Protective Services

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For further information, please call: (512) 438-3269



DIVISION 4. VOLUNTARY ACTIONS

40 TAC §§745.8511, 745.8513, 745.8515, 745.8517, 745.8519, 745.8521, 745.8523, 745.8525, 745.8527, 745.8529, 745.8531, 745.8533

STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Department of Family and Protective Services

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For further information, please call: (512) 438-3269



DIVISION 5. ABUSE AND NEGLECT

40 TAC §§745.8551, 745.8553, 745.8555, 745.8557, 745.8559, 745.8561

STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Department of Family and Protective Services

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For further information, please call: (512) 438-3269



DIVISION 6. TECHNICAL ASSISTANCE

40 TAC §§745.8581, 745.8583, 745.8585

STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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

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Karen Ray

Chief Counsel

Department of Family and Protective Services

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For further information, please call: (512) 438-3269



TITLE 43. TRANSPORTATION

PART 15. DENTON COUNTY TAX ASSESSOR-COLLECTOR

CHAPTER 430. MOTOR VEHICLE TITLE SERVICES

43 TAC §§430.1 - 430.16

The Denton County Tax Assessor-Collector adopts amendments to 43 TAC §§430.1 - 430.16, relating to the regulation of motor vehicle title services in Denton County, Texas. The amendments to TAC §§430.1 - 430.4 and 430.6 - 430.16 are adopted without changes to the proposed amendments as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1539) and will not be republished. The amendments to TAC §430.5 are adopted with changes to the proposed amendments as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1539) and will be republished. Texas Transportation Code Chapter 520, Subchapter E authorizes a county tax assessor-collector to adopt rules pertaining to the licensing of motor vehicle title services.

The Denton County Tax Assessor-Collector, Michelle French, adopts these amendments for the purpose of providing improved accuracy and clarity to the chapter, and for the purpose of enhancing its provisions to better ensure compliance and to better guard against attempts to subvert its requirements by undetected fraud. Ms. French has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcement of the rules will be to reduce vehicle theft and related document fraud.

The amendments do not create or repeal regulation, but enhance and clarify the existing regulations set forth in 43 TAC §§430.1 - 430.16. The amendments do not affect any other statutes, articles or codes.

The Denton County Tax Assessor-Collector received no comments or requests for clarification concerning the proposed amendments, and no changes to the proposed amendments were made.

Texas Transportation Code Chapter 520, Subchapter E authorizes a county tax assessor-collector to adopt rules pertaining to the licensing of motor vehicle title services. Specifically, Section 520.059(b) states that the county tax assessor-collector shall adopt rules that establish grounds for the denial, suspension, revocation or reinstatement of a license and rules that establish procedures for disciplinary action.

§430.5. *Submission of Application.*

Each license application must be submitted by the applicant, in person, at any DCTAC location during business hours. The application must be complete and include all required documentation. To submit the completed application, applicant must, at the time of the submission:

(1) presents a valid Texas driver's license and a valid Social Security Card or, if applicable, a U.S.-issued alien identification card issued by the Department of Homeland Security, and permits a copy of both to be made for DCTAC records; and

(2) pays the non-refundable application fee.

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 July 6, 2023.

TRD-202302458

Michelle French

Denton County Tax Assessor-Collector

Denton County Tax Assessor-Collector

Effective date: July 26, 2023

Proposal publication date: March 17, 2023

For further information, please call: (940) 349-3500

