# ADOPTED RULES

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

## TITLE 1. ADMINISTRATION

## PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 372. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS

### SUBCHAPTER B. ELIGIBILITY

### DIVISION 6. RESOURCES

**1 TAC §372.355**

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts an amendment to §372.355, concerning Treatment of Resources in SNAP.

Section 372.355 is adopted without changes to the proposed text as published in the August 22, 2025, issue of the *Texas Register* (50 TexReg 5411). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with Texas Human Resources Code §33.021, which requires HHSC to increase the excluded amounts of a vehicle's fair market value (FMV) when determining Supplemental Nutrition Assistance Program (SNAP) eligibility. Texas Human Resources Code §33.021 was amended by House Bill 1287, 88th Legislature, Regular Session, 2023. The amendment updates the excluded amount of FMV from the first and additional vehicle when determining the value of countable resources.

Households qualify to receive SNAP benefits by meeting eligibility requirements when they apply, recertify, or report a change. One requirement limits the amount of certain financial resources SNAP recipients may have on hand (e.g., cash, vehicles). To meet the resource test, the household's countable liquid resources plus excess vehicle value must be $5,000 or less.

The amendment updates the exclusionary amount for vehicles from $15,000 to $22,500 for the highest valued vehicle and $4,650 to $8,700 for all other countable vehicles.

COMMENTS

The 31-day comment period ended September 22, 2025.

During this period, HHSC received a comment from one individual. A summary of the comment relating to the rule and HHSC's response follows.

Comment: One commenter requested that the proposed rule not cause a reduction in SNAP benefits.

Response: HHSC declines to revise the rule in response to this comment. Implementation of the rule will only increase the portion of the vehicle value amount that is not counted towards the SNAP resource limit of $5,000 and does not impact a person's SNAP benefit amount.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system.

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

Filed with the Office of the Secretary of State on January 23, 2026.

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## TITLE 16. ECONOMIC REGULATION

## PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

### CHAPTER 35. ENFORCEMENT

**16 TAC §35.5, §35.6**

The Texas Alcoholic Beverage Commission (TABC) adopts new 16 TAC §35.5, relating to Prohibited Sales of Consumable Hemp Products to Minors, and §35.6, relating to Mandatory Age Verification for Consumable Hemp Product Sales. The new rules are adopted with changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7818) and will be republished.

REASONED JUSTIFICATION. The new rules are necessary to implement Executive Order GA-56 (Sept. 10, 2025), which directs TABC to "immediately begin the rulemaking process to protect the public health, safety, and welfare by prohibiting the sale of hemp-derived products to a minor and requiring verification of the purchaser's age with government issued identification prior to completing the sale of any such product, on pain of cancellation of a permit, license, or registration issued by" TABC. The

new rules prohibit a TABC licensee or permittee from selling, offering for sale, serving, or delivering consumable hemp products (CHPs) to a person younger than 21 years of age, and require a TABC licensee or permittee to inspect the identification of certain persons wanting to purchase or obtain CHPs to confirm their age. The new rules are intended to prevent minors from accessing and using CHPs that will negatively impact the health, general welfare, and public safety of minors in Texas, and to ensure the place and manner in which a permittee or licensee conducts its business is consistent with the general welfare, health, peace, morals, and safety of the people and the public sense of decency. *See* Tex. Alco. Bev. Code §§5.31(b)(1), 11.61(b)(7), 61.71(a)(16).

In response to a public comment, TABC has modified the proposed language in §35.5(e) and §35.6(f) to clarify the agency's intent behind those provisions. The purpose of the provisions is to prevent a license or permit holder (and certain associated persons) from being issued a new original license or permit from TABC for a designated time period if the holder had a license or permit cancelled under the proposed rules. The proposed rules are not intended to prevent the renewal of current licenses and permits that were not cancelled under the rules. The agency has inserted the term "original" in §35.5(e) and §35.6(f) to clarify that intent.

Also in response to a public comment, TABC has modified the proposed language in §35.5(e)(3)-(4) and §35.6(f)(3)-(4) to clarify that the provisions are not limited to entities organized as corporations. Instead, the cited provisions should cover all types of legal entities. The agency has inserted the phrase "or other legal entity" in the cited provisions to clarify the agency's intent and rules' impact. Corresponding changes have also been made to remove references to corporate stock ownership and replace them with references to general ownership interests.

EXPEDITED EFFECTIVE DATE. The new rules will replace the current emergency rules addressing CHP sales and age verification requirements that were previously adopted by TABC. *See* 50 TexReg 6577 (2025) (emerg. rules 16 Texas Administrative Code §§51.1, 51.2) (adopted Sep. 23, 2025) (Tex. Alco. Bev. Comm'n, Prohibited Sales of Consumable Hemp Products to Minors and Mandatory Age Verification for Consumable Hemp Product Sales). The emergency rules are set to expire on January 21, 2026, as provided by Texas Government Code §2001.034(c). The new rules must be effective upon the expiration of the emergency rules, otherwise minors' access to CHPs at TABC-licensed establishments may resume. Because of the dangers associated with minors' use of CHPs, allowing for the resumption of access to these products qualifies as an imminent peril to the public health, safety, or welfare. *See* 50 TexReg 6578 (citing harms associated with CHP use by minors). Therefore, the new rules will take effect on January 21, 2026, upon the expiration of the emergency rules. *See* Tex. Gov't Code 2001.036(a)(2) ("if a state agency finds that an expedited effective date is necessary because of imminent peril to the public health, safety, or welfare . . . a rule is effective immediately on filing with the secretary of state, or on a stated date less than 20 days after the filing date").

PUBLIC COMMENTS. TABC held a public hearing on December 11, 2025, to receive comments on the proposed rules. At the hearing, TABC received 12 comments from ten commenters. The agency also received 28 written comments during the 30-day comment period. Comments were submitted by Texans for Safe and Drug-Free Youth, Hemp Beverage Alliance, Texas Police Chiefs Association, Texas Hemp Business Council, BrackinShwartz & Associates, Martin Frost & Hill P.C., The Banks Law Firm P.A., Uniwyze, Inc., ECL Testing, Amy Harrison Consulting, Stages of Recovery, Inc., Bayou City Hemp Company, Inc., The Coalition, Inc., Seasons of Hope Center, Texas Package Store Association, Texas Food & Fuel Association, and 16 individuals.

COMMENT SUMMARY. One commenter suggests using "strong, evidence-based regulation to prevent youth access."

AGENCY RESPONSE. TABC appreciates the comment and believes the proposed rules are in line with the suggestion. By prohibiting TABC licensees and permittees from selling CHPs to minors, and requiring them to engage in age verification, the proposed rules should limit youth access to CHPs.

COMMENT SUMMARY. One commenter questions the scope of proposed §35.5(e) and §35.6(f), which prevent a license or permit holder (and certain associated persons) from being issued a TABC license or permit for a designated period of time if the holder had a license or permit cancelled for a violation of the proposed rules. Specifically, the commenter questions whether the rules are intended to prevent a license or permit holder with multiple licenses or permits from *renewing* any current licenses or permits that were not cancelled under the proposed rules for the designated period of time, or whether the rules are only intended to prevent the issuance of new original licenses and permits to such persons during the designated time period. If the latter, the commenter suggests modifications to the proposed language to clarify that intent.

AGENCY RESPONSE. As background, if a licensee or permittee with multiple licenses or permits violates the proposed rules, TABC may only suspend or cancel the retail-tier license or permit for the premises where the violation occurred. *See* Tex. Alco. Bev. Code §§ 11.66, 61.72. Therefore, it is possible for a retailer to have a single license or permit cancelled under the rules, while any remaining licenses or permits held by that person remain in effect. To the commenter's question, it is TABC's intent to deny the issuance of new original licenses and permits to such a person for the time period designated in proposed §35.5(e) or §35.6(f), not to deny the renewal of existing licenses or permits held by that person. *See* Proposal Preamble, 50 TexReg 7819 ("Additionally, if a license or permit is cancelled under §35.5, the license or permit holder, and certain other associated persons, will not be eligible for any *new* license or permit for five years from the date of cancellation. If a license or permit is cancelled under §35.6, the license or permit holder, and certain other associated persons, will not be eligible for any *new* license or permit for one year from the date of cancellation.") (emphasis added). As mentioned above, TABC has made a change to the referenced sections to clarify that intent.

COMMENT SUMMARY. One commenter asks whether the term "corporation" in §35.5(e)(3)-(4) and §35.6(f)(3)-(4) covers legal entities that may not technically be organized as a corporation.

AGENCY RESPONSE. The term "corporation" in the cited sections is not intended to be limited strictly to entities organized as corporations, as defined in the Business Organizations Code. *See* Tex. Bus. Org. Code §1.002(14) (defining "corporation" as used in that code). The public safety purpose of these rules requires a broad interpretation, and the cited sections should also cover other types of entities, regardless of how they are organized. As such, and as mentioned above, TABC has made

changes to the cited sections so that each will cover other types of legal entities.

COMMENT SUMMARY. One commenter requested that the agency clarify the meaning of the phrase "a person who held an interest in the license or permit" in §35.5(e)(2) and §35.6(f)(2).

AGENCY RESPONSE. The phrase "person who held an interest in the license or permit" in §35.5(e)(2) and §35.6(f)(2) is based on substantially similar phrases used in multiple statutes within the Alcoholic Beverage Code. *See, e.g.,* Tex. Alco. Bev. Code §§ 11.10, 11.70(a), 28.16, 37.07(1), 102.01(c), 102.18(b) 109.59(c). In a 2017 proposal for decision from the State Office of Administrative Hearings, an administrative law judge concluded that "under the [Alcoholic Beverage] Code, a 'person having an interest in a permit' is one who in some fashion holds a 'personal privilege' (like a partner, spouse, or trustee in bankruptcy) to conduct an enterprise or business in the manufacture, sale, distribution, transportation, and possession of alcoholic beverages at the manufacturing, wholesaling, and retailing levels." *See McLane Co. v. Renewal Application of Core-Mark Midcontinent, Inc.*, Proposal for Decision, 2017 WL 4174371 (2017); *see also Cadena Comercial USA Corp. v. TABC*, 518 S.W.3d 318, 327-331 (Tex. 2017) (discussing the term "interest" as used in similar contexts). TABC ultimately adopted the proposal for decision without changes to the administrative law judge's interpretation of that phrase. *See* Commission Order, Docket No. 641578 (March 14, 2018). Applying that same approach here, the phrase "a person who held an interest in the license or permit" in §35.5(e)(2) and §35.6(f)(2) implicates a person who in some fashion holds a personal privilege (like a partner, spouse, or trustee in bankruptcy) to conduct an enterprise or business authorized by the license or permit.

COMMENT SUMMARY. One commenter requests that the agency reaffirm that the proposed rules apply only to TABC-licensed or permitted premises and do not apply to CHP-retailers registered solely with the Department of State Health Services (DSHS).

AGENCY RESPONSE. The proposed rules apply only to persons who have a TABC license or permit. If a person is registered with DSHS as a CHP-retailer, but the person does not also have a TABC license or permit, the proposed rules do not apply to that person.

COMMENT SUMMARY. One commenter acknowledges that the proposed rules appropriately cross-reference DSHS' definition of "consumable hemp product," but suggests that "TABC track the operative statutory and regulatory language more closely" to avoid confusion.

AGENCY RESPONSE. The proposed rules use DSHS' definition of CHP, as defined in that agency's rules. That definition is currently set in 25 TAC §300.101(8), but DSHS has recently proposed to move the definition to §300.101(11) and amend it to read as follows: "Consumable hemp product (CHP)--Any product processed or manufactured for consumption that contains hemp, including food, a drug, a device, and a cosmetic, as defined by Texas Health and Safety Code §431.002. The definition excludes any hemp product containing a hemp seed or hemp seed-derived ingredient that the FDA has designated as Generally Recognized as Safe (GRAS)." 50 TexReg 8488 (2025). TABC believes it is appropriate to defer to DSHS' definition as it is the Texas agency charged with primary regulatory authority over CHPs, and enforcement of both agencies' rules requires consistency in what constitutes a "consumable hemp product." TABC's proposed rules directly reference DSHS' definition for that reason. Any suggested changes to the definition should be addressed to DSHS.

COMMENT SUMMARY. Several commenters agree with the proposed rules' prohibition on selling CHPs to minors and age-gating requirements, but they question the severity of the administrative sanctions for violating the proposed rules. Some commenters question why the sanctions are more severe than the administrative sanctions for selling alcoholic beverages to minors. The commenters believe the sanctions for selling CHPs to minors and selling alcoholic beverages to minors should be in line with each other. Other commenters believe that the agency should allow the payment of civil monetary penalties in lieu of any license or permit suspension or cancellation, and that cancellation should be reserved for willful, repeated, or egregious conduct. Still another commenter argues that the five-year prohibition on issuing a new license or permit in §35.5(e) should be reduced to one year, and the one-year prohibition in §35.6(f) should be removed. But another commenter believes that the agency should cancel the license or permit for even a first violation of the proposed rules, as provided in the emergency rules, and impose a permanent ban on obtaining a new license or permit.

AGENCY RESPONSE. The agency disagrees with the commenters' suggestion to lessen the sanctions for violating the proposed rules, including by allowing the payment of civil penalties instead of any license or permit suspension or cancellation. Selling alcoholic beverages to minors is a serious offense that can lead to license or permit suspension or cancellation. *See* 16 TAC § 34.2. But while the suggested duration of license or permit suspension for selling alcoholic beverages to minors in TABC's current rules is generally less than that for selling CHPs to minors in the proposed rules, the Alcoholic Beverage Code also makes it a Class A misdemeanor to sell alcoholic beverages to minors. *See* Tex. Alco. Bev. Code §106.03(c). Class A misdemeanors carry a punishment of a fine not to exceed $4,000 and/or confinement in jail for a term not to exceed one year. *See* Tex. Pen. Code §12.21. Additionally, it is a crime for a minor to purchase or consume alcoholic beverages. Tex. Alco. Bev. Code §§106.02, 106.03. The combination of criminal penalties for both the retailer and minor, coupled with the listed administrative sanctions, serve as a significant deterrent to selling alcoholic beverages to minors and purchasing such beverages by minors.

The agency seeks to establish a similarly significant deterrent to selling CHPs to minors as well, but Texas law does not currently proscribe a criminal offense for selling those products to minors or for minors who purchase such products (though once the proposed rules are effective, a violation of agency rules amounts to a violation of the Alcoholic Beverage Code, *see id.* §101.61). Without the weight of potential criminal sanctions, the agency must rely on administrative sanctions in order to establish a significant deterrent to selling CHPs to minors. The agency believes those administrative sanctions must be severe in order to have the intended effect. The suspension of a license or permit for a week or more, or the cancellation of a license or permit, is a severe sanction and TABC believes it will serve as the desired deterrent. To allow a licensee or permittee (many of whom have significant financial resources) to avoid license or permit suspension or cancellation by paying a civil fine instead would weaken the effectiveness of the rules.

The prohibition on selling alcoholic beverages to minors has also been in place for many decades, and both the public and alcoholic beverage industry are familiar with it. But prior to the adoption of TABC's emergency rules, no state law or rule prohibited retailers from selling CHPs to minors. This is a new restriction, and TABC believes establishing severe penalties for violations will garner more attention from the industry, thus amplifying the proposed rules' deterrent effect.

While the agency's intent is that these rules provide a strong deterrent, TABC recognizes that violations may occur despite best efforts taken by a license or permit holder. That is why the rules now allow the agency to impose license or permit suspension as a sanction, instead of just cancellation as the emergency rules did.

Finally, it is the agency's intent that the sanction of license or permit cancellation be reserved for repeated or egregious conduct, as some commenters suggest. Proposed §35.6(d) allows for license or permit cancellation only upon the fourth violation of failing to check a CHP purchaser's or recipient's proof of identification. Proposed §35.5(c) does allow for license or permit cancellation for a first or second violation of selling CHP to a minor, but TABC does not intend to seek cancellation for a first or second violation unless the facts of a particular case are serious enough to warrant that outcome. Facts that may militate against cancellation for a first or second violation include good faith efforts taken by a retailer to ensure its employees abide by the proposed rules, a retailer's use of proper electronic age-verification technology, and self-reporting of violations and prompt corrective action taken by a retailer. The additional restrictions in proposed §35.5(e) and §35.6(f) that prohibit the agency from issuing a new original license or permit to certain persons for five years or one year, respectively, are only effective upon the cancellation of a license or permit. So those provisions will also only be implemented for egregious or repeated violations. For the same reasons articulated above (e.g. deterrent effect), the agency disagrees with the comment arguing that the five-year prohibition on issuing a new license or permit in §35.5(e) should be reduced to one year and the one-year prohibition in §35.6(f) should be removed.

Finally, the agency acknowledges that at least one commenter believes license or permit cancellation and a permanent ban on obtaining a new license or permit should be imposed for any CHP sale to a minor. After careful consideration, however, TABC believes it should retain some discretion in imposing such a severe sanction for a first or second violation. Further, license or permit suspension is the minimum sanction under the proposed rules, and that itself is a significant penalty that the agency believes will serve as a strong deterrent.

COMMENT SUMMARY. Multiple commenters suggest that in those scenarios where a license or permit holder's employee sells CHPs to a minor or fails to comply with the rule's age-gating requirements, the agency should hold the employee accountable, not the employer. These commenters point to the "safe harbor" provision in Alcoholic Beverage Code §106.14 and suggest the proposed rules provide similar protection for employers. Other commenters insist that the rules must hold the employer accountable.

AGENCY RESPONSE. The Alcoholic Beverage Code and the agency have historically held license and permit holders accountable for the actions of their employees in many instances, *see* Tex. Alco. Bev. Code §1.04(11) and (16) (defining "licensee" and permittee" to include employees), and TABC believes that same approach is warranted here in order to enhance the deterrent effect of the rules. It is incumbent on the license or permit holder to ensure its employees abide by agency rules, especially rules like those proposed here that are designed to protect public safety. Furthermore, the agency is limited in what administrative sanctions it may impose directly on a license or permit holder's employees because the employees are not licensed by TABC.

Section 106.14 of the Alcoholic Beverage Code does provide a "safe harbor" where the actions of an employee will not be attributed to their employer if certain conditions are met, but that "safe harbor" only applies to employee actions involving the sale, provision, or delivery of *alcoholic beverages*. One of the conditions to qualify for that "safe harbor" is that the employee attend a TABC-approved seller training program. But such programs do not address CHP sales at this time, so there is no equivalent basis on which to establish a similar "safe harbor" in the proposed rules. If TABC approves a seller training program that does address CHP sales, the agency may revisit whether to establish a "safe harbor" at that time.

COMMENT SUMMARY. Multiple commenters state that the rules should require or provide incentive to use electronic scanning of proof of identification prior to any CHP sales and deliveries, with some commenters stating that entry onto premises where CHPs are sold should be limited to those at least 25 years old and electronic ID verification should be required for entry onto the premises. Other commenters suggest that entry onto such a premises should be limited to those 21 years old and older.

AGENCY RESPONSE. The agency disagrees with the commenters' suggestion to mandate that licensees and permittees (including delivery services) use electronic scanning of IDs to verify a CHP purchaser's or recipient's age. Many of the TABC licensees and permittees that currently engage in the retail sale of CHPs will be required to electronically scan IDs during the retail sale of alcoholic beverages, though enforcement of that requirement does not begin until September 1, 2027. *See* Tex. Alco. Bev. Code §109.61(a-1), (a-4). TABC suspects that many of those same licensees and permittees will likely engage in electronic scanning of IDs during the sale of CHPs as well since they will already have the technology to do so and the sanctions for violating the proposed rules are severe. But, for those remaining licensees and permittees not subject to §109.61(a-1), obtaining an electronic scanner may be cost prohibitive or logistically difficult. TABC believes it is sufficient that properly trained staff physically inspect the IDs of CHP purchasers and recipients, but the agency will monitor the effectiveness of this approach and revisit the rules if necessary. However, as previously noted, the agency will consider the use of electronic verification as a factor in determining an appropriate sanction.

Additionally, TABC disagrees with the suggestions to limit access to CHP retailers' premises to those 25 or 21 years old and older. Most retailers subject to these rules sell multiple types of non-hemp products and provide a wide range of services unrelated to CHPs. To limit access to these premises as suggested would have a significant economic impact on the retailers and create potential hardships for consumers under the age of 25 or 21, with limited benefit because the retailers will already be required to verify ages prior to completing CHP sales and deliveries. TABC believes that protection is sufficient to carry out the governor's order and limit CHP access to minors.

COMMENT SUMMARY. One commenter suggests that the proposed rules recognize and allow for the use of "digital drivers licenses," consistent with the Transportation Code, for age-gating purposes.

AGENCY RESPONSE. TABC is not aware of any digital identification or driver's license issued by the Department of Public Safety (DPS) under the Transportation Code. Nevertheless, the proposed rules require retailers to carefully inspect a valid *government-issued* proof of identification. If digital identification or driver's licenses are issued by DPS, then the proposed rules would allow for their use.

COMMENT SUMMARY. One commenter asks that the agency: (1) affirm that it will coordinate with DSHS and the Comptroller of Public Accounts (CPA) on CHP definitions and packaging, labeling, and testing requirements so that the industry is not subject to divergent standards for the same product; and (2) clarify that the proposed rules do not supplant DSHS' CHP-related registration or enforcement requirements.

AGENCY RESPONSE. The agency will coordinate with any other state agency with primary or concurrent jurisdiction in the area of CHPs, as directed by the governor. DSHS is the primary agency charged with regulating the manufacture, distribution, and sale of CHPs under Chapter 443 of the Texas Health and Safety Code, while the CPA is the primary agency charged with enforcing prohibitions on e-cigarettes under Chapter 161 of the Texas Health and Safety Code. *See* Tex. Health & Safety Code §161.0876(b)(4) (e-cigarette may not contain cannabinoids). TABC will coordinate with these agencies (and any others) as appropriate to ensure TABC's consistent application of standards. Furthermore, the proposed rules are not intended to supplant DSHS' CHP-related rules. The proposed rules do not regulate CHPs, per se, but instead regulate the conduct of TABC licensees and permittees if and when they engage in CHP sales and deliveries in order to limit minors' access to such products.

COMMENT SUMMARY. One commenter expresses concern that minors may still purchase CHPs online and receive delivery of the products in Texas without undergoing age verification. The commenter requests that TABC, along with DSHS and other law enforcement agencies, ensure age verification standards apply to such purchases made at brick-and-mortar establishments and through online channels.

AGENCY RESPONSE. The age verification requirements in the proposed rules do not distinguish between CHP sales made in-person or online. The rules also apply to any TABC-licensed person that delivers CHPs in Texas. Therefore, if a Texas resident purchases CHPs online from an out-of-state retailer, the person delivering the products in Texas still must comply with the rules' age verification requirements before completing the delivery. But again, these rules only apply to persons licensed by TABC. Many, but not all, delivery carriers are licensed by TABC. TABC does not have the authority to require carriers that are not licensed by the agency to comply with the proposed rules.

COMMENT SUMMARY. One commenter asks that TABC provide "real-world examples" of how the rules will be enforced. The commenter expresses concern about the "doubling up" of sanctions for violations.

AGENCY RESPONSE. Each of the proposed rules and their corresponding sanctions stand-alone from one another. Section 35.5 generally prohibits the sale of CHPs to minors, while §35.6 establishes age-gating requirements. Depending on the facts, a particular sale or delivery of CHPs may violate one, both, or neither of the rules. If a retailer violates both rules, sanctions may be imposed under both rules.

Example 1: A TABC-licensed retailer sells CHPs to a 35-year old customer without inspecting the customer's government-issued proof of identification. That retailer has violated §35.6, but not §35.5. If this is the retailer's first violation, the retailer's TABC license is subject to at least a seven-day suspension under §35.6(d)(1).

Example 2: A TABC-licensed retailer sells CHPs to a 20-year old customer without inspecting the customer's government-issued proof of identification. That retailer has violated both §35.5 and §35.6. As previously noted, §35.5(c) does allow for license cancellation for a first violation of selling CHP to a minor, but TABC does not intend to seek cancellation for a first violation unless the facts of a particular case are serious enough to warrant that outcome. In this example we will presume the facts do not warrant cancellation. Thus, the retailer's license is subject to at least a 30-day suspension for selling CHPs to a minor and at least a seven-day suspension for failing to inspect the customer's proof of identification. TABC could seek to impose the suspensions consecutively, but TABC would typically seek to impose the suspensions concurrently, meaning the retailer's license would only be suspended for at least 30 days.

Example 3: A TABC-licensed retailer sells CHPs to a customer that claims to be 21-years old, but is actually just 20 years old. The retailer inspected the customer's proof of identification and otherwise complied with the age-gating requirements in §35.6 and reasonably believed the customer was 21 years old. There is no violation of either rule. Even though the retailer sold CHPs to a minor, the exception provided for in §35.5(f) applies.

COMMENT SUMMARY. One commenter states that the rules should: (1) prohibit the placement of CHPs near youth-oriented products; (2) restrict youth-appealing flavors and packaging for CHPs; (3) require age-gating for CHP-related digital marketing and social media; (4) prohibit the sale of CHPs within 1000 feet of schools, playgrounds, and youth facilities; (5) require strong youth-focused warning labels on CHPs; (6) prohibit CHP placement near, and mixing with, alcoholic or high-caffeine beverages; (7) prohibit CHP advertising near youth spaces; (8) prohibit CHP advertising on gas station fuel pumps; and (9) implement strong licensing penalties for CHP sales to minors. Other commenters suggest that TABC prohibit THC-infused foods and beverages because these products violate federal food safety laws, appeal to minors, and are involved in accidental ingestion.

AGENCY RESPONSE. The agency appreciates the commenter's suggestion to implement strong licensing penalties for CHP sales to minors. The agency believes the proposed rules provide strong penalties (even stronger than suggested by the commenter), so no changes will be made in response to this comment.

The remaining suggestions are beyond the scope of this rulemaking, and some are likely beyond TABC's authority. As previously noted, the proposed rules implement Governor Abbott's executive order by prohibiting TABC licensees and permittees from selling CHPs to minors and requiring the licensees and permittees to verify a purchaser's or recipient's age by checking their proof of identification. The governor's directive to TABC regarding rulemaking did not go beyond that prohibition and requirement, and TABC does not believe it is appropriate to en-

gage in any regulation in the CHP sphere beyond that directive. Furthermore, TABC does not have broad authority over CHPs in general. Instead, the agency is exercising its existing regulatory authority over its licensees and permittees to ensure the place and manner in which they conduct their business is consistent with the general welfare, health, peace, morals, and safety of the people, and the public's sense of decency. *See* Tex. Alco. Bev. Code §§11.61(b)(7), 61.71(a)(16). The agency believes selling CHPs to minors and failing to verify a purchaser's or recipient's age clearly does not meet that standard. TABC is mindful that its regulatory authority is centered on the *conduct* of its licensees and permittees, not the products themselves. As previously noted, DSHS is the primary agency charged with regulating the manufacture, distribution, and sale of CHPs under Chapter 443 of the Texas Health and Safety Code. That agency is also engaging in rulemaking in response to the governor's order, and TABC believes the commenter's remaining suggestions should be directed to DSHS. Furthermore, to the extent the sale of any particular product is prohibited by federal or state law, the proposed rules do not authorize its sale. Any TABC licensee or permittee that sells or delivers an illegal product commits a violation.

COMMENT SUMMARY. Multiple commenters suggest that the proposed rules prohibit the sale of CHPs to anyone under the age of 25, while one commenter suggests that the rules require any person selling or providing CHPs be at least 25 years of age as well.

AGENCY RESPONSE. The agency acknowledges the existence of research and anecdotal evidence showing the harms associated with CHP use in those under the age of 25, but TABC still disagrees with the commenter's suggestion. First, there is also evidence demonstrating the harms associated with alcohol use in all ages, but the state still permits those 21 years of age and older to purchase alcohol. TABC employs that same rationale here. Next, the governor's executive order specifically directs TABC to limit CHP access for "minors" (those 21 and older), and as noted above, TABC does not believe it is appropriate to engage in regulation beyond the scope of the governor's order. Finally, this agency is tasked with enforcing the Alcoholic Beverage Code, which prohibits the sale of alcoholic beverages to anyone under the age of 21. The agency and the industry it regulates are familiar with this prohibition and its application to those under the age of 21. For TABC to employ different age restrictions for alcoholic beverages and CHPs could lead to confusion by agency staff and the industry. For these reasons, TABC believes it is appropriate to apply a consistent age restriction on the purchase of both alcoholic beverages and CHPs. Regarding the suggestion that TABC require individuals selling CHPs to be a minimum of 25 years old, the agency is limited in its authority because the Alcoholic Beverage Code already establishes minimum age requirements to work at TABC-licensed locations. *See* Tex. Alco. Bev. Code §§25.04, 26.03, 61.71, 74.04, 106.09. TABC cannot impose restrictions that are inconsistent with those statutes.

COMMENT SUMMARY. Multiple commenters suggest that the sale of illegal controlled substances or products not approved by the Food and Drug Administration should result in mandatory license or permit cancellation, and that mandatory compliance checks and sting operations should be conducted on a regular basis.

AGENCY RESPONSE. The agency appreciates the commenters' suggestions to mandate compliance checks. TABC uses a risk-based approach to conducting enforcement activities and inspections, as required by law. Tex. Alco. Bev. Code §5.361. The agency does intend to conduct routine compliance checks and undercover stings to enforce the proposed rules, but the agency does not believe codifying the agency's enforcement plans into these rules is warranted. The agency must retain flexibility to marshal its resources where and when it deems appropriate. The remaining suggestion regarding the loss of a license for selling illegal controlled substances or unapproved products is not within the scope of this rulemaking. TABC already has rules providing sanctions for selling illegal substances, *see* 16 TAC §34.2(e), and the proposed rules do not impact those sanctions. As such, no changes will be made in response to this comment.

COMMENT SUMMARY. Multiple commenters suggest that any government-issued license held by a retailer should be at risk if the retailer violates the rules, and state and local licensing agencies should coordinate enforcement activities with each other.

AGENCY RESPONSE. TABC appreciates the comment, but TABC only has authority to take administrative action against TABC-issued licenses and permits. To the extent the commenters suggest TABC take action against other types of licenses, the comment is beyond TABC's authority and the scope of this rulemaking. TABC will be coordinating enforcement activities with DSHS and the Department of Public Safety, as directed in Governor Abbott's executive order, and the agency intends to work and share information with local law enforcement agencies where appropriate. TABC does not, however, have authority to mandate that other agencies share information with TABC.

COMMENT SUMMARY. One commenter states that TABC-issued licenses and permits should not be in jeopardy for violations related to CHPs because they are non-alcoholic products.

AGENCY RESPONSE. The agency disagrees with the comment. As previously noted, the agency is exercising its existing regulatory authority over its licensees and permittees to ensure the place and manner in which they conduct their business is consistent with the general welfare, health, peace, morals, and safety of the people, and the public's sense of decency. *See* Tex. Alco. Bev. Code §§11.61(b)(7), 61.71(a)(16). That authority is not limited to issues involving alcoholic beverages. *See* 16 TAC §34.3(c) (A licensee or permittee violates the Alcoholic Beverage Code if it violates "any law, regulation or ordinance of the state or federal government or of the county or municipality in which the licensed premises is located, violation of which is detrimental to the general welfare, health, peace and safety of the people."). The agency believes selling CHPs to minors and failing to verify a purchaser's or recipient's age clearly does not meet the statutory standard. The agency's focus is on the conduct of its licensees and permittees, not the products themselves. Finally, the governor's order directed TABC to take enforcement action against licenses and permits issued by the agency. The order was not limited to just CHP-related licenses issued by DSHS.

COMMENT SUMMARY. Multiple commenters support a grant program for local compliance checks funded through penalties for non-compliance and requiring accurate product labeling, third-party testing, and certificates of analysis for CHPs. One commenter suggests that in-state facilities should be used for testing, while another suggests that CHPs should be subject to product registration and CHP retailers should be subject to large annual license fees. And yet another commenter states

that all CHPs should go through FDA approval prior to entry into the Texas market.

AGENCY RESPONSE. TABC appreciates the comments, but these suggestions are beyond the scope of this rulemaking and TABC's authority. TABC does not have authority to make CHP-related grants, and DSHS, not TABC, is the agency charged with regulating CHP licensing, labeling, testing, etc. *See generally* Tex. Health & Safety Code ch. 443.

COMMENT SUMMARY. One commenter claims "the proposed rules would permit substantial youth exposure to the marketing of" CHPs.

AGENCY RESPONSE. The proposed rules do not address exposure to CHP marketing, so it is unclear to TABC how the rules permit such exposure beyond what is already allowed under current law. As previously noted, the proposed rules implement Governor Abbott's executive order by prohibiting TABC licensees and permittees from selling CHPs to minors and requiring the licensees and permittees to verify a purchaser's or recipient's age by checking their proof of identification. The governor's directive to TABC regarding rulemaking did not go beyond that prohibition and requirement, and TABC does not believe it is appropriate to engage in any regulation in the CHP sphere beyond that directive. Furthermore, TABC does not have broad authority over CHPs in general. DSHS is the primary agency charged with regulating the manufacture, distribution, and sale of CHPs under Chapter 443 of the Texas Health and Safety Code.

COMMENT SUMMARY. One commenter opposes age-gating because she believes that age-gating CHPs sends a message that the products are fine to use.

AGENCY RESPONSE. TABC appreciates the comment. That is certainly not the agency's intended message, but TABC accepts that reasonable people may see it differently. Though TABC believes it is important to note that many of the CHPs in the market are not illegal to sell under current law. So, without age-gating requirements like those imposed in these rules, there would be no limit on youth access to such products. As the governor's order acknowledged, age-gating is an important tool that is within the agency's authority to require for its licensees and permittees.

COMMENT SUMMARY. Multiple commenters suggest that TABC should align or harmonize the proposed rules and definitions with corresponding federal laws and rules on the subject. Some commenters note that Congress recently amended the statutory definition of "hemp" in 7 U.S.C. §1639o to effectively outlaw many of the CHPs in the market today. *See* Agriculture Appropriations Act, P.L. 119-37, Division B, §781. Other commenters note that the federal changes do not go into effect until November 12, 2026, and legislation has been or will likely be filed to make further changes on the subject. These commenters caution against tying the proposed rules to the federal law as it stands now.

AGENCY RESPONSE. The agency disagrees with those commenters that suggest the proposed rules should align with the recent changes in federal law. First, as other commenters have noted, the relevant changes in federal law do not go into effect until late this year. Second, the proposed rules do not effectively legalize any product that is prohibited under federal law (now or under the recently passed federal law), as some suggest. As noted several times before, the proposed rules merely prohibit TABC licensees and permittees from selling CHPs to minors and require them to verify the age of persons wanting to purchase or obtain CHPs, as directed by the governor. If a particular CHP is not legal under federal or state law, retailers would still be prohibited from selling that product. The proposed rules do not change that fact. Furthermore, TABC has aligned its definition of a CHP with DSHS' definition to ensure consistency at the state level. If DSHS believes changes in federal law warrant making changes to its definition, TABC will automatically follow suit.

COMMENT SUMMARY. Multiple commenters suggest that "THCA flower" should be prohibited from being imported into Texas and sold at retail because its "retail availability enables circumventing of THC limits."

AGENCY RESPONSE. The comment is beyond the scope of this rulemaking. As previously noted, DSHS is the primary agency charged with regulating the manufacture, distribution, and sale of CHPs under Chapter 443 of the Texas Health and Safety Code. TABC does not have authority to limit the importation of "THCA flower." TABC also defers to DSHS to determine what CHPs may be sold in Texas. If "THCA flower" is authorized for retail sale by DSHS, TABC will not limit its sale at TABC-licensed locations (as previously noted, if the product cannot be legally sold in Texas, the proposed rules do not change that fact). Again, TABC's regulatory authority is centered on the conduct of its licensees and permittees, not the products themselves. Questions and comments regarding the legal status of certain types of CHPs should be directed to DSHS.

COMMENT SUMMARY. One commenter requests that procedures for license and permit cancellation be established to provide transparency and predictability.

AGENCY RESPONSE. The procedures for sanctions imposed under the proposed rules will follow the agency's standard process for addressing violations. *See* 16 TAC §37.2. As with all licensing actions, the agency will abide by the Administrative Procedure Act and the Alcoholic Beverage Code, which generally require notice and an opportunity for a hearing on an alleged violation. *See* Tex. Alco. Bev. Code §§11.61(b), 61.71(a); Tex. Gov't Code §2001.051. If a licensee or permittee requests a hearing on an alleged violation, it will be held by the State Office of Administrative Hearings, and the Commission (as opposed to the executive director) will render the final decision on any sanction. *See* Tex. Alco. Bev. Code §§5.363(b), 5.43.

COMMENT SUMMARY. Multiple commenters made broad statements concerning the legal status of hemp, tetrahydrocannabinol, and marijuana products in this state. For example, one commenter states that hemp should be legal in Texas, another opposes anything "that would limit the sale, availability, or consumer choice regarding THC products[,]" while another supports a "full ban on harmful THC products."

AGENCY RESPONSE. TABC appreciates the comments, but the subject matter of these statements is beyond the scope of this rulemaking. The rules merely prohibit TABC licensees and permittees from selling CHPs to minors, require them to verify the age of persons wanting to purchase or obtain CHPs, and establish consequences for violations. Because the comments do not address the proposed rules, TABC will make no changes in response to these comments.

COMMENT SUMMARY. One commenter suggests that TABC utilize the commenter's "patented technology-enabled, risk-based regulatory system to support effective oversight of" CHPs.

AGENCY RESPONSE. TABC appreciates the comment, but the agency is not in the market for such a system. Furthermore, if

TABC does decide it needs a system to assist in its regulatory responsibilities, it will abide by all applicable procurement and solicitation requirements imposed by law and rule.

STATUTORY AUTHORITY. TABC adopts the new rules pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 5.33. Section 5.31 provides that "the commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code," and further states that "it may prescribe and publish rules necessary to carry out the provisions of this code." Section 5.33 provides that "the commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public." And that "this authority is not limited to matters specifically mentioned in [the] code."

*§35.5. Prohibited Sales of Consumable Hemp Products to Minors.*

(a) Definitions. In this section and §35.6 of this chapter:

(1) "Consumable hemp product" has the meaning assigned by 25 TAC §300.101 or a successor rule adopted by the Department of State Health Services;

(2) "Licensee" and "permittee" have the meaning assigned by Alcoholic Beverage Code §1.04; and

(3) "Minor" means a person under 21 years of age.

(b) A licensee or permittee violates Alcoholic Beverage Code §§11.61(b)(7) or 61.71(a)(16), as applicable, if the licensee or permittee sells, offers to sell, serves, or delivers a consumable hemp product to a minor.

(c) Notwithstanding Chapter 34 of this title, the commission shall impose the following sanctions for a violation of subsection (b) of this section:

(1) suspend for no less than 30 days or cancel the license or permit for a first violation;

(2) suspend for no less than 60 days or cancel the license or permit for a second violation; and

(3) cancel the license or permit for any subsequent violation.

(d) The licensee or permittee does not have the option to pay a civil penalty in lieu of suspension or cancellation under subsection (c) of this section.

(e) If a license or permit was cancelled under subsection (c) of this section, the following persons are not eligible to apply for, and may not be issued, any TABC-issued original license or permit for a period of five years after cancellation:

(1) the license or permit holder;

(2) a person who held an interest in the license or permit;

(3) if the cancelled license or permit holder is a corporation or other legal entity, a person who held a 50 percent or more ownership interest, directly or indirectly, in the corporation or entity;

(4) a corporation or other legal entity, if a person holding a 50 percent or more ownership interest, directly or indirectly, in the corporation or entity is disqualified from obtaining a license or permit under this subsection; and

(5) a person who resides with a person who is disqualified from obtaining a license or permit under this subsection.

(f) A licensee or permittee that sells, offers to sell, serves, or delivers a consumable hemp product to a minor does not violate subsection (b) of this section if the minor falsely claims to be 21 years of age or older, the permittee or licensee otherwise complies with §35.6 of this chapter, and the permittee or licensee reasonably believes the minor is actually 21 years of age or older.

*§35.6. Mandatory Age Verification for Consumable Hemp Product Sales.*

(a) Except as provided in subsection (c) of this section, a licensee or permittee may not sell, serve, or deliver a consumable hemp product to a person unless the person presents an apparently valid, unexpired proof of identification issued by a governmental agency that contains a physical description and photograph consistent with the person's appearance and that purports to establish that the person is 21 years of age or older.

(b) Except as provided by subsection (c) of this section, before completing the sale, service, or delivery of a consumable hemp product to an ultimate consumer, a licensee or permittee shall verify that the purchaser or recipient is 21 years of age or older by carefully inspecting the provided proof of identification.

(c) It is a defense to an enforcement action under subsection (d) of this section that the ultimate consumer is 40 years of age or older.

(d) Notwithstanding Chapter 34 of this title, if a licensee or permittee fails to abide by the requirements of this section, the licensee or permittee violates Alcoholic Beverage Code §§11.61(b)(7) or 61.71(a)(16), as applicable, and the commission shall:

(1) suspend the license or permit for no less than seven days for a first violation;

(2) suspend the license or permit for no less than 14 days for a second violation;

(3) suspend the license or permit for no less than 30 days for a third violation; and

(4) cancel the license or permit for any subsequent violation.

(e) The licensee or permittee does not have the option to pay a civil penalty in lieu of suspension or cancellation under subsection (d) of this section.

(f) If a license or permit was cancelled under subsection (d) of this section, the following persons are not eligible to apply for, and may not be issued, any TABC-issued original license or permit for a period of one year after cancellation:

(1) the license or permit holder;

(2) a person who held an interest in the license or permit;

(3) if the cancelled license or permit holder is a corporation or other legal entity, a person who held a 50 percent or more ownership interest, directly or indirectly, in the corporation or entity;

(4) a corporation or other legal entity, if a person holding a 50 percent or more ownership interest, directly or indirectly, in the corporation or entity is disqualified from obtaining a license or permit under this subsection; and

(5) a person who resides with a person who is disqualified from obtaining a license or permit under 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.

Filed with the Office of the Secretary of State on January 20, 2026.

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Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
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For further information, please call: (512) 206-3491

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## CHAPTER 41. AUDITING

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to 16 TAC §41.37, relating to Destructions; §41.43, relating to Sale after Cancellation, Expiration, or Voluntary Suspense of License or Permit; §41.50, relating to General Provisions; §41.52, relating to Temporary Memberships; §41.53, relating to Pool Systems; and §41.65, relating to Contract Distilling Arrangements and Distillery Alternating Proprietorships. TABC also adopts new 16 TAC §41.57, relating to Purchase of Certain Alcoholic Beverages, to be codified in Chapter 41, Subchapter E. The amendments and new rule are adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7821). The amendments and new rule will not be republished.

REASONED JUSTIFICATION. The amendments and new rule fix clerical errors and provide non-substantive changes clarifying current agency practices. The amendment to §41.37(a) removes a reference to a repealed statute. The amendment to §41.43(a) removes the "in bulk" requirement for inventory sales when a license or permit is cancelled, expires, or is voluntarily suspended. Removal of this requirement aligns with current agency practices and is intended to provide flexibility to businesses disposing of their alcoholic beverage inventory when ceasing operations.

The amendment to §41.50(b) corrects a previous clerical error. The amendment to §41.52(b)(1) more accurately states the temporary membership card requirements for private club registration permit holders in Alcoholic Beverage Code §32.09. The amendment to §41.53 repeals subsection (e), which has been moved to new §41.57. New §41.57 reflects the current requirement in §41.53(e), but the text has been revised for clarity without making any substantive changes to the current requirement in repealed §41.53(e). Lastly, the amendment to §41.65(e) clarifies that authorized wholesalers and carriers may pick up product directly from a contract distiller's facility.

SUMMARY OF COMMENTS. TABC did not receive any comments on the amendments and new rule.

## SUBCHAPTER C. EXCISE TAXES

### 16 TAC §41.37

STATUTORY AUTHORITY. TABC adopts the amendments and new rule pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31, 14.10(e), 32.09, and 37.011(d). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Sections 14.10(e) and 37.011(d) direct the agency to "adopt rules regulating the shared use of [distillery] premises." Section 32.09 provides that "temporary memberships shall be governed by rules promulgated 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.

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Matthew Cherry
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For further information, please call: (512) 206-3491

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## SUBCHAPTER D. SALES OF ALCOHOLIC BEVERAGES NOT IN REGULAR COURSE OF BUSINESS

### 16 TAC §41.43

STATUTORY AUTHORITY. TABC adopts the amendment pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §5.31, which authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

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

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## SUBCHAPTER E. PRIVATE CLUBS

### 16 TAC §§41.50, 41.52, 41.53, 41.57

STATUTORY AUTHORITY. TABC adopts the amendments and new rule pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §§5.31 and 32.09. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 32.09(d) provides that "temporary memberships shall be governed by rules promulgated 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.

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## SUBCHAPTER G. OPERATING AGREEMENTS BETWEEN PERMIT AND LICENSE HOLDERS

### 16 TAC §41.65

STATUTORY AUTHORITY. TABC adopts the amendments pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §§14.10(e) and 37.011(d), which direct the agency to "adopt rules regulating the shared use of premises."

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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Matthew Cherry
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## CHAPTER 45. MARKETING PRACTICES SUBCHAPTER G. REGULATION OF CASH AND CREDIT TRANSACTIONS

### 16 TAC §45.130, §45.131

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to 16 TAC §45.130, relating to Credit Law and Delinquent List; and §45.131, relating to Cash Law. The amendments are adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7824). The amended rules will not be republished.

REASONED JUSTIFICATION. The amendments make non-substantive and clarifying revisions reflecting current agency practices that were identified as part of the agency's quadrennial rule review in accordance with Government Code §2001.039. The amendments also make fixes to previous clerical errors.

The amendment to §45.130(b) more accurately lists the applicable permit types subject to Alcoholic Beverage Code §102.32, which governs liquor sales and credit restrictions between wholesalers and retailers. The amendment to §45.130(c) adds identification stamps to the invoice requirement to better align with the recordkeeping requirements in Alcoholic Beverage Code §206.01. The amendments to §45.130(d) clarify that the payment dates are calculated using business days to more accurately track the statutory text in Alcoholic Beverage Code §102.32. The amendment to §45.130(h) codifies the long-standing practice that disputed delinquencies must be approved by the agency before a business is removed from the delinquent list. The amendment to §45.131(b) more accurately lists the applicable permit types subject to the requirements of Alcoholic Beverage Code §102.32. The amendment to §45.131(c) fixes clerical errors in the current rule text.

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

STATUTORY AUTHORITY. TABC adopts these amendments pursuant to the agency's rulemaking authority under Texas Alcoholic Beverage Code §§5.31, 102.31(e), and 102.32(f). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Sections 102.31(e) and 102.32(f) direct the agency to adopt rules to effectuate the code's cash and credit law requirements.

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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Matthew Cherry
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# TITLE 19. EDUCATION

## PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

## CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER P. LOWER-DIVISION ACADEMIC COURSE GUIDE MANUAL ADVISORY COMMITTEE

### 19 TAC §1.197

Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 1, Subchapter P, §1.197, Tasks Assigned to the Committee, without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7200). The rule will not be republished.

This amendment clarifies in rule that the committee provides recommendations to the commissioner regarding the addition, deletion, and revision of courses in the Lower-Division Academic Course Guide Manual.

Texas Government Code, Chapter 2110, §2110.0012, authorizes state agencies to establish committees to advise the agency.

Rule 1.197, Tasks Assigned to the Committee, clarifies that the committee provides recommendations to the Commissioner regarding changes to the Lower-Division Academic Course Guide Manual.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Government Code, Section 2110.0012, and Texas Education Code, Section 61.026, which provides the Coordinating Board with the authority to establish committees to advise the agency.

The adopted amendment affect Texas Education Code, Chapter 61, Subchapter S.

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

Filed with the Office of the Secretary of State on January 22, 2026.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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Proposal publication date: November 7, 2025
For further information, please call: (512) 427-6182

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## SUBCHAPTER T. WORKFORCE EDUCATION COURSE MANUAL ADVISORY COMMITTEE

### 19 TAC §§1.220, 1.224, 1.226

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter T, §§1.220, 1.224, and 1.226, Workforce Education Course Manual Advisory Committee, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6593). The rules will not be republished.

These amendments revise and clarify purpose, meeting requirements, and reporting requirements of the committee.

Amendments to this subchapter in 2024 clarified that the committee is required to advise the Coordinating Board and transmit Workforce Education Course Manual (WECM) courses to the Coordinating Board for consideration for approval. This change effectively removed all approval authority from the committee. Now advisory, the committee is no longer subject to the Open Meetings Act. The committee was created to provide advice to the Coordinating Board regarding content, structure, currency, and presentation of the WECM and its courses; coordinate field engagement in processes, maintenance, and use of the WECM; and assist in identifying new courses and courses that are obsolete.

The Coordinating Board is authorized to adopt rules relating to the Workforce Education Course Manual Advisory Committee under Texas Education Code, §130.001 and §61.026.

Rule 1.220(b), Authority and Specific Purposes of the Workforce Education Course Manual Advisory Committee, is amended to assign the WECM Advisory Committee responsibilities to coordinate field engagement and maintenance of the WECM, to identify new courses, and to identify obsolete courses. This amendment will remove the responsibility of the WECM Advisory Committee to identify new or obsolete programs of study, and to identify vertical and horizontal alignments of courses within programs. This amendment is proposed to align this rule with Texas Administrative Code, Chapter 1, Subchapter X, regarding the responsibility of the Program of Study Advisory Committee, to ensure that there is only one committee responsible for programs of study.

Rule 1.224, Meetings, is amended to remove the requirements to conduct meetings that are open to the public, broadcast meetings via the internet, and to post meeting minutes. This amendment aligns with the advisory nature of the committee's responsibilities.

Rule 1.226, Report to the Board; Evaluation of Committee Costs and Effectiveness, is amended to remove the requirement to evaluate costs and report to the Legislative Budget Board. The rule title is also amended to "Report to the Board." This amendment aligns with the advisory nature of the committee's responsibilities.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 130.001, which provides the Coordinating Board with the authority to adopt rules and regulations for public junior colleges; and Section 61.026, which grants the Coordinating Board authority to establish advisory committees.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter T.

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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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6209

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# CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §2.3, §2.5

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 2, Subchapter A, §2.3 and §2.5, General Provisions, without changes to the proposed text as published in the October 10, 2025, issue

of the *Texas Register* (50 TexReg 6594). The rules will not be republished.

This amendment defines competency-based baccalaureate degree, and clarify the criteria the Coordinating Board uses to determine whether a proposed degree program has adequate funding for implementation and sufficient labor market need.

House Bill 4848, 89th Texas Legislature, Regular Session, authorizes the Coordinating Board to adopt rules for the approval of competency-based baccalaureate degree programs in fields of study in high demand.

Senate Bill 37, 89th Texas Legislature, Regular Session, adds the consideration of nation labor market needs to the criteria for program approval.

State law requires the Coordinating Board to review new degree programs to ensure institutions have sufficient financing through legislative appropriations, funds allocated by the Coordinating Board, or other sources, and sufficient labor market need for the program. The adopted amendments related to financing identify acceptable revenue streams and clarify that grant funding and legislative appropriations must be in-hand and adequate to fund the program for the first five years of implementation. The adopted amendments related to labor market need clarify that national labor market needs shall be considered during the program approval process.

Rule 2.3, Definitions, is amended to define competency-based baccalaureate degree in alignment with the meaning in Texas Education Code, §56.521.

Rule 2.5, General Criteria for Program Approval, is amended to require institutions proposing a new degree program have grant funding and legislative appropriations available to support the program. The rule also specifies that the board may consider the location where the program is offered in determining the need for a new program. This criterion is implicit in the current rule providing that the board may coordinate to prevent the unnecessary duplication of programs, but this amendment makes explicit that the board may consider location, which is important for off-campus program approval.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 61.0512, which provides the Coordinating Board with the authority to review each new degree program proposed by an institution of higher education to ensure the program meets approval criteria, including adequate financing. Texas Education Code, Section 51.3535, authorizes the Coordinating Board to adopt rules regarding the approval of competency-based baccalaureates in fields of high demand.

The adopted amendments affect Texas Administrative Code, Chapter 2, Subchapter A.

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

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Douglas Brock
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For further information, please call: (512) 427-6182

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## SUBCHAPTER C. PRELIMINARY PLANNING PROCESS FOR NEW DEGREE PROGRAMS

### 19 TAC §2.41

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 2, Subchapter C, §2.41, Planning Notification: Notice of Intent to Plan, without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7201). The rule will not be republished.

This amendment requires that institutions include the proposed location of the degree program in a planning notification for a new degree program.

The amendment is adopted under Texas Education Code, §61.0512(b), which requires institutions to notify the Board prior to beginning preliminary planning for a new degree program. Texas Education Code, §61.0512(g) states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Section 2.41, Planning Notification: Notice of Intent to Plan, is amended to require that institutions include the proposed location of the degree program in a planning notification for a new degree program. This clarification provides additional information to inform review of off-campus educational sites and is incorporated as part of the rule review and revisions to off-campus approval in new Chapter 2P. Review of the location may inform the labor market information and potential for duplication of programs in a specific region.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.0512(b), which requires institutions to notify the Board prior to beginning preliminary planning for a new degree program and Texas Education Code, Section 61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

The adopted amendment affects Texas Education Code, Sections 61.0512(b), and 61.0512(g).

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. APPROVAL PROCESS FOR NEW BACCALAUREATE AND MASTER'S DEGREES AT PUBLIC UNIVERSITIES AND PUBLIC HEALTH-RELATED INSTITUTIONS

### 19 TAC §§2.118 - 2.121

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 2, Subchapter F, §§2.118 - 2.121, concerning Approval Process for New Baccalaureate and Master's Degrees at Public Universities and Public Health-Related Institutions, without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7202). The rules will not be republished.

These rules are replaced with new rules in Subchapter F that include the addition of §2.118 which will establish approval criteria for competency-based baccalaureate degree programs required by House Bill (HB) 4848, 89th Texas Legislature, Regular Session.

The repeal is adopted under Texas Education Code, §51.3535, which requires the Coordinating Board to adopt new rules on implementation of HB 4848, 89th Texas Legislature, Regular Session.

Section 2.118, Post-Approval Program Reviews, outlines requirements for review of degree programs after initial approval by the Coordinating Board.

Section 2.119, Revisions to Approved Baccalaureate or Master's Degree Programs, outlines how an institution may request changes to an approved bachelor's or master's degree program.

Section 2.120, Phasing Out a Master's or Baccalaureate Degree Program, outlines steps to request closure or phase out of a bachelor's or master's degree program.

Section 2.121, Effective Dates of Rules, provides the effective date for this section of rule.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 51.3535, which provides the Coordinating Board with the authority to adopt rules on implementation of House Bill 4848, 89th Texas Legislature, Regular Session.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F.

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

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For further information, please call: (512) 427-6182

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### 19 TAC §§2.118 - 2.121

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 2, Subchapter F, §2.118 - 2.121, Approval Process for New Baccalaureate and Master's Degrees at Public Universities and Public Health-Related Institutions without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7203). The rules will not be republished.

This new sections implement statutory obligations related to the approval of competency-based baccalaureate degree programs at public institutions of higher education.

The new sections are adopted under Texas Education Code, §51.3535, which provides the Coordinating Board with the authority to adopt rules on implementation of House Bill 4848, 89th Texas Legislature, Regular Session.

Section 2.118, Criteria for New Competency-Based Baccalaureate Degrees, establishes approval criteria for competency-based baccalaureate degree programs required by House Bill 4848, 89th Texas Legislature, Regular Session. The new legislation requires that one or more institutions of higher education in each system offer a competency-based baccalaureate degree program in a high demand field identified by the Coordinating Board. Programs in high demand fields, identified based on existing labor market demand data and feasibility for transition to competency-based education, include programs in Classification of Instructional Programs (CIP) 11 - Computer and Information Sciences and Support Services, CIP 51 - Health Professions and Related Programs, CIP 27- Mathematics and Statistics, CIP 30.70 - Data Analytics, or CIP 30.08 - Mathematics and Computer Science. Baccalaureate degrees in CIPs other than those referenced above may be approved by the Commissioner based on demonstrated high labor market demand for the program. Institutions requesting a new baccalaureate degree under this section shall submit a planning notification as required by Subchapter C of this chapter and are subject to approval criteria in Chapter 2, §2.117. The tuition limitation established in new Texas Education Code, §51.3535 (c) and (d), will be adopted in Chapter 13, Subchapter G.

Section 2.119, Post-Approval Program Reviews, outlines requirements for review of degree programs after initial approval by the Coordinating Board. No changes have been made to this section.

Section 2.120, Revisions to Approved Baccalaureate or Master's Degree Programs, outlines how institutions may request changes to an approved bachelor's or master's degree program. No changes have been made to this section.

Section 2.121, Phasing Out a Master's or Baccalaureate Degree Program, outlines steps to request closure or phase out of a bachelor's or master's degree program. No changes have been made to this section.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Section 51.3535, which provides the Coordinating Board with the authority to adopt rules on implementation of House Bill 4848, 89th Texas Legislature, Regular Session.

The adopted new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F.

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

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## SUBCHAPTER P. APPROVAL PROCESS AND CRITERIA FOR OFF-CAMPUS EDUCATION AT PUBLIC UNIVERSITIES AND HEALTH-RELATED INSTITUTIONS

### 19 TAC §§2.380 - 2.388

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 2, Subchapter P, §§2.382, 2.383, 2.385, 2.386, and 2.388, Approval Process and Criteria for Off-Campus Education at Public Universities and Health-Related Institutions, with changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7204). The rules will be republished. Sections 2.380, 2.381, 2.384, and 2.387 are adopted without changes and will not be republished.

The new rules replace existing rules in Chapter 4, subchapter Q, relating to the delivery of off-campus courses, certificates, and programs, which will be repealed under separate rulemaking and an agency-issued policy document from 2014. The new rules are designed to streamline processes related to notification and approval of off-campus courses, certificates and programs.

Texas Education Code (TEC), §61.002, charges the Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." TEC, §61.0512(a), requires board approval for a new certificate or degree program. TEC, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Section 2.380, Purpose and Applicability, establishes that the rules apply to public universities and health-related institutions. Rules relating to off-campus education for community, technical and state colleges will be addressed in future rulemaking.

Section 2.381, Authority, identifies the statutory authority for the Coordinating Board to establish rules related to off-campus education.

Section 2.382, Definitions, provides words and terms relevant to delivery of degree programs as off-campus educational sites.

Section 2.383, Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site, establishes required criteria that institutions must comply with to offer off-campus education. These criteria align with state and federal standards and ensure that each student enrolled in an off-campus degree program has access to the same quality of education as on-campus students.

Section 2.384, Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) of a Degree Program, establishes procedures for institutions to notify the Coordinating Board offer off-campus education that does not meet the fifty percent (50%) of a degree program threshold. The section also identifies which site types are not required as part of the notification. This requirement is new but ensures statutory compliance with as minimal data collection as possible.

Section 2.385, Approval Required for Off-Campus Delivery of a New Degree Program, establishes approval procedures for institutions seeking approval for a new degree program that will be offered at an off-campus location. This section does not represent a departure from current practice for universities and health-related institutions.

Section 2.386, Approval Required for Off-Campus Delivery of an Existing Degree Program, establishes procedures for institutions seeking approval for an existing degree program to be offered at an off-campus location. This requirement is not new and removes the institutional requirement to submit a 50-mile notification prior to submission to the Coordinating Board. The Coordinating Board will send out a regional 30-day informal comment period for off-campus requests as it does with new degree programs.

Section 2.387, Modifications and Phase Out of Off-Campus Degree Programs, establishes procedures for making modifications to degree programs offered at an off-campus educational site. This section does not represent a departure from current practice for universities and health-related institutions.

Section 2.388, Effective Dates of Rules, specifies that the rules are effective beginning September 1, 2026.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Section 2.382 is amended to remove the definition of "Additional Location" and integrate those requirements into "Off-campus Educational Site".

Section 2.383 is amended based on comments from institutions with minor nonsubstantive edits for clarification of the intent of the rules and to reflect adjustments to the Definitions section.

Sections 2.385 and 2.386 are amended to replace language with a specific term defined in §2.382.

Section 2.388 is amended in clarify that off-campus sites approved prior to September 1, 2026, do not need additional or new approval.

The following comments were received regarding the adoption of the new rules.

Comment from Texas Tech University System: The system requested clarification of how the proposed new subchapter related to Chapter 5, Subchapter D, and noted that Texas Constitution, Article VII, Section 17(k), includes the terms "branch

campus or educational center" it is important to maintain definitions for those two terms for the institutions that participate in the Higher Education Fund (HEF).

Response: Branch campus and off-campus center are not terms included in the proposed rules and so do not need to be defined separately for this subchapter.

Comment from the University of North Texas System: The system expressed concern regarding a conflict with Chapter 5, Subchapter D, particularly around the definitions of branch campuses and off-campus educational sites/units/centers.

Response: The Coordinating Board rules in Chapter 5, Subchapter D, will be proposed for repeal at the April 2026 Board meeting in order to reduce confusion regarding definitions.

Comment from Texas Tech University System and University of North Texas System: The systems suggested including "or" in §2.383(2) to align requirements with §2.382(1), or to rewrite §2.383(2) to conform to the definition of "additional location" in proposed §2.382.

Response: The Coordinating Board agrees with the suggestions and appreciates the opportunity to clarify that the intent was not to require legislative approval for all additional locations. Section 2.383 has been modified to address this and other comments related to required approvals.

Comment from Texas Tech University System: The system recommended removing the word "regional" in §2.383(1) as an adjective for recognized accrediting organizations to align more directly with §4.192, Recognized Accrediting Organizations.

Response: The Coordinating Board agrees with suggested edit and has modified the proposed rules accordingly.

Comment from Texas Tech University System: Will all existing instructional sites be grandfathered as approved?

Response: Yes, all previously approved off-campus sites will continue to operate under the new rules (unless closed by the institution) and will not need additional or new approval.

Comment from Texas Tech University System: Sought clarification on whether the rules intended to restrict new sites to those approved by the legislature, and if so, does the requirement for legislative approval only apply when the site is being designated as an "additional location" for accreditation purposes?

Response: The Coordinating Board agrees with the suggestions and appreciates the opportunity to clarify that the intent was not to require legislative approval for all Off-Campus Educational Sites. Section 2.383 has been modified to address this and other comments related to required approvals.

Comment from Angelo State University: Section 2.384 specifically states that dual credit sites are exempt from the requirement of that section. However, §2.386 does not state that dual credit is exempt. Will universities have to submit for approval off-campus delivery of courses greater than 50% for dual credit sites? Since universities are prohibited from offering dual credit courses outside of the core curriculum, foreign language, or field of study curriculum, students cannot earn a degree while attending the off-site location. Are universities expected to submit and receive approval for dual credit sites where at least 50% of an existing degree program is offered if the student is unable to earn the full degree from that site?

Response: It is correct that dual credit sites are exempt from the general site notification requirement (§2.384) if less than 50% of a degree program is offered at that site. However, universities are required to request approval to offer 50% or more of a degree program at an off-campus site, regardless of whether the program is offered at a site where dual credit is offered. No course-level approval or notification is required.

The new sections are adopted under Texas Education Code (TEC), §61.002, which charges the Coordinating Board with "the elimination of costly duplication in program offerings, faculties, and physical plants"; TEC, §61.0512(a), which requires board approval for a new certificate or degree program; and TEC, §61.0512(g), which states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

The adopted new sections affect Texas Education Code, §61.002, §61.0512(a) and §61.0512(g).

*§2.382. Definitions.*

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

(1) Off-Campus Degree Program--A degree program in which fifty percent (50%) or more of required instruction or coursework is in-person at an off-campus educational site.

(2) Off-Campus Educational Site--An additional location, which may include a branch campus or a center, approved by the institution's Board-recognized accreditor in accordance with 34 C.F.R. §600.32 that is away from the main campus where an institution delivers the required instruction for a credit course, certificate, or degree program in person.

*§2.383. Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site.*

Each institution of higher education providing off-campus education shall:

(1) Comply with the standards, criteria, and approval requirements of one of the Board-recognized accrediting organizations as defined in §4.192 of this title (relating to Recognized Accrediting Organizations);

(2) Operate an off-campus educational site only as authorized by the legislature or in accordance with the institution's accreditation standards;

(3) Ensure each off-campus educational site is of sufficient quality for the programs and courses offered;

(4) Provide each student with equivalent academic support services as a student enrolled in an on-campus course or program;

(5) Ensure students in off-campus courses and programs satisfy equivalent institutional enrollment requirements as on-campus students; and

(6) Select and evaluate faculty teaching at an off-campus educational site by equivalent standards, review, and approval procedures used by the institution to select and evaluate faculty responsible for on-campus courses and programs.

*§2.385. Approval Required for Off-Campus Delivery of a New Degree Program.*

(a) An institution of higher education shall obtain Coordinating Board approval prior to delivery of a new degree program designated as an Off-Campus Degree Program. A request for a new Off-Campus Degree Program is subject to the designated approval required for the degree level as set out in subchapters D, E, F, and G of this

chapter (relating to Approval Process for New Academic Associate Degrees, Approval Process for New Baccalaureate Programs at Public Junior Colleges, Approval Process for New Baccalaureate and Master's Degrees at Public Universities and Public Health-Related Institutions, and Approval Process for New Doctoral and Professional Degree Programs respectfully).

(b) For a new degree program designated as an Off-Campus Degree Program, the institution shall provide the name and address of the off-campus educational site where the proposed program would be delivered in its request for a new degree program submitted to the Coordinating Board for approval.

(c) The Coordinating Board will review the request for an Off-Campus Degree Program in accordance with §2.7 of this chapter (relating to Informal Notice and Comment on Proposed Local Programs), and applicable rules for approval of the proposed program to be offered at an off-campus educational site.

*§2.386. Approval Required for Off-Campus Delivery of an Existing Degree Program.*

(a) An institution of higher education shall request to offer an existing degree program as an Off-Campus Degree Program under the procedures and approvals pursuant to §2.9 of this chapter (relating to Revisions and Modifications to an Approved Program).

(b) The Coordinating Board will provide an opportunity for informal comment on the proposed off-campus delivery of the program in accordance with §2.7 of this chapter (relating to Informal Notice and Comment on Proposed Local Programs).

*§2.388. Effective Date of Rules.*

The effective date of this subchapter is September 1, 2026. These rules apply to approvals on or after September 1, 2026.

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 Q. REQUIREMENTS FOR STUDY ABROAD FOREIGN LANGUAGE CREDIT

### 19 TAC §§2.410 - 2.413

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 2, Subchapter Q, §§2.411 - 2.413, Requirements for Study Abroad Foreign Language Credit, with changes to the proposed Texas as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6597). The rules will be republished. Section 2.410, is adopted without changes and will not be republished.

These new sections establish guidelines for how enrolled students may earn foreign language credit during a study abroad experience as required by Senate Bill 2431, 89th Texas Legislature, Regular Session.

The new rules are adopted under Texas Education Code, §51.313, which requires the Coordinating Board to adopt rules related to the awarding of foreign language credit for students enrolled in baccalaureate degree programs that include a study abroad component or program.

Section 2.410, Authority, outlines the statutory authority for the Coordinating Board to adopt rules.

Section 2.411, Applicability, outlines degree programs to which the rules apply.

Section 2.412, Student Option to Earn Foreign Language Credit, outlines requirements for institutions to offer foreign language credit to students enrolled in certain study abroad programs.

Section 2.413, Institutional Responsibilities, outlines the institutional responsibilities for implementation of the rules.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Section 2.411 is amended to clarify that the foreign language credit option only applies to a fifteen-week or longer study abroad program and that it does not apply where the study abroad program is in multiple locations with different primary languages or when the higher education institution does not offer the foreign language.

Section 2.412(b)(3) is amended to clarify that language proficiency via an exam is not a required prerequisite for a study abroad program.

Section 2.413 is amended to remove the language that "[e]ach institution shall ensure appropriate academic oversight of the foreign language credit option and maintain documentation of student performance and credit awarded" as institution's already have such responsibilities.

The following comments were received regarding the adoption of the new rule.

Comment: The University of Texas at Austin Submitted a comment requesting that the rule apply to programs offered during regular academic terms and that short-term programs be exempt from the rule.

Response: The Coordinating Board agrees with the request and has updated the Applicability section accordingly.

Comment: The University of Texas at Austin submitted a comment requesting clarification regarding the ability to deliver language coursework asynchronously.

Response: Subsection §2.412(b)(1) of the rules allows the delivery of foreign language courses offered via distance education, which encompasses asynchronous delivery.

Comment: The University of Texas at Austin submitted a comment raising concerns about increasing the cost and contact hours for students in order to deliver foreign language credit opportunities, and that if a study abroad program is discontinued because the awarding of foreign language credit is not feasible through the program, students will have fewer opportunities for study abroad.

Response: The Coordinating Board acknowledges that requirements of the statute may impact on the availability of study abroad programs for students. The statute does not require

a specific structure for the awarding of the foreign language credit, and so institutions have flexibility to provide the credit in ways that have the least impact on cost and contact hours to students (for example as an elective course taken as part of a bachelor's degree or through credit by exam).

Comment: The University of Texas at Austin submitted a comment requesting that "recognized language proficiency examination" and "language competence" be defined in the rule.

Response: Each institution has the authority to define these terms based on its own commonly used language proficiency examinations and assessments of language proficiency.

Comment: The University of Texas at Austin submitted a comment raising concerns that a student would be required to demonstrate language proficiency via exam prior to beginning a study abroad program.

Response: The intent of that subsection was to provide it as an option, not a requirement, and the Coordinating Board had amended the language to reflect that flexibility.

Comment: The University of Texas System submitted a comment requesting clarification on whether the rules apply to any study abroad program completed as part of a bachelor's degree, or only study abroad programs completed as a bachelor's degree requirement.

Response: The statute does not limit the requirement to study abroad programs completed as a degree requirement and therefore applies to all study abroad program completed while enrolled in a bachelor's degree program.

The new sections are adopted under Texas Education Code, Section 51.313, which provides the Coordinating Board with authority to adopt rules related to the awarding of foreign language credit for students completing a study abroad component or program while enrolled in a baccalaureate degree program.

The adopted new sections affect Texas Education Code, Section 51.313.

*§2.411. Applicability.*

(a) These rules apply to:

(1) A fifteen-week semester or longer study abroad program, offered in a location where a language other than English is the primary language of communication, completed while a student is enrolled in a baccalaureate degree program at an institution of higher education, as defined by Texas Education Code, §61.003; and

(2) A study abroad program offered as part of regular academic terms at the institution.

(b) The rules do not apply to:

(1) A study abroad program or component in a location where English is the primary language;

(2) A study abroad program in multiple locations with more than one primary language;

(3) A study abroad program in a location where the primary language is not offered at the student's institution of higher education; or

(4) Any non-credit-bearing travel or internship program not associated with a degree program.

*§2.412. Student Option to Earn Foreign Language Credit.*

(a) Each applicable study abroad component or program shall include an option for a student to earn foreign language credit.

(b) An institution may offer this option through one or more of the following methods:

(1) Enrollment in a credit-bearing foreign language course delivered to the student in-person or through distance education, as defined in §2.202(2) of this chapter (relating to Definitions), during the component or program with associated assignments and assessments);

(2) Completion of a faculty-supervised language immersion experience with an associated assessment;

(3) Achievement of a satisfactory score on a recognized language proficiency examination; or

(4) Other institution-approved demonstration of language competence.

*§2.413. Institutional Responsibilities.*

Each institution of higher education shall identify and publish the programs to which these rules apply and clearly communicate the foreign language credit option to students participating in an applicable study abroad component or program.

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

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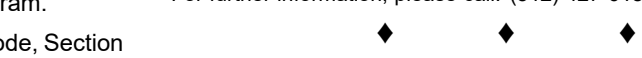

# CHAPTER 3. RULES APPLYING TO ALL PUBLIC AND PRIVATE OR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION IN TEXAS REGARDING ELECTRONIC REPORTING OPTION FOR CERTAIN OFFENSES; AMNESTY

## SUBCHAPTER B. VACCINATION AGAINST BACTERIAL MENINGITIS FOR ENTERING STUDENTS

### 19 TAC §§3.40 - 3.43

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in, Title 19, Part 1, Chapter 3, Subchapter B, §§3.40 - 3.43, Vaccination Against Bacterial Meningitis for Entering Students, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6598). The rules will not be republished.

This new sections reconstitute current Chapter 21, Subchapter T, with no substantive changes. Chapter 3 is retitled to reflect its expanded purpose.

The Coordinating Board is authorized by Texas Education Code, §51.9192, to adopt rules relating to the bacterial meningitis vaccination requirement.

Chapter 3 title is amended to revise the name to more accurately reflect the rules in this section of administrative code.

Rule 3.40, Authority and Purpose, states the statutory authority for the subchapter and the purpose of the rules. It is the reconstituted §21.610 and §21.611, combined to conform to common formatting of Coordinating Board rules but without substantive changes.

Rule 3.41, Definitions, provides definitions for terms and phrases used throughout the subchapter. It is the reconstituted §21.612, with no substantive changes.

Rule 3.42, Immunization Requirement, specifies the requirement, subject to exceptions, that students entering public and private institutions of higher education show evidence of receipt of a bacterial meningitis vaccination dose or booster. It is the reconstituted §21.613.

Rule 3.43, Exceptions, lists the allowable exceptions to the requirement in §3.42. It is the reconstituted §21.614.

No comments were received regarding the adoption of new rules.

The new sections are adopted under Texas Education Code, Section 51.9192, which provides the Coordinating Board with the authority to adopt rules relating to the bacterial meningitis vaccination requirement.

The adopted new sections affects Texas Administrative Code, Title 19, Part 1, Chapter 3.

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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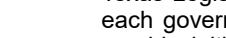

## CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

## SUBCHAPTER B. TRANSFER OF CREDIT, CORE CURRICULUM AND FIELD OF STUDY CURRICULA

### 19 TAC §§4.22, 4.25, 4.28 - 4.31

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to, Title 19, Part 1, Chapter 4, Subchapter B, §§4.22, 4.25, 4.28 - 4.31, concerning Transfer of Credit, Core Curriculum and Field of Study Curricula, without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7206). The rules will not be republished.

This amendment implements statutory obligations related to the approval of the Texas Core Curriculum.

The amendments are adopted under Texas Education Code, §51.315, which provides the Coordinating Board with the authority to adopt rules on implementation of Senate Bill 37, 89th Texas Legislature, Regular Session.

Section 4.22, Authority, provides the Board with authority to adopt rules related to the Core Curriculum, Field of Study Curricula, and a transfer dispute resolution process. Amendments include adding reference to Texas Education Code, §51.315, §61.052, and §61.832 and removing §61.059, §61.0512, and §61.0593.

Section 4.25, Requirements and Limitations, outlines how institutions transfer lower-division course credit and directs institutions to provide appropriate services to transfer students. Amendments add a requirement that each institution of higher education include on the institution's website the minimum requirements to be accepted as a transfer student to the institution. This amendment will implement Texas Education Code, §61.07771(b)(2), as enacted by Senate Bill 3039, 89th Texas Legislature, Regular Session.

Section 4.28, Core Curriculum, adds new subsection (4) setting out the requirements of the Board recommended core curriculum and requiring each institution's governing board to ensure compliance with Texas Education Code, §51.315, as enacted by Senate Bill 37, 89th Texas Legislature, Regular Session. This section also details the specific requirements of the core curriculum including a statement of purpose, the core objectives, and foundational component areas. The proposed amendment repeals the section referring to the fall 2014 implementation of the Texas Core Curriculum.

Section 4.29, Core Curricula Larger than 42 Semester Credit Hours, title is amended to Core Curricula Other than 42 Semester Credit Hours to align with Texas Education Code, §61.822.

Section 4.30, Institutional Assessment and Reporting, title is amended to Core Curriculum Review. This section outlines the responsibilities of institutional governing boards to complete the review of general education courses as required by Texas Education Code, §51.315, enacted by Senate Bill 37, 89th Texas Legislature, Regular Session. The section requires that each governing board complete the initial review in 2026 and provide initial certification to the Coordinating Board no later than January 1, 2027.

Section 4.31, Implementation and Revision of Core Curricula, title is amended to Revision of Core Curricula. This section requires each institution to annually submit revisions of its general education curriculum to its governing board as required by new Texas Education Code, §51.315(d).

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 51.315, which provides the Coordinating Board with the authority to adopt rules on implementation of Senate Bill 37, 89th Texas Legislature, Regular Session.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B; Texas Education Code, Chapter 61, Subchapter S; and Texas Education Code §61.052, and §61.0522.

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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Douglas Brock
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**19 TAC §4.40**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 4, Subchapter B, §4.40, Transfer Liaison Requirements and Duties, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6600). The rule will not be republished.

The new section outlines expectations and requirements for individuals designated as a Transfer Liaison at an institution of higher education as required by Senate Bill 3039, 89th Texas Legislature, Regular Session.

The new rules are adopted under Texas Education Code, §61.8231, which requires the Coordinating Board to adopt rules related to the designation of a transfer liaison.

No comments were received regarding the adoption of the new rule.

The new section is adopted under Texas Education Code, Section 61.8231, which provides the Coordinating Board with authority to adopt rules related to the designation of a Transfer Liaison.

The adopted new section affects Texas Education Code, Chapter 61, Subchapter S, and Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B.

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

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## SUBCHAPTER J. ACCREDITATION

**19 TAC §4.193**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 4, Subchapter J, §4.193, Accreditation Status Notification Requirements, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6602). The rule will not be republished.

This new section requires an institution to notify the Coordinating Board of changes in its accreditation status.

Texas Education Code, §61.051 and §61.003(13), provides the Coordinating Board with authority to coordinate higher education and designate recognized accreditation organizations. Texas Administrative Code, §2.5(a)(10), requires the Coordinating Board to consider past compliance history in the evaluation of new degree program proposals. This new section requires an institution to notify the Coordinating Board of changes in its accreditation status.

No comments were received regarding the adoption of the new rule.

The new section is adopted under Texas Education Code, Sections 61.051 and 61.003(13), which provides the Coordinating Board with authority to coordinate higher education and designate recognized accreditation organizations.

The adopted new section affects Texas Education Code, Sections 61.051 and 61.003(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.

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## SUBCHAPTER AA. TEXAS FIRST EARLY HIGH SCHOOL COMPLETION PROGRAM

**19 TAC §§4.400 - 4.405**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 4, Subchapter AA, §§4.400 - 4.405, Texas First Early High School Completion Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6602). The rules will not be republished.

This new section reconstitutes the current Chapter 21, Subchapter D, with no substantive changes except to exclude provisions in §4.404 (relating to Notice to Students) that refer to required actions in the 2022 - 2023 school year.

The Coordinating Board is authorized by Texas Education Code (TEC), §28.0253, to adopt rules relating to the Texas First Early High School Completion Program.

Rule 4.400, Authority and Purpose, confirms the authority and purpose of the Program, as provided in TEC, §28.0253(b)(c).

Rule 4.401, Definitions, provides definitions for the Program, as included in TEC, §28.0253(a).

Rule 4.402, Eligibility for Texas First Diploma, provides the minimum criteria by which students demonstrate eligibility for the Program, including high school credits, minimum Grade Point Average, and achieving an overall minimum score on one of five assessments or achieving a Grade Point Average that ranks the student in the top ten percent of the student's class. Institutions and the Commissioner of Higher Education jointly developed and recommended these cut points as those that distinguish students who are college ready and prepared for post-secondary success. Allowing a student to meet the requirement based on class rank or assessment scores provides for a more holistic view of readiness.

Rule 4.402 also provides the assessments and related standards and competencies that demonstrate a student's mastery of each subject area for which the Coordinating Board and Commissioner of Higher Education have adopted college readiness standards, plus a language other than English, as required in TEC, §28.0253(c). It provides a process by which a student verifies eligibility for the Program and codification on the student's transcript. These standards align to scores established by the Coordinating Board to define college readiness and provide for the use of assessments and scores commonly used by institutions to place students in college-level course work.

Rule 4.403, Diploma Equivalency, verifies that the diploma awarded through this program is equivalent to the distinguished level of achievement, as required in TEC, §28.0253(f).

Rule 4.404, Notice to Students, provides a notification requirement by the high school to its students and their parents or guardians listing the eligibility requirements for the Program, including the requirement for the student to provide official copies of applicable assessments to receive credit, as required in TEC, §28.0253(g). Provisions related specifically to the 2022 - 2023 school year have been removed.

Rule 4.405, Satisfaction of Other Requirements, confirms that students who meet all the Program requirements according to §21.52 (relating to Eligibility for Texas First Diploma) have met the requirements of the Texas Success Initiative according to TEC, Chapter 51, and the initial eligibility requirements of the Toward EXcellence, Access, and Success (TEXAS) Grant program, as authorized under TEC, §56.3041.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Section 28.0253, which provides the Coordinating Board with the authority to adopt rules relating to the Texas First Early High School Completion Program.

The adopted new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 4.

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 6. HEALTH EDUCATION, TRAINING, AND RESEARCH FUNDS

## SUBCHAPTER C. TOBACCO LAWSUIT SETTLEMENT FUNDS

### 19 TAC §6.73

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 6, Subchapter C, §6.73, concerning the Nursing, Allied Health and Other Health-Related Education Grant Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6604). The rules will not be republished.

This repeal improves organization and consistency for Coordinating Board grant program rules overall, and improve rules for the application, review, and awarding of funds for the Nursing, Allied Health and Other Health-Related Education Grant Program. New rules for this grant program were adopted by the Coordinating Board in October 2024 and are found in Texas Administrative Code, Title 19, Part 1, Chapter 10, Subchapter K, §§10.230 - 10.238.

The repeal is adopted under Texas Education Code, §63.201 - 63.203, which provides the Coordinating Board with the authority to administer the Nursing, Allied Health and Other Health-Related Education Grant Program.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, §63.201 - 63.203, which provides the Coordinating Board with the authority to administer the Nursing, Allied Health and Other Health-Related Education Grant Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 6, Subchapter 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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## CHAPTER 13. FINANCIAL PLANNING
## SUBCHAPTER G. TUITION AND FEES

### 19 TAC §13.129

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in, Title 19, Part 1, Chapter 13, Subchapter G, §13.129, Refund of Tuition and Mandatory Fees at Public Junior Colleges, State Colleges, and Technical Institute, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6605). The rules will not be republished.

This new section provides for the minimum schedule of tuition refunds to be made by public junior colleges, state colleges, and technical institutions to students depending on the length of the academic term and the class day on which the student withdraws from the course.

The Coordinating Board is authorized by Texas Education Code, §130.009, to adopt rules relating to the uniform dates for adding or dropping a course.

Rule 13.129, Refund of Tuition and Fees at Public Junior Colleges, State Colleges, and Technical Institute, is created. It is the reconstituted §21.5, with several notable changes.

Subsection (a) provides the statutory authority for the section. Subsection (b) relates to the tuition and mandatory fee refund schedule used by junior colleges, state colleges, and technical institutions when students drop courses or withdraw. It is the reconstituted §21.5(a), with notable changes. First, the refund schedule is presented entirely in the Figure, to simplify the rule. Second, Subsection (b)(1) specifies that the rule definition for "class day" in §13.1, applies in the implementation of the subsection. Finally, the authorization of a matriculation fee is not included, as it is topically outside the scope of the rule.

Subsection (c) provides for the managing of refunds or additional charges when a student adds or drops courses before the census date. It is the reconstituted §21.5(c).

Subsection (d) provides for refunds in the situation in which tuition and mandatory fees were paid by a sponsor, donor, or scholarship through the institution. It is the reconstituted §21.5(e).

Subsection (e) provides for circumstances in which a student withdraws due to active duty military service. It is the reconstituted §21.5(g).

No comments were received regarding the adoption of new rule.

The new section is adopted under Texas Education Code, Section 130.009, which provides the Coordinating Board with the authority to adopt rules relating to the uniform dates for adding or dropping a course.

The adopted new section affects Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G.

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 V. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY FOR FISCAL YEAR 2026

### 19 TAC §13.646, §13.649

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter V, §13.646 and §13.649, Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2026, without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7211). The rules will not be republished.

This amendment corrects an ambiguity and an error, respectively, in the rule text to more accurately convey the policies adopted by the Legislature and the Board.

The amendment is adopted under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Section 13.646, Performance Tier: Fundable Outcomes, is amended to clarify only certain fundable outcomes - fundable credentials, transfer fundable outcomes, and structured co-enrollment fundable outcomes - are eligible for additional funding weights based on characteristics of the student achieving the outcome. The other amendment corrects a mischaracterizations of the Opportunity High School Diploma Outcome as a credential, as this mischaracterization may suggest that it is subject to the standards of a credential of value in order to be fundable.

Section 13.649, Performance Tier: Rates, is amended to correct the erroneous omission of a needed informational graphic that should have accompanied the printed rule and will also correct an erroneous rule reference.

The following comment was received regarding the adoption of the amendments.

Comment: San Jacinto College asked to please clarify an available fundable option for institutions to provide post-associate degree credential aligned with documented workforce needs.

Specifically, San Jacinto College currently offers Enhanced Skill Certificates for (1) Advanced Programmable Logic Controllers 11 SCH (Instrumentation), (2) Advanced Analyzers 6 SCH (Instrumentation) and (3) Mammography 6 SCH (Medical Radiography). Program advisory committees continue to indicate the enhanced training needs; how may the College continue to be funded for completions of the enhanced skill certificates?

Response: The THECB thanks San Jacinto College for their question. Currently, the Enhanced Skill Certificate (ESC) is not a stand-alone outcome eligible for funding. According to Title 19 Texas Administrative Code, §2.262(b)(3), an ESC is associated with an applied associate degree program and is awarded concurrently with a degree, but may not be considered to be an intrinsic part of the degree or used to circumvent the 60-semester-credit-hour associate degree limitation. Colleges can continue to offer ESCs as a part of an associate degree program, which is a fundable outcome in the finance model.

The amendment is adopted under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The adopted amendment affects Texas Education Code, Sections Chapter 130A, and Sections 61.059 and 130.0031.

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 21. STUDENT SERVICES

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §21.5

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter A, §21.5, Refund of Tuition and Fees at Public Community/Junior and Technical Colleges, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6606). The rule will not be republished.

This repeal allows for the rule to be relocated to Chapter 13, Subchapter G, relating to Tuition and Fees.

The Coordinating Board is authorized by Texas Education Code, §130.009, to adopt rules relating to uniform dates for adding or dropping courses.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 130.009, which provides the Coordinating Board with the authority to adopt rules relating to uniform dates for adding or dropping courses

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter A.

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

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## SUBCHAPTER B. DETERMINATION OF RESIDENT STATUS

### 19 TAC §§21.21 - 21.30

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter B, §§21.21 - 21.30, Determination of Resident Status, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7500). The rules will not be republished.

The rules being repealed are superseded by the rules in Chapter 13, Subchapter K, which were adopted in October 2025 and became effective November 2025. Under the newly adopted §13.193, the changes implemented with the adoption of Subchapter K, are effective as to resident tuition determinations made after the census date of the regular Fall 2025 semester, with determinations made before this date governed by the applicable state or federal law (including as modified by court order) at the time of the determination.

The Coordinating Board is authorized by Texas Education Code, §54.075, to adopt rules necessary to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules necessary to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter B.

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## SUBCHAPTER D. TEXAS FIRST EARLY HIGH SCHOOL COMPLETION PROGRAM

### 19 TAC §§21.50 - 21.55

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter D, §§21.50 - 21.55, Texas First Early High School Completion Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6607). The rules will not be republished.

This repeal allows for the relocation of these rules to Chapter 4, Subchapter AA.

The Coordinating Board is authorized by Texas Education Code, §28.0253, to adopt rules relating to the Texas First Early High School Completion Program.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 28.0253, which provides the Coordinating Board with the authority to adopt rules relating to the Texas First Early High School Completion Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter 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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## SUBCHAPTER H. INDIVIDUAL DEVELOPMENT ACCOUNT INFORMATION PROGRAM

### 19 TAC §§21.191 - 21.193

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter H, §§21.191 - 21.193, Individual Development Account Information Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6608). The rules will not be republished.

This repeal eliminates these rules, which were determined to be unnecessary after the Coordinating Board initiated its four-year rule review of the subchapter.

The Coordinating Board is authorized by Texas Education Code, §61.0817, to adopt rules relating to the Individual Development Account Information Program.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.0817, which provides the Coordinating Board with the authority to adopt rules relating to the Individual Development Account Information Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter H.

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## SUBCHAPTER T. THE VACCINATION AGAINST BACTERIAL MENINGITIS FOR ENTERING STUDENTS AT PUBLIC AND PRIVATE OR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

### 19 TAC §§21.610 - 21.614

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter T, §§21.610 - 21.614, The Vaccination Against Bacterial Meningitis for Entering Students at Public and Private or Independent Institutions of Higher Education, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6609). The rules will not be republished.

This repeal allows for the relocation of the rule to Chapter 3, Subchapter B.

The Coordinating Board is authorized by Texas Education Code, §51.9192, to adopt rules relating to the vaccination requirement against bacterial meningitis for certain students.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 51.9192, which provides the Coordinating Board with the authority to adopt rules relating to the vaccination requirement against bacterial meningitis for certain students.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter T.

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## CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §§22.1, 22.2, 22.7

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter A, §§22.1, 22.2 and 22.7, General Provisions, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6609). The rules will not be republished.

This amendment updates rule definitions and provisions to align with changes in federal law and other Coordinating Board rules.

The Coordinating Board is authorized by Texas Education Code, §56.0035, to adopt rules necessary to carry out the purposes of that chapter.

Rule 22.1, Definitions, is amended to add a definition for "Federal Pell Grant Student Aid Index Cap or Federal Pell Grant Eligibility Cap" and update a citation in the definition of "Resident of Texas." The term "Federal Pell Grant Student Aid Index Cap or Federal Pell Grant Eligibility Cap," which appears in multiple locations throughout Chapter 22, is defined as the maximum Pell Grant award in a given fiscal year, codifying current practice. This definition does not reflect a change in Coordinating Board administration of financial aid programs. The definition of "Resident of Texas" is updated by changing the rule citation, reflecting recent rule changes adopted by the Coordinating Board.

Rule 22.2, Timely Distribution of Funds, is amended to clarify that the rule also applies to funds disbursed through financial aid programs located in Chapter 24 (relating to Student Loan Programs), reflecting recent rule changes adopted by the Coordinating Board, and to amend the timely disbursement provision in subsection (a)(1) to refer to calendar days, rather than business days. This change aligns the timely disbursement timeline with other timely disbursement provisions in the section.

Rule 22.7, Financial Aid Uses, is amended to clarify that the rule also applies to funds disbursed through financial aid programs located in Chapter 24 (relating to Student Loan Programs), reflecting recent rule changes adopted by the Coordinating Board.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 56.0035, which provides the Coordinating Board with the authority to adopt rules to adopt rules necessary to carry out the purposes of that chapter.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter A.

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## SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

### 19 TAC §§22.255, 22.260, 22.261, 22.264

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter M, §§22.255, 22.260, 22.261, and 22.264, Texas Educational Opportunity Grant Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6612). The rules will not be republished.

This amendment modifies rules relating to eligible institutions, grant priorities, grant amounts, and allocation of funds to ensure alignment with statutory changes made by House Bill (HB) 3204, 89th Texas Legislature, Regular Session, which became effective September 1, 2025, as well as Riders 25 and 26 in the Coordinating Board's bill pattern of the General Appropriations Act, Senate Bill (SB) 1, 89th Texas Legislature, Regular Session.

The Coordinating Board is authorized by Texas Education Code, §56.403, to adopt rules relating to the Program.

Rule 22.255, Eligible Institutions, is amended to include the Polytechnic College at Sam Houston State University as an eligible institution for the Program, as directed by the provisions of HB 3204, 89th Texas Legislature, Regular Session.

Rule 22.260, Priorities in Grants to Students, is amended to accomplish the directives of Riders 25 and 26 of the General Appropriations Act, which direct the Coordinating Board to "coordinate with eligible institutions to distribute funds…to those institutions in a manner that ensures that each eligible student who graduates in the top 25 percent of the student's high school graduating class receives an initial grant for the 2026-2027 academic year." After consulting with eligible institutions, the Coordinating Board determined that appropriated funding for the Program is suffi-

cient to accomplish the intent of the riders without modifying the allocation methodology. Accordingly, Subsection (b) is added to the rule to include a student graduating in the top 25 percent of his/her graduating class as an awarding priority. The specific phrasing of the subsection aligns with the provisions of Texas Education Code, §51.803, Automatic Admission: All Institutions. Subsection (e) is added to specify that institutions shall ensure eligible students meeting the top 25 percent standard and who have a Student Aid Index below 60 percent of the statewide average of tuition and fees at general academic teaching institutions receive an initial grant, thus clarifying how institutions may consider the various awarding priorities and maintain compliance with Riders 25 and 26.

Rule 22.261, Grant Amounts, is amended to specify how the Polytechnic College at Sam Houston State University is to be considered for programmatic purposes. As a college within a general academic teaching institution, which are not generally eligible to participate in the Program, the Polytechnic College does not meet any of the definitions for public junior college, public state college, or public technical institution upon which the rule relies. In reviewing its programmatic offerings, tuition rates, and other factors, the Coordinating Board determined that the Polytechnic College most closely resembles public technical institutions. Subsection (a)(2) is amended to reflect this determination for the purposes of setting the maximum grant for students of the institution. Subsection (d) is updated with a more specific reference to rules in the chapter's General Provisions.

Rule 22.264, Allocation of Funds - Public Technical and State Colleges, is amended to include references to the Polytechnic College at Sam Houston State University, which will again be treated as a public technical institution for this purpose.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 56.403, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter M.

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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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6375

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## SUBCHAPTER O. TEXAS LEADERSHIP RESEARCH SCHOLARS PROGRAM

### 19 TAC §22.302, §22.310

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter O, §22.302 and §22.310, Texas Leadership Research Scholars Program without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6614). The rules will not be republished.

This amendment clarifies that scholarships are limited to four years per student and per program, guarantees at least one research scholarship per eligible institution if funding is sufficient, and prohibits any rules that may restrict or give preference to any general academic institution. The amendment also addresses changes in deadlines for intent to participate.

The Coordinating Board is authorized to adopt rules as necessary by Texas Education Code, §61.897. The revisions implement statutory amendments passed by the 89th Legislature. Specifically, this amendment updates the Coordinating Board rules to accurately reflect changes made by Senate Bill (SB) 2055, 89th Texas Legislature, Regular Session. SB 2055, amended Texas Education Code, §61.897, to specify that a student is ineligible to receive funding from either the Undergraduate or the Graduate scholarship program for more than four academic years per program, that eligible institutions receive at least one research scholarship award, and that no administrative rules may be adopted that impose limits on, or grant preference to, any general academic institution.

Rule 22.302, Eligible Institutions, provides the responsibilities and deadlines for participating eligible institutions to follow. Specifically, the adopted section removes a provision that is no longer relevant since the academic year has passed and updates the deadline for institutions to indicate their intent to participate by December 15.

Rule 22.310, Scholarship Amounts and Allocation of Funds, outlines the scholarship amounts and how the Coordinating Board will allocate the funds to institutions. Specifically, the adopted section removes old allocation methodologies and clarifies that eligible institutions will receive at least one research scholarship award.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.897, as amended by Senate Bill 2055, which provides the Coordinating Board with the authority to adopt rules as necessary to implement the Texas Leadership Research Scholars Program.

The adopted amendment affects Texas Education Code, subchapter T-3, and 19 Texas Administrative Code Chapter 22, Subchapter O.

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 23. EDUCATION LOAN REPAYMENT PROGRAMS

## SUBCHAPTER B. TEACH FOR TEXAS LOAN REPAYMENT ASSISTANCE PROGRAM

**19 TAC §§23.32 - 23.35**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 23, Subchapter B, §§23.32 - 23.35, Teach for Texas Loan Repayment Assistance Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6616). The rules will not be republished.

This amendment updates definitions, clarifies aspects of applicant eligibility, and updates program prioritization rules for improved administration.

The Coordinating Board is authorized by Texas Education Code, §56.3575, to adopt rules relating to the Teach for Texas Loan Repayment Assistance Program.

Rule 23.32, Definitions, is amended by adding a definition for "current academic year." The added definition, along with proposed amendments to rule §23.33, is intended to clarify the Coordinating Board's existing practice for determining applicant eligibility. This does not represent a change in administration of the program.

Rule 23.33, Applicant Eligibility, is amended to make nonsubstantive changes intended to clarify the Coordinating Board's practice regarding eligibility determinations. Applications for this Program generally must be submitted between April and July, and applicants must demonstrate that they are: (1) currently employed, (2) certified and teaching in a critical shortage area or in a shortage community, and (3) teaching full-time at the time of application and have taught full-time for a service period (nine months) during the current academic year (i.e. the academic year beginning with the fall semester prior to the application period). None of the proposed changes to this section represent a change in Coordinating Board practice or eligibility criteria for the Program.

Rule 23.34, Applicant Ranking Priorities, is amended to remove a redundant reference to the Program application deadline, further clarify how prioritization occurs, and replace the "financial need" priority factor in current Subsection (b)(5). Current Subsection (a) is redundant with rule §22.33(1), and is eliminated. Nonsubstantive edits to current Subsection (b) align the description of prioritization in other programs within the chapter and clarify potential ambiguities. The "financial need" factor in current Subsection (b)(5), however, is substantively changed from the applicant's adjusted gross income to his or her total education loan debt. This change still meets the requirements of Texas Education Code, §56.353(b), but obviates the need for applicants to provide, and the Coordinating Board to retain, sensitive income tax information.

Rule 23.35, Amount of Loan Repayment Assistance, is amended. Subsection (a) is modified with nonsubstantive edits that align with similar provisions in other programs in the chapter. Subsection (b) is added to codify existing Coordinating Board practice that in each of the five years a person may receive loan repayment assistance under the Program, the person may not receive more than one-fifth of the person's eligible loan balance as was determined when the person first demonstrated eligibility for the Program.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter B.

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. NURSING FACULTY LOAN REPAYMENT ASSISTANCE PROGRAM

**19 TAC §23.187, §23.189**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 23, Subchapter G, §23.187 and §23.189, Nursing Faculty Loan Repayment Assistance Program, without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6618). The rules will not be republished.

This amendment replaces the existing prioritization provisions with one that is clearer and more efficiently administered.

The Coordinating Board is authorized by Texas Education Code, §61.9828, to adopt rules relating to the Nursing Faculty Loan Repayment Assistance Program.

Rule 23.187, Definitions, is amended by eliminating the definition for "Texas Center for Nursing Workforce Studies." The changes to rule §23.189 make this term unnecessary.

Rule 23.189, Applicant Ranking Priorities, is amended to replace the prioritization provisions for the program. The existing process relies on faculty vacancy data, but due to timing issues, the available data does not necessarily align with the application and awarding window for the program each year. Moreover, the existing rule does not include a provision to prioritize between two applicants who are employed by the same institution. These provisions are instead replaced with a new process by which renewal applications are prioritized first, which represents current practice, followed by applications from full-time faculty members. Any subsequent separations required would be made on the basis of total education loan debt, as a signifier of financial need.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 61.9828, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter G.

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

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## SUBCHAPTER J. MATH AND SCIENCE SCHOLARS LOAN REPAYMENT ASSISTANCE PROGRAM

### 19 TAC §§23.287 - 23.289

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 23, Subchapter J, §23.289, Math and Science Scholars Loan Repayment Assistance Program, with changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6619). The rule will be republished. Sections 23.287, and 23.288 are adopted without changes and will not be republished.

This amendment clarifies potentially ambiguous aspects of the rules and update prioritization provisions to align with similar rules in the chapter.

The Coordinating Board is authorized by Texas Education Code, §61.9840, to adopt rules relating to the Math and Science Scholars Loan Repayment Assistance Program.

Rule 23.287, Definitions, is amended to add a definition for "current academic year," a term introduced to further clarify the eligibility determination process in rule 23.288. The definition aligns with use of the term in similar provisions in the chapter and does not represent a change in Coordinating Board practice.

Rule 23.288, Applicant Eligibility, is amended to clarify the eligibility determination process for Program applicants. Reference to eligibility for those teaching under a probationary teaching certificate is added to paragraph (5) for statutory alignment with Texas Education Code, §61.9832(a)(5)(B), and paragraph (6) is amended to specify that an applicant's eligibility in a given year relates to the service period during the current academic year.

Rule 23.289, Application Ranking Priorities, is retitled to align with naming conventions for similar provisions throughout the chapter and amended to clarify the prioritization process. Changes to this section are largely nonsubstantive, aligning language with similar provisions in the chapter and providing additional detail regarding the Coordinating Board's existing process to prioritize applicants. Paragraph (5) is added, however, to align with processes in other loan repayment assistance programs and provide a final criterion that will definitively allow for all applicants to be ranked.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Section 23.289 is amended to make a grammatical change to update the rule to the *Texas Register* guidelines.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 61.9840, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter J.

*§23.289. Applicant Ranking Priorities.*

(a) If there are not sufficient funds to offer loan repayment assistance to all eligible applicants, then applications shall be ranked using priority determinations in the following order:

(1) Renewal applications;

(2) Applications from teachers with the greatest number of mathematics and science courses completed, based on the Coordinating Board's review of the applicant's transcripts;

(3) Applications from teachers with the highest aggregate grade point average for the mathematics and science courses described by paragraph (2) of this subsection;

(4) Applications from teachers employed at schools with the highest percentages of students who are eligible for free or reduced cost lunches; and

(5) Applications from those with the greatest financial need based on the applicant's total education loan debt.

(b) Subsections (a)(4) and (5) of this section are applicable only as necessary to make priority determinations between applications for which the criteria listed in subsections (a)(2) and (3) of this section are identical.

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 25. HEALTH SERVICES

## PART 1. DEPARTMENT OF STATE HEALTH SERVICES

# CHAPTER 37. MATERNAL AND INFANT HEALTH SERVICES
# SUBCHAPTER C. VISION AND HEARING SCREENING

**25 TAC §§37.21 - 37.28**

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts amendments to §37.21, concerning Purpose; §37.22, concerning Definitions; §37.23, concerning Vision Screening; §37.24, concerning Hearing Screening; §37.25, concerning Facility Requirements; Department Activities; §37.26, concerning Recordkeeping and Reporting; §37.27, concerning Standards and Requirements for Screening Certification and Instructor Training; and §37.28, concerning Hearing Screening Equipment Standards and Requirements.

Sections 37.22, 37.23, 37.24, 37.25, 37.26, 37.27, and 37.28 are adopted with changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6639). These rules will be republished. Section 37.21 is adopted without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6639). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with House Bill (HB) 1297, 88th Regular Session, 2023, by Dutton which allows electronic eye charts for childhood vision screenings in public and private schools, licensed childcare centers, and licensed childcare homes. HB 1297 defines electronic eye charts and permits use for visual acuity screenings. Amendments include defining the term in §37.22(11) and permitting its use in §37.23(a)(1)(A).

The amendments also included edits to improve clarity and readability, defined terms, added training materials and referral requirements, removed unnecessary procedural details and a photoscreener training requirement, required facilities and certificate holders to comply with the program's policy and procedures manuals, added an optional hearing screen for children with disabilities or for those who do not pass initial hearing screenings, clarified who may become a certified screener or external instructor, ended audiometer registration because DSHS neither monitors nor enforces registrations, and gave facilities more control over vision screening.

Additionally, nursing program faculty and students, medical offices, and Texas Health Steps Representatives will no longer be trained and certified as screeners or external instructors.

COMMENTS

The 31-day comment period ended November 10, 2025.

During this period, DSHS received 93 stakeholder responses with a total of 362 comments regarding the proposed rules. DSHS received comments from Texas School Nurses Organization (TSNO), Texas Medical Association (TMA), American Association for Pediatric Ophthalmology and Strabismus (AAPOS), The Texas Council of Administrators of Special Education (TCASE), The University of Houston College of Optometry (UHCO), University of Houston Communication Sciences and Disorders Department, Rebion, Good-Lite, LaChance School Health Strategies LLC, Pinewoods Screening Services, and Region 4 Education Service Center. DSHS also received comments from staff of three schools, 42 school districts, and five individuals. A summary of comments relating to the rules and DSHS's responses is below.

*Screening Required Within the First 120 Days of School Enrollment*

Comment: Multiple commenters suggested changing §37.25(a)(1) - (3) from requiring to recommending all children due for screening be screened within the first 120 days of enrollment. Commenters stated school nurses have multiple competing priorities at the beginning of the school year and many school districts face nursing shortages.

Response: DSHS agrees with the commenters. The requirements were updated to allow flexibility in §37.25(a)(1) - (3).

Comment: Multiple commenters also suggested changing the timeframes in §37.25(a)(1) - (3) from "within the first 120 calendar days of enrollment" to "within the first 120 calendar days of attendance" because enrollment may begin as early as 30-90 days before the start of school, resulting in schools not having a full 120 calendar days to screen.

Response: DSHS agrees with the comments. The timeframes in §37.25(a) (1), (2), and (3) were changed to be based on the first day of attendance and not enrollment.

*Audiometers*

Comment: Multiple commenters disagreed with the proposed requirement for hearing screeners to conduct biological calibrations on audiometers the day of screening in addition to monthly biological calibrations. Commenters stated additional calibrations were time-consuming, unnecessary, and impractical because often the screener is not the person responsible for biological calibrations.

Response: DSHS agrees and modified §37.28(e) and added subsection (f) to recommend a brief pre-screen operational check to test the headset.

Comment: One commenter requested clarification on the differences between the audiometer calibration documentation in §37.28(d) which requires qualified technicians to perform annual electronic calibrations and complete exhaustive electronic calibration and (f) which requires monthly biological calibration checks performed by the audiometer owner.

Response: DSHS disagrees that clarification is needed and made no changes based on this comment. The two sets of documentation are different. Proof of the annual professional calibration should always be with the audiometer and the monthly calibration records may be stored elsewhere.

Comment: A commenter requested DSHS specify the audiometers referred to in this subchapter are screening audiometers which are different from diagnostic audiometers. Diagnostic audiometers should not be used for screening purposes. The commenter recommended audiometers be defined in this subchapter as "A device used to assess hearing sensitivity. For the purposes of this subchapter, the term refers specifically to a screening pure-tone audiometer used to conduct hearing screenings at prescribed intensity levels to identify individuals who may require further evaluation. Diagnostic audiometers are reserved for use by licensed audiologists to conduct comprehensive hearing assessments and are not permitted for screening purposes."

Response: DSHS agrees and modified §37.22(4) as recommended.

*Licensed Professionals and Facilities*

Comment: Multiple commenters stated school nurses should be included as licensed professionals as defined in §37.22(17) and therefore be exempt from DSHS vision and hearing certification because of nurses' educational background. Some commenters also suggested using a different term from "licensed professional" since nurses are licensed professionals.

Response: DSHS disagrees with the commenters about exempting school nurses from screener training. It is beneficial to school nurses to receive refresher training on the auditory and visual systems. School nurses must also be trained in screening procedures, recordkeeping, and reporting. Therefore, screening training and certification are warranted.

DSHS agrees with commenters that the term "licensed professional" is confusing in this subchapter. DSHS removed §37.22(17) Licensed Professional and replaced it with §37.22(23) Provider, as defined in Health and Safety Code §36.003(5).

Comment: Multiple commenters disagreed with §37.27(a)(2) which stated DSHS rules are not intended for medical offices and nursing programs. The commenters felt medical office staff should be held to the same training standards as schools and licensed childcare centers. Commenters shared medical offices are often where children who fail a screen are referred to and should therefore have at least the same level of training as school and licensed childcare screeners. Multiple commenters shared school nurses have the same educational background as medical office nurses and a higher level of education than medical assistants who are often the medical office staff member who screens.

Response: DSHS disagrees. Health and Safety Code §36.004 requires children who attend private or public preschools or schools to be screened. DSHS's responsibility is to create and implement screening rules for those locations. While it is important for medical office staff to learn to screen for vision and hearing problems, they do not require DSHS certification.

Comment: Multiple commenters requested school districts be added to the definition of facility because the reporting requirements state each facility should submit a screening report to DSHS. Historically screening reports have been reported to DSHS at the district level.

Response: DSHS disagrees with adding school districts to the definition of facility but revised §37.26(b)(6) to allow DSHS to require either facility or school district reports. The rule was further modified to allow school districts to submit either type of report. If facility reports are required, school districts may decide if the district will submit the facility reports or if it will have each facility submit its own. For the 2025-2026 school year, reporting will continue by district. If there is a change in the future to facility-level reporting, stakeholders will be given advance notice.

*External Instructors*

Comment: Multiple commenters disagreed with the external instructor (EI) certificate changing from five years to two. Commenters said it would be an additional time burden on nurses that are EIs in school districts that pay for substitute nurses during training. Multiple commenters said with all the current EI oversight there is no reason to shorten the certificate period to maintain quality training.

Response: DSHS agrees. The EI certificate will remain valid for five years.

Comment: Multiple commenters asked DSHS to train more EIs. Commenters stated they need more EIs to meet training demands in their school districts and to keep staff on campus or nearby for training instead of sending them off-campus for one to two days. In addition to the loss of nursing coverage during training days, school districts must also pay for substitute nurses if any are available. Multiple commenters stated additional EI training priority should not be given to larger districts because even small and medium-sized districts need additional EIs.

Response: DSHS agrees and revised §37.27(c) to reduce school districts' barriers to having an adequate number of certified screeners.

Comment: Multiple commenters stated concerns about certain EI requirements or restrictions. Commenters requested EIs not be required to teach at least one basic vision and hearing screener training and recertification training for vision and hearing each year to maintain their EI certificate. Commenters requested electronic submission of training information and an end to the 15-day advance training notice approval so training can be more flexible. A commenter requested EIs be allowed to train and certify screeners outside their own school districts to assist other districts if needed. A commenter also expressed confusion over the proposed annual training requirement, having a window of 18 months to complete.

Response: DSHS agrees and revised §37.27(c) to reduce the annual minimum training requirement and end the 15-day advance training notice. DSHS will develop a process for electronic submission of EI training records. DSHS will also allow EIs to train screeners in any other facility or school district. To reduce confusion about certificate deadlines and expiration dates, §37.27(b)(4) and §37.27(c)(3) were changed so the expiration dates for both screeners and for EIs are current for exactly five years and expire five years from the date of issue and the 18-month window for the annual minimum training requirement for EIs was removed.

*Record Keeping and Reports*

Comment: One commenter requested a language update to clearly state electronic signatures are allowed on electronic student records.

Response: DSHS disagrees. It is implied that an electronic signature is accepted in an electronic health record and not text that needs to be added to an agency rule.

Comment: One commenter requested the time limit a screener has before submitting screening records to a facility be extended from the proposed three business days to seven.

Response: DSHS disagrees. Three business days to submit screening data to a facility is sufficient.

*Technology*

Comment: Multiple commenters want to use photoscreeners and other automated screening devices for children of all ages. Some ask specifically to use automated screening devices as the sole means of vision screening. Reasons provided include ease of use, consistency, and ability to identify signs of multiple vision disorders.

Response: DSHS agrees. While visual acuity screening with an eye chart is the gold standard for childhood vision screen-

ing, DSHS understands school districts and other facilities want more options for vision screening. DSHS added §37.23(a)(1) allowing facilities to choose the screening modality they use and §37.23(a)(2)(B) and §37.23(a)(3)(B) to clarify referral criteria for children ages four and younger or five and older, respectively.

Comment: Two commenters recommended DSHS embrace vision screening modalities that involve game-like interactions. The commenters stated such interactions are standard practice in pediatric ophthalmology and should not be looked at as detracting from the screening process.

Response: DSHS agrees with the commenters and appreciates their expert feedback. DSHS modified §37.23(a)(1) to allow automated screening devices for all ages. This change allows facilities to embrace technology for vision screening, including interactive modalities. Note definition of "electronic eye chart" in §37.22(11) does not include automated computer programs that assess an individual's visual acuity through the individual's interaction with the program by playing a game. Automated screening devices, however, do not have the restriction.

Comment: A commenter requested that §37.23(5) exchange "photoscreener" with "instrument-based screener" because it is the more inclusive term.

Response: DSHS agrees and made the change and defined "instrument-based vision screener" in §37.22(16).

Comment: A commenter stated purchasing electronic eye charts could pose a financial burden for some schools and school districts.

Response: DSHS disagrees. Facilities are not required to purchase electronic eye charts.

Comment: Multiple commenters recommend DSHS create standards and guidelines for automated screening devices. The commenters state facilities must only use devices that are peer-reviewed and evidence-based. Other commenters asked DSHS to test and vet automated screening devices or to have a panel do test screening devices.

Response: DSHS agrees standards and guidelines for automated screening devices are important for quality and consistency statewide and will include them in the vision screening manual. It is outside DSHS's scope to test and vet automated screening devices and DSHS does not recommend specific products.

Comment: A commenter recommended §37.27(b)(2) and (b)(3) "needs" be replaced with "requires" for screener certification for photoscreener users.

Response: DSHS agrees and made the change and also replaced "photoscreener" with "instrument-based vision screening device" because it is a broader term.

*Miscellaneous*

Comment: One commenter stated HB 2789 (89th Texas Regular Session, 2025) misled some licensed childcare centers and licensed childcare homes to believe they no longer needed to screen children and maintain screening records.

Response: DSHS agrees and will communicate with licensed childcare centers and licensed childcare homes to make sure they understand vision and hearing screens are still required.

Comment: Multiple commenters pointed out that §37.25(a)(4) did not list students in pre-k, kindergarten, or first grade as exempt from screening if a family provides a record showing a professional examination was conducted during the current grade year or in the previous one.

Response: DSHS agrees with the commenters. DSHS removed this provision to conform with existing law found in Education Code Section 26.0083 that requires parental consent for health-related services such as vision and hearing screening effective September 1, 2025.

Comment: One commenter wants DSHS to provide clearer protocols for children with special health care needs because the commenter feels it is redundant to refer them every year.

Response: DSHS disagrees. The rules allow alternative screening methods for children with special health care needs. If a screen cannot be performed at the facility, the child should be referred.

Comment: One commenter expressed that schools have a difficult time getting parents to complete a referral regardless of how many support services are provided.

Response: DSHS agrees this is a challenge for schools. Schools should continue to try to get parents to complete a referral and document the school's efforts.

Comment: One commenter recommends DSHS add to the definition of "professional examination" to differentiate it from "screening."

Response: DSHS disagrees that the definitions need additional differentiation and did not change them. As defined in §37.22(21) and (26) respectively, a professional examination is diagnostic, while a screening is an evaluation to see if an individual needs a professional examination and diagnosis.

Comment: One commenter recommended DSHS add "or a DSHS-certified instructor" to §37.22(25) to make it clear a screener can be certified by DSHS or by a DSHS-certified external instructor.

Response: DSHS agrees and made the change.

Comment: Two commenters noted that "test" and "screen" are both used and said that if they are interchangeable, one of the terms should be dropped for consistency.

Response: DSHS agrees. "Screen" is usually the appropriate term in this subchapter. All inaccurate uses of "test" were removed or replaced. The definitions of audiometric testing device, testing equipment, and tests were removed from proposed §37.22(6), §37.22(31), and §37.22(32), respectively. The paragraphs were renumbered accordingly.

Comment: One commenter recommended removing "find specific vision disorders" from §37.23(a) because it implies diagnosis.

Response: DSHS agrees and made the change.

Comment: One commenter worried §37.23(a)(5) as written implies photoscreening is required. The commenter requested "when applicable" be replaced with "when available" because not all facilities have access to photoscreeners.

Response: DSHS agrees and made the change.

Comment: One commenter pointed out a grammatical error in §37.23(d) and said it should be changed from "a individual" to "an individual".

Response: DSHS agrees but removed §37.23(d) to conform with existing law found in Education Code Section 26.0083 that requires parental consent for health-related services such as vision and hearing screening effective September 1, 2025. Therefore, no correction is necessary.

Comment: One commenter requested DSHS change §37.24(a)(3), from rescreening in "28 calendar days" to "within 31 calendar days" because it is easier to keep up with.

Response: DSHS agrees and made the change.

Comment: Two commenters told DSHS §37.24(a)(4) and (5) should state more clearly if a child does not respond to any one of three frequencies at 25dB or lower in the second sweep check they should be referred, and that if a child does not respond at 25 dB or lower for frequencies of 1,000, 2,000, and 4,000 Hz during an extended recheck, they should be referred.

Response: DSHS agrees and made the changes.

Comment: Two commenters asked about §37.25(b) which states facilities may admit a child temporarily for up to 60 calendar days or may deny admission until the screening record is provided if a parent or guardian has the child screened somewhere else. One commenter makes the point a school administrator should not be allowed to withhold a child's admission because keeping the child out of school is more harmful than the child not being screened. The other commenter asked if administrators are allowed to exclude a child from school and highlighted administrative and budgetary consequences.

Response: DSHS disagrees but removed this provision to conform with existing Education Code Section 26.0083 that requires parental consent for health-related services such as vision and hearing screening effective September 1, 2025.

Comment: One commenter requests DSHS remove statements throughout the rules informing stakeholders the vision, hearing, and external instructor manuals contain additional information and facilities and certificate holders must follow them. The commenter worries this is a way for DSHS to add new requirements without the level of public oversight afforded by the rules amendment process.

Response: DSHS understands the stakeholder's concern. The manual is designed to explain the rules in greater detail. Stakeholders are encouraged to notify the program if there is content in the manual that contradicts the rules or has no basis in rule. That is not the program's intent, and the program will resolve it.

Comment: Two commenters asked for clarification on §37.24(e) regarding the exemption for students who are under active or ongoing medical care for hearing condition. Clarification was requested regarding the validity period of supporting documentation. For example, if a student has had a cochlear implant for three years and has provider documentation from three years ago indicating they are under ongoing medical management--and the parent confirms the student remains under such care--does that original provider's note remain valid? Is it necessary for parents to obtain updated provider documentation each school year to verify continued medical oversight for students requiring long-term hearing management?

Response: DSHS agrees and removed this provision to conform with existing law found in Education Code Section 26.0083 that requires parental consent for health-related services such as vision and hearing screening effective September 1, 2025.

Comment: One commenter recommended DSHS remove §37.25(g) regarding external instructors from its current section and move it to §37.27 which includes all other external instructor information and requirements. The commenter felt it was misplaced.

Response: DSHS agrees and made the change.

Comment: One commenter recommended changing §37.26(b)(6)(A) from "showing a disorder was screened for" to "showing a disorder was present" because the relevant information is whether the presence of a disorder was identified.

Response: DSHS agrees and made the change.

Comment: A commenter recommended deleting §37.27(a)(3) because the early mention of external instructors is unnecessary. The process to become an external instructor is listed in detail in §37.27(c).

Response: DSHS agrees and deleted §37.27(a)(3).

Comment: A commenter recommended DSHS replace "regular" with "annual" in reference to exhaustive electronic calibrations in §37.28(d) because "annual" is an objective measure of frequency.

Response: DSHS agrees and made the change.

*Additional Changes*

DSHS simplified certificate expiration dates for certified screeners by removing extensions to the end of the calendar year of expiration. Certificates will now expire five years from the date of issue for both certified screeners and certified external instructors.

DSHS included §37.22(6) to define the term automated vision screening devices because it is used within the rules.

DSHS modified §37.23(a), §37.24(a), and §37.25(a) and removed §37.24(c), §37.25(a)(4), §37.25(b), and §37.25(c) to conform with existing law found in Education Code Section 26.0083 that requires parental consent for health-related services such as vision and hearing screening effective September 1, 2025.

DSHS removed proposed §37.27(c)(1)(C) to reduce barriers to becoming a DSHS-certified external instructor. The subparagraphs were renumbered accordingly.

DSHS added §37.27(c)(14) to clarify that DSHS will not recognize and certify a screener trained by a former DSHS-certified external instructor with a revoked certificate.

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 36.

*§37.22. Definitions.*

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

(1) American Academy of Pediatrics (AAP)--A professional organization that makes health recommendations for children.

(2) American Association for Pediatric Ophthalmology and Strabismus (AAPOS)--A professional organization that, along

with the AAP, sets recommended vision screening standards. AAPOS works to improve children's eye care, supports the training of pediatric eye doctors, supports pediatric eye research, and helps adults with alignment issues.

(3) American National Standards Institute, Inc. (ANSI)--A national organization that provides information about standards used in the United States and around the world.

(4) Audiometer--A device used to evaluate hearing sensitivity. For the purposes of this subchapter, the term refers specifically to a screening pure-tone audiometer used to conduct hearing screenings at prescribed intensity levels to identify individuals who may require further evaluation. Diagnostic audiometers are reserved for use by licensed audiologists to conduct comprehensive hearing assessments and are not permitted for screening purposes.

(5) Audiometric calibration equipment--Electronic devices used to adjust audiometers.

(6) Automated vision screening device--A vision screening instrument that uses automation technology (like computer control systems, software, etc.,) to perform vision screening tasks with little or no direct human intervention for each individual sample or patient.

(7) Biological calibration check--A method to check an audiometer's accuracy by evaluating the device on an individual with known hearing levels.

(8) Calibration--The process of comparing an instrument or device to a standard and making adjustments to an acceptable level of accuracy.

(9) Certificate--A qualification given to individuals who complete vision or hearing screener training provided by either the Department of State Health Services (DSHS) or a DSHS-certified instructor.

(10) dB--The decibel is a unit for measuring the loudness of sounds. Decibels range from zero, which is the quietest sound an average person can hear, up to around 130, which is the average level of sound that causes pain.

(11) Electronic eye chart--Any computerized or other electronic system, device, or method of displaying on an electronic screen medically accepted and properly sized optotypes, which may be letters, numbers, or symbols a health care practitioner or other person uses to assess an individual's visual acuity. The term does not include an automated computer program that assesses an individual's visual acuity through the individual's interaction with the program by playing a game.

(12) Exhaustive calibration--An audiometer calibration that checks all settings for both earphones.

(13) Extended recheck--A hearing screen used after a child has failed two sweep-check screens.

(14) Facility--Includes public and private preschools and schools, defined as follows:

(A) schools, as defined in Texas Health and Safety Code §36.003;

(B) preschools, as defined in Texas Health and Safety Code §36.003;

(C) child care centers licensed by the Health and Human Services Commission (HHSC); and

(D) child care homes licensed by HHSC.

(15) Hz--Hertz is a unit of frequency equal to one cycle per second.

(16) Instrument-based vision screeners--A broad term for any vision screening tool used for precise measurement, monitoring, or recording of visual information. Automated devices like photoscreeners and autorefractors that estimate refractive errors and other factors that may cause vision problems in children are types of instrument-based vision screeners.

(17) Optotype--A standardized figure or letter used to evaluate visual acuity.

(18) Otoacoustic emissions (OAE) testing--A hearing screen that checks vibrations from the inner ear using sounds from a small device placed in the ear. OAE is an alternate screening method for children with intellectual or developmental disabilities.

(19) Pass/Fail--Allowable documentation of results if photoscreening is used for vision screening, as outlined in this subchapter.

(20) Photoscreener--A device that uses a special camera to check a child's vision using light reflexes to identify vision problem risk factors.

(21) Professional examination--A diagnostic evaluation by a provider with expertise to address the diagnostic needs of an individual with possible vision or hearing issues. This examination meets the requirements of this subchapter and Texas Health and Safety Code Chapter 36.

(22) Program--DSHS Vision and Hearing Screening Program.

(23) Provider--A person who delivers remedial services to individuals who have special senses and communication disorders, including a physician, audiologist, speech pathologist, optometrist, or psychologist. The term provider used here also includes locations such as a hospital, clinic, rehabilitation center, university, or medical school.

(24) Reporting year--A 12-month period beginning June 1 of each year and ending May 31 of the next year.

(25) Screener--An individual conducting vision or hearing screenings. A screener is either a provider as defined in this subchapter or is trained and certified by DSHS or a DSHS-certified external vision or hearing instructor to conduct vision or hearing screenings, or both.

(26) Screening--An evaluation to see if someone might need a professional examination.

(27) Screening equipment--An instrument or device used to measure sensory abilities.

(28) Sweep-check--A hearing screen using a pure-tone audiometer to check if an individual can hear tones at 1000 Hz, 2000 Hz, and 4000 Hz at 25 dB.

(29) Telebinocular instrument--A device used to check for various eye defects and measure visual acuity.

(30) Vision disorder--An impairment of the sense of vision.

(31) Visual acuity--The ability to distinguish letters or symbols at 20 feet or with a chart that simulates 20 feet. In this subchapter, visual acuity specifically means how clearly an individual can see things far away, measured as a standard ratio like 20/20.

*§37.23. Vision Screening.*

(a) Once the individual's parent or guardian has given consent for screening, vision screening is required to find signs of potential vision disorders for individuals attending a facility. Vision screening as described in this subchapter must meet the following requirements.

(1) Facilities and school districts may select subparagraph (A) or (B) of this paragraph for vision screening of all ages. Deciding factors may include student population, screener availability, and cost.

(A) Facilities may screen for visual acuity using traditional wall charts or electronic eye charts that show approved optotypes at the correct distances. See the vision screening manual on the Department of State Health Services (DSHS) website for detailed instructions and a list of approved optotypes.

(B) Facilities may screen using an automated screening device. Refer to the vision screening manual on the DSHS website for additional guidance.

(C) Facilities must calibrate, operate, and maintain all screening devices or equipment according to the manufacturer's instructions. Any screening tool that is not in good working order must not be used. The screening tool must be repaired or replaced.

(2) Facilities must refer children aged four years and younger for a professional examination in the following circumstances.

(A) Either eye cannot correctly identify the majority of optotypes on the 20/40 acuity line or if there is a difference of two lines between passing acuities in either eye. For example, if a child has 20/40 vision in one eye and 20/20 in the other, the child must be referred. However, if a child has 20/40 vision in one eye and 20/30 in the other, the child passed the screening.

(B) Either eye receives a failing result when screened with an automated screening device. DSHS recommends children who fail an automated screen receive a follow-up screen with a traditional or electronic eye chart and other optional screening methods described in the vision screening manual on the DSHS website.

(3) Facilities must refer children aged five years and older for a professional examination in the following circumstances.

(A) Either eye cannot correctly identify the majority of optotypes on the 20/30 line. The DSHS requirement differs from the AAPOS standard of 20/32.

(B) Either eye receives a failing result when screened with an automated screening device. DSHS recommends children who fail an automated screen receive a follow-up screen with a traditional or electronic eye chart and other optional screening methods described in the vision screening manual on the DSHS website.

(4) Facilities must refer to and comply with additional pass or fail criteria in the vision screening manual on the DSHS website.

(5) Facilities must use instrument-based vision screening, when available, for children aged 42 months to five years, as recommended by AAPOS, and for individuals with disabilities who do not respond well to other screening methods. Refer a child for a professional examination if the child fails the photoscreening.

(b) A screener who is not a provider and conducts vision screening in facilities must be trained and certified as described in §37.27 of this subchapter (relating to Standards and Requirements for Screening Certification and Instructor Training).

(c) Facilities must give the child's parent, other legally responsible adult, or the individual in the scenarios described in Texas Family Code §32.003, a referral form if the child fails a second screening or if after failing the initial screening, the screener determines a second screening is unnecessary. The referral is for further evaluation by an appropriate provider. Facilities must not refer a child to a specific person.

(d) Facilities, school districts, and screeners must follow all instructions in the vision screening manual available on the DSHS website.

*§37.24. Hearing Screening.*

(a) Once the individual's parent or guardian has given consent for screening, hearing screenings to detect hearing disorders must be provided for individuals attending a facility. Hearing screening as described in this subchapter must meet the following requirements.

(1) Use a pure-tone audiometer to perform a sweep-check screen.

(2) Record the screening results for each ear at less than or equal to 25 dB for 1000 Hz, 2000 Hz, and 4000 Hz.

(3) A screener must perform a second sweep-check screen if the results show that the child did not respond to any one of the three frequencies in either ear. If the child has a cold, congestion, fluid buildup in the ears, or any other condition impacting hearing, delay the second sweep-check screen. The screener must perform the rescreening no later than 31 calendar days after the initial screening.

(4) A screener must either perform an optional extended recheck or refer the child for a professional examination if the child does not respond to any one of the three frequencies in either ear on the second sweep-check. The hearing screening manual lists the steps for conducting an extended recheck.

(5) A screener must refer for a professional examination if the child does not respond to any one of the three frequencies in either ear at 25 dB or lower during an extended recheck. The hearing screening manual lists the steps for conducting an extended recheck.

(b) Otoacoustic emissions (OAE) testing may replace pure-tone audiometry only if a child has a documented disability preventing audiometer screening. OAE testing is optional and dependent on the screener's access to OAE testing equipment. The screener must use the equipment according to the manufacturer's recommendations.

(c) A screener who is not a provider and performs hearing screenings in facilities must be trained and certified as described in §37.27 of this subchapter (relating to Standards and Requirements for Screening Certification and Instructor Training).

(d) Facilities must give the child's parent, other legally responsible adult, or the individual in the scenarios described in Texas Family Code §32.003, a referral form if the child fails a second sweep-check or extended recheck screening. The referral is for further evaluation by an appropriate provider. Facilities must not refer a child to a specific person.

(e) Facilities, school districts, and screeners must follow all instructions in the hearing screening manual available on the Department of State Health Services (DSHS) website.

*§37.25. Facility Requirements; Department of State Health Services (DSHS) Activities.*

(a) The chief administrator must ensure that each individual admitted to the facility is screened according to these screening requirements, provided the individual's parent or guardian has given consent for screening.

(1) Children ages four and older as of September 1 of the school year who are enrolled in any facility for the first time must have vision and hearing screens. The screens should occur within 120 calendar days of the first attendance day. If a child enrolls within 60 calendar days of the end of the school year, the child's vision and hearing must be screened the next school year and should occur within 120 calendar days of the first attendance day.

(2) Children in pre-kindergarten and kindergarten must be screened each year. Screens should occur within 120 calendar days of the first attendance day.

(3) Children in the first, third, fifth, and seventh grades must be screened for vision and hearing problems. Screens should occur within 120 calendar days of the first attendance day in each of those grades to allow for early intervention if a problem is found.

(4) Children turning four years old after September 1 of the school year do not need to be screened until the next school year.

(5) Children may be screened on an alternate schedule (i.e., pre-kindergarten, kindergarten, first, second, fourth, and sixth grades) if DSHS approves a written request. DSHS may set conditions so children receive necessary screenings during the transition.

(b) The facility must verify the screener has a valid DSHS screening certificate before screening begins.

(c) Volunteers must have a high school diploma or equivalent to help with vision and hearing screenings. The screener is responsible for deciding how a volunteer will assist with the screening process, consistent with all state and federal confidentiality requirements.

(d) Facilities must follow DSHS rules, instructions, policies, and the vision and hearing screening manuals available on the DSHS website.

*§37.26. Recordkeeping and Reporting.*

(a) Screeners at facilities must follow the rules for keeping records and reporting information.

(1) A screener must document in each child's screening record the specific screening performed, the date the screening was performed, observations made during the screening, and results. The screener must document the child's name, age or birthdate, and if the child is wearing corrective lenses during the vision screening. The screener must sign and date this information.

(2) A screener must provide facilities a copy of the screener's Department of State Health Services (DSHS) screener certificate.

(3) Screeners at a facility must submit the required documentation referenced in paragraph (1) of this subsection to the facility by the specified deadline or no later than three business days after the screening.

(b) Facilities must follow the rules for keeping records and reporting information.

(1) A facility must maintain vision and hearing screening records onsite for at least two years.

(2) A facility must maintain records of screening exemptions found in this subchapter for at least two years.

(3) A facility must maintain the records received from screeners for at least two years.

(4) A child's screening records may be transferred between facilities without consent of the child's parent, managing conservator, or legal guardian, or the individual in the scenarios described in Texas Family Code §32.003, according to Texas Health and Safety Code §36.006(c).

(5) Facilities must provide the required records to DSHS in a timely manner if requested. DSHS or its representatives may enter a facility and inspect vision and hearing screening records.

(6) Facilities or school districts must submit a yearly report on the vision and hearing screening status of the aggregate population screened during the reporting year. The report must be submitted on or before June 30 of each year in the manner specified by DSHS at https://www.dshs.texas.gov/vision-hearing-screening. DSHS may require individual reports for each school or may accept a single report from the school district. DSHS will notify stakeholders of the reporting requirement on the program website. If individual reports are required, school districts will determine if either the district will submit individual facility reports or will have each facility submit a report.

(A) Hearing screening--The total number of children screened, including the number who failed; the number screened by OAE testing; the number referred for professional examination; the number who left the facility before the facility received the professional examination results; professional examination results showing none of the screened disorders were present; professional examination results showing a disorder was present; and referrals for a professional examination where no professional examination was done.

(B) Vision screening--The total number of children screened, including the number screened with glasses or contact lenses, the number screened with instrument-based vision screeners, and the number screened with a wall or electronic eye chart; the number who failed; the number referred for professional examination; the number who left the facility before the facility received the professional examination results; the number whose professional examination results indicated no issues; the number whose professional examination results indicated an issue; and the number referred for a professional examination where no examination was done.

(c) Additional recordkeeping requirements for screeners who own or use audiometers and audiometric screening equipment are in §37.28(g) of this subchapter (relating to Hearing Screening Equipment Standards and Requirements).

(d) Submit documents described in this subchapter as directed on the DSHS website.

(e) Facilities, school districts, and screeners must follow all recordkeeping instructions in the vision and hearing screening manuals.

*§37.27. Standards and Requirements for Screening Certification and Instructor Training.*

(a) A screener working in a facility must be certified by the Department of State Health Services (DSHS) unless the screener is a provider. Training for screeners is provided either directly by DSHS or by instructors authorized by DSHS to issue certificates. There is no fee for taking the course in either case.

(1) DSHS provides training and issues certificates when the course is completed. To join, participants must have a high school diploma or equivalent and sign a form at the start of the course. Individuals who finish the training and pass the tests will receive a certificate from DSHS to conduct screenings.

(2) The training and certification described in this subchapter are not intended for staff in medical offices or students in medical, nursing, or other training programs. Individuals who do not screen children in facilities as defined in this subchapter are neither eligible nor required to be trained and certified by DSHS.

(b) Holders of certificates issued as described in this section must follow these requirements.

(1) Certificate holders may conduct the type of screening listed on the certificate. Certificate holders must follow all the rules in this subchapter, and failure to do so may lead to modifications, suspension, or cancellation of the certificate.

(2) If a screener uses an instrument-based vision screening device, the screener must follow the manufacturer's instructions. The

screener also requires a current DSHS screening certificate as described in subsection (a) of this section.

(3) A DSHS screening certificate described in this section is valid for five years. Renewing a certificate is explained in paragraph (4) of this subsection.

(4) To renew a screening certificate, an individual must attend a recertification course either offered directly by DSHS, or approved by DSHS and provided by an external instructor before the certificate expires. If an individual does not complete the recertification within five years, the individual must take the complete certification training course again.

(5) DSHS may change, suspend, or cancel a certificate. DSHS will provide notice to the affected screener of any action being taken if DSHS receives information that the screener has not followed the rules in this subchapter.

(6) If a screener receives a notice of action, the screener has 20 business days to request a hearing. DSHS assumes the notice is received five days after being postmarked. Unless the notice specifies another method, the hearing request must be in writing and mailed or hand-delivered to the program at Vision, Hearing, and Spinal Screening Program, Department of State Health Services, Mail Code 1818, P.O. Box 149347, Austin, TX 78714-9347. If the request is not received or postmarked within 25 business days from the notice date, the screener waives the right to a hearing and DSHS may proceed with the action.

(7) Appeals and administrative hearings follow DSHS fair hearing rules in §§1.51 - 1.55 of this title (relating to Fair Hearing Procedures).

(c) DSHS may train individuals to become DSHS-authorized external instructors. These external instructors may train and certify individuals who screen children in facilities. Instructors may not charge fees for these activities.

(1) An individual who wants to become an external instructor must apply and meet the following requirements:

(A) the applicant has a valid DSHS screening certificate and has experience performing screenings; and

(B) the applicant has experience training groups of adults.

(C) An individual who meets the qualifications in subsection (c)(1)(A) - (B) of this section may submit an external instructor application, available on the DSHS website. DSHS will grant or deny the request based on the qualifications described in subsection (c)(1)(A) - (B) of this section and the external instructor manual located on the DSHS website.

(2) DSHS prioritizes applications from facilities and areas with a high training need.
External instructors must hold at least one training session for each type of screening every year to stay certified. The training may be either basic training or recertification training. For example, an external instructor may meet the training requirement for the year by conducting a basic training for hearing screening and a recertification training for vision screening.

(3) The DSHS external instructor certificate lasts for five years. To renew an external instructor certificate, an individual must complete an instructor recertification course before the current certificate expires. If an individual does not recertify within the required time period, the individual must take the complete training course again. DSHS may not renew an external instructor's certificate if DSHS confirms the individual did not fulfill all requirements during the previous certification period.

(4) DSHS-authorized external instructors must use the approved training materials from DSHS and follow all requirements and expectations listed in the instructor training manual.

(5) Instructors who have a valid certification may also teach courses for screener recertification. Instructors must make sure the individuals signing up for these recertification courses are eligible. Instructors must follow all the rules for these recertification courses.

(6) External instructors must turn in all documentation listed in the external instructor training manual in the specified manner and timeframe. Instructors must keep a copy of all records for five years.

(7) External instructors may certify or recertify screeners but cannot certify instructors.

(8) External instructors must follow all DSHS guidelines in the external instructor training manual, including rules about class size and duration, course and instructor evaluations, and testing. The manual also explains what happens if external instructors do not follow these rules.

(9) External instructors must follow all instructions given in the vision or hearing screening manuals, or both, which can be found on the DSHS website.

(10) External instructors may be audited or observed by DSHS at any time for quality checks without notice or permission.

(11) If DSHS gets any information that an external instructor has not followed the rules described in this subchapter, DSHS may modify, suspend, or cancel the certification. DSHS will notify the instructor about any proposed actions.

(12) DSHS will inform facilities or school districts when an external instructor fails to follow all the rules, instructions, policies, and manuals in this subchapter. If the instructor continues to not follow the rules, the instructor's certificate may be canceled.

(13) The instructor has 20 business days after receiving the notice to request a hearing about the proposed action. The notice is considered received five business days after being postmarked. Unless the notice states otherwise, the request for a hearing must be written and mailed or hand-delivered to the address described in subsection (b)(6) of this section. If the request for a hearing is not received or postmarked within 25 business days from the date the notice was sent, the instructor waives the right to a hearing and DSHS may take action.

(14) Screeners trained by a former external instructor with a revoked certificate will not be certified by DSHS.

(15) Appeals and administrative hearings follow DSHS fair hearing rules described in §§1.51 - 1.55 of this title (relating to Fair Hearing Procedures).

*§37.28. Hearing Screening Equipment Standards and Requirements.*

(a) Unless specified otherwise, all audiometers and other hearing equipment used for hearing screens in facilities must follow the rules described in this subchapter. The facility and the screener must make sure these requirements are met.

(b) The equipment mentioned in subsection (a) of this section must meet the relevant current ANSI standards, or the manufacturer's specifications if there are no ANSI standards, and must follow all other applicable federal and state standards and regulations for such equipment.

(c) Screeners in facilities must be certified by the Department of State Health Services (DSHS) in how to properly use the equipment, as explained in §37.27 of this subchapter (relating to Standards and Requirements for Screening Certification and Instructor Training).

(d) Qualified technicians must perform annual electronic calibrations and complete exhaustive electronic calibrations on audiometers used for screenings in facilities. The technician must provide proof of calibration to the audiometer's owner. Proof of calibration may be shown with a decal or sticker attached to the audiometer or the screener may keep a paper copy of the latest calibration documentation with the audiometer.

(e) The owner of the audiometer or the person in charge at the facility must complete biological calibration checks once a month on all audiometers used in facilities for screenings.

(f) The screener should conduct a brief pre-screen operational check to make sure the headset is operating properly.

(g) Every facility or screener for a facility that uses audiometric screening equipment must keep records of the equipment's calibration and monthly biological calibration checks. These records must be kept for three years and made available to DSHS if requested for inspection.

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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Cynthia Hernandez
General Counsel
Department of State Health Services
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For further information, please call: (512) 776-2008

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# TITLE 26. HEALTH AND HUMAN SERVICES

## PART 1. HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 559. DAY ACTIVITY AND HEALTH SERVICES REQUIREMENTS

### SUBCHAPTER H. INDIVIDUALIZED SKILLS AND SOCIALIZATION PROVIDER REQUIREMENTS

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §§559.201, 559.203, 559.205, 559.215, 559.225, 559.227, 559.241, and 559.243; new §§559.226, 559.228, 559.253, 559.255, and 559.257; and the repeal of §559.239.

Sections 559.205, 559.225, 559.226, 559.227, 559.228, and 559.253 are adopted with changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4225). These rules will be republished.

Sections 559.201, 559.203, 559.215, 559.239, 559.241, 559.243, 559.255, and 559.257 are adopted without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4225). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The adopted rules integrate heightened health and safety standards while minimizing unnecessary administrative and financial burdens on providers of Individualized Skills and Socialization (ISS). Specifically, the rules address environmental safety concerns, bolster the rights of individuals receiving individualized skills and socialization services, and implement Texas Health and Safety Code §253.0025 as established by House Bill 1009, 88th Regular Session, 2023, regarding suspension of employees during due process for reportable conduct. The adopted rules also establish alternative pathways to address infractions through administrative penalties, thereby offering providers remedial options beyond license revocation.

The adopted rules clarify existing requirements governing the prevention and investigation of abuse, neglect, or exploitation, and delineate provider requirements and criteria for license issuance or renewal. Additionally, non-substantive grammatical revisions enhance clarity and coherence within the regulatory framework.

COMMENTS

The 31-day comment period ended August 25, 2025.

During this period, HHSC received 65 comments regarding the proposed rules from six commenters including the Texas Council of Community Centers, Advantage Care Services, and Mission Road Developmental Center, and combined comments from Private Provider's Association of Texas and Provider's Alliance for Community Services of Texas. A summary of comments regarding the Individualized Skills and Socialization licensure rules and HHSC's responses follows.

Comment: Several commenters made remarks about §559.201, questioning HHSC's authority to establish licensure for Individualized Skills and Socialization providers under Day Activity and Health Services (DAHS) framework.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC has authority to regulate and license providers of Individualized Skills and Socialization services under Texas Human Resources Code, Chapter 103; Texas Government Code Chapter 532; and Human Resources Code, Chapter 32. The Office of the Attorney General, in Attorney General Opinion No. KP-0497, recognized HHSC's authority to establish the scope of DAHS under Chapter 103 and to create a subcategory of DAHS licensure for Individualized Skills and Socialization providers pursuant thereto.

Comment: Several commenters remarked that §559.203(1), defining "abuse" to include "negligent acts," creates confusion with the definition of "neglect," since neglect is currently defined as a failure to act resulting in harm.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The proposed definitions clearly distinguish abuse, which involves acts causing harm, from neglect, which involves a failure to act.

Comment: Several commenters requested HHSC remove the term "emotional harm" from the definition of "actual harm" in

§559.203(2) or provide a clearer threshold, as it may overlap with mental harm.

Response: HHSC disagrees and declines to revise the rule in response to these comments. HHSC retains "emotional harm" because it is distinct from "mental harm" and is used consistently in the Texas Administrative Code (e.g., Day Activity and Health Services (DAHS) Requirements 26 TAC §559.3 relating to Definitions). Emotional harm generally refers to injury affecting a person's emotional state, such as distress, fear, or humiliation, even if no diagnosable mental impairment occurs. Mental harm refers to injury affecting an individual's psychological or cognitive functioning.

Comment: Several commenters requested the deletion of "cause to believe" under §559.203(4), as they believe the definition is unclear, unnecessary, and does not reduce confusion in practice.

Response: HHSC disagrees and declines to revise the rule in response to these comments. "Cause to believe" means when a provider knows of, suspects, or receives an allegation regarding abuse, neglect, or exploitation, ensuring timely reporting and protection of individuals receiving services.

Comment: Several commenters stated that the definition of "complaint" in §559.203(8) is confusing because it has historically been used to refer to allegations of abuse, neglect, or exploitation (ANE), and to refer to programmatic grievances posted under §559.225(d)(2) for other services. Commenters recommended clarifying the definition to reflect both uses or provide additional guidance on the intended context.

Response: HHSC disagrees and declines to revise the rule in response to these comments. The definition of "complaint" applies specifically to allegations of abuse, neglect, or exploitation, and any violations of Texas Human Resources Code, Chapter 103, or a rule, standard, or order adopted under Chapter 103. Any allegation, whether of abuse, neglect, and exploitation, or otherwise, reported to Complaint and Incident Intake (CII) from anyone who is not considered the provider, is considered a complaint.

Comment: Several commenters stated of §559.203(15) that the term "incident" is used inconsistently, sometimes referring to ANE and other times to non-routine occurrences affecting care. One commenter recommended either deleting the definition and addressing it only in reporting requirements or expanding the definition to capture both uses.

Response: HHSC disagrees and declines to revise the rule in response to these comments. The definition of "incident" focuses on non-routine occurrences that impact care, supervision, or treatment, consistent with HHSC guidance. "Incident" is a broad term and instances of abuse, neglect, and exploitation are considered a specific type of incident.

Comment: A commenter recommended revising the statutory or Texas Administrative Code (TAC) reference found under §559.203(29), as the definition of "pattern" and other references to Texas Human Resources Code, Chapters 103 and 104, are inappropriate because these statutes govern the DAHS program rather than Individualized Skills and Socialization. The commenter recommended using more appropriate statutory or TAC references.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC has authority to regulate and license providers of Individualized Skills and Socialization services under Texas Human Resources Code, Chapter 103; Texas Government Code Chapter 532; and Human Resources Code, Chapter 32. The legislature expressly conferred upon HHSC authority to establish the scope of DAHS under Chapter 103, and HHSC created a subcategory of DAHS licensure for Individualized Skills and Socialization providers pursuant thereto. The licensure rules for Individualized Skills and Socialization do not include reference to Texas Human Resources Code, Chapter 104.

Comment: A commenter recommended revising the definition of "substantial violation" as found under §559.203(33), to "critical violation" and align it with the TAC definitions used in rules relating to administrative penalties for Home and Community-based Services (HCS) and Texas Home Living (TxHmL) waiver programs.

Response: HHSC disagrees and declines to revise the rule in response to this comment. "Substantial violation" is defined in the rule to reflect the licensure framework for DAHS-Individualized Skills and Socialization providers. The terminology and definition are tailored to licensure requirements under TAC for this license type and do not conflict with waiver program terminology, which applies in a separate regulatory context. Maintaining distinct terminology avoids conflating licensure standards with Medicaid program requirements.

Comment: A commenter recommended including alternatives to the phrase "HHSC will refer the application for enforcement" as found under §559.205(h).

Response: HHSC disagrees and declines to revise the rule in response to this comment. The phrase "HHSC will refer the application for enforcement" reflects existing rule language and was not revised as part of this rule project. This phrase is consistent with terminology used across HHSC rules to describe the process by which possible non-compliance with requirements for licensure is evaluated for enforcement purposes including denial of a license.

Comment: A commenter requested HHSC provide clarification in rule regarding the requirement that a provider must not serve more individuals than indicated on its license, as found under §559.205(l). A commenter stated that it is unclear whether this refers to daily capacity or total enrollment.

Response: HHSC agrees with the commenters and incorporated clarifying language under §559.205(e)(7) of the rule regarding capacity requirements. The changes clarify that licensed capacity refers to the maximum number of individuals, regardless of funding source, who can receive services at or from this location, as determined by the provider and informed by building occupancy requirements, staff availability, and Medicaid program requirements governing on-site and off-site staff-to-clients ratios. Neither daily capacity (or attendance) nor total enrollment should exceed licensed capacity.

Comment: Several commenters stated that the individual information document required under §559.225(e) appears duplicative of the list of individuals required under §559.231(f)(3). Commenters requested HHSC offer training or guidance on the individual information document, and recommended HHSC incorporate flexibility into this requirement, so providers can include this information in one document.

Response: HHSC agrees with the commenters and revised the rule to incorporate language clarifying the start date and that the information required under §559.225(e) and §559.231(f) may be combined into a single document. HHSC intends to provide

training and guidance to support providers in implementing requirements outlined in new and revised rules as needed, after rule adoption.

Comment: Several commenters made remarks about standards found in §559.226(a). Commenters stated requiring facilities to meet these standards is overly prescriptive and unrealistic since providers may not be able to prevent all occurrences despite reasonable measures. Commenters recommended revising the rule to focus on requiring reasonable efforts to prevent and remediate all potential concerns related to these standards, rather than prohibiting their occurrence outright.

Response: HHSC agrees with the commenters and revised the rule to include language under §559.226(b) indicating that, when determining whether a violation of the standards outlined in §559.226(a)(2) or (3) has occurred, HHSC considers actions taken by the provider to meet the requirements of these standards.

Comment: Several commenters stated that the requirement for major appliances under §559.226(a)(8) is unclear and overly broad. Commenters recommended that only refrigerators necessary for medication storage should be required, as other appliances (such as dishwashers, ovens, and washing machines) are not essential for the safe delivery of Individualized Skills and Socialization services.

Response: HHSC agrees with the commenters and revised the rule to include language clarifying that the requirement for major appliances applies to those that are necessary for meeting individual health and safety needs based on the population served by the provider.

Comment: Several commenters remarked that §559.226(a)(10)(A), which requires that cleaning chemicals be stored in their original containers, is impractical and inconsistent with common, safe practices such as diluting or transferring products into clearly labeled secondary containers. Commenters recommended allowing either original containers or properly labeled secondary containers consistent with Occupational Safety and Health Administration (OSHA) requirements.

Response: HHSC agrees with the commenters and revised the rule to include flexibility in labeling, such as requiring the label to include, at least, warnings, chemical names, and handling precautions. This will ensure the rules relating to cleaning chemical storage maintain clear, enforceable expectations that align with longstanding practices for other licensed long-term care providers as necessary for ensuring health and safety.

Comment: Several commenters supported the requirement in §559.226(b)(1) for a functioning heating and cooling system but objected to the additional requirement for an alternate method of supplying heating and cooling. Commenters stated the requirement is burdensome and unnecessary, suggesting that instead, HHSC requires providers to arrange alternate service locations if the system fails and the environment becomes unsafe.

Response: HHSC disagrees and declines to amend the rule as recommended by commenters. However, HHSC has amended the rule to clarify that, in the event of heating and cooling system failure, the provider must ensure temporary alternate methods of heating and cooling are available to individuals, including methods such as using back-up generators or fans that meet state, local, and federal guidelines in the event the system does not work or is in repair, and if alternate methods are not available, the provider must ensure alternate arrangements of service provision or methods of heating and cooling are provided in accordance with the provider's emergency plan, as outlined in §559.229 of this division (relating to Environment and Emergency Response Plan).

Comment: Several commenters recommended that, under §559.227(b)(1) regarding admission and discharge requirements, HHSC require licensed DAHS-Individualized Skills and Socialization providers to follow the same admission and discharge standards as HCS program providers.

Response: HHSC disagrees and declines to amend the rule as recommended by commenters. This requires a DAHS-Individualized Skills and Socialization provider to admit or discharge individuals based on the provider's demonstrated capacity to meet the needs of individuals safely and appropriately. However, HHSC has amended the rule to further clarify the providers' obligation to make reasonable efforts to retain an individual and to admit an individual when appropriate and feasible.

Comment: Several commenters suggested that, under §559.227(c)(2)(D), HHSC revise the rule to replace "individuals" with "all individuals" for clarity, noting that the current singular wording could be confusing.

Response: HHSC disagrees and declines to revise the rule in response to these comments. The use of the term "individual" is intentional in this context and refers to each individual receiving services. The term "individual" aligns with the person-centered focus of the rule and avoids ambiguity.

Comment: Concerning §559.227(e), several commenters stated that the rule requiring the service location to be owned or leased by the DAHS-Individualized Skills and Socialization provider is too restrictive and limits the use of community-based spaces made available through formal agreements with non-profits, faith-based, or community organizations. Commenters recommended revising the rule to allow for such arrangements.

Response: HHSC disagrees and declines to revise the rule at this time. Location requirements for the provision of on-site and off-site Individualized Skills and Socialization services are governed by Medicaid program rules and settings requirements for home and community-based services (HCBS) under 26 TAC §263.2005. On-site, but not off-site, services must be provided in a location owned or leased by the provider. HHSC will gather the appropriate parties to discuss future rule projects related to this recommendation.

Comment: Several commenters stated that the requirement under §559.227(i) to document non-participation could be interpreted to require documentation of every individual activity choice (e.g., bowling vs. park), which would create an unnecessary administrative burden. Commenters recommended limiting intent to documenting when an individual or Legally Authorized Representative (LAR) declines participation in a scheduled service period, not activity preferences within it.

Response: HHSC agrees to make changes and revised the rule to clarify that documentation is not required if an individual or LAR chooses one activity over another during the scheduled on-site or off-site individualized skills and socialization activity.

Comment: A commenter agreed that DAHS-Individualized Skills and Socialization providers should be able to communicate observed needs, as outlined in §559.227(j), but stated that making assessments is outside the provider's scope and falls within the responsibility of licensed professionals.

Response: HHSC appreciates the commenters feedback but declines to revise the rule in response to this comment. The proposed rule under §559.227(j) does not imply that the DAHS-Individualized Skills and Socialization provider is required to assess individuals. This requirement outlines the DAHS-Individualized Skills and Socialization provider's responsibility to communicate when the provider becomes aware of a modification or restriction needed based on an already assessed need. This ensures health and safety needs are addressed while maintaining the defined scope of the DAHS-Individualized Skills and Socialization provider's responsibilities.

Comment: A commenter recommended replacing the term "person centered plan" with Person-directed Plan or Implementation Plan (whichever was intended) in §559.227(j).

Response: HHSC disagrees and declines to revise the rule in response to this comment. This subsection defines the term "person-centered plan," which includes the individual's person-directed plan (PDP) for HCS and TxHmL waiver program participants, or individual program plan (IPP) for Deaf Blind with Multiple Disabilities (DBMD) waiver program participants.

Comment: Several commenters recommended revising the cross-reference in §559.227(j)(3) from §559.225(f) to §559.225(e).

Response: HHSC agrees with the commenters and revised the cross-reference found under §559.227(j)(3) from §559.225(f) to §559.225(e).

Comment: A commenter stated the requirement outlined in §557.227(j)(4) is outside the scope of the DAHS-Individualized Skills and Socialization provider's responsibility, as DAHS-Individualized Skills and Socialization providers do not participate in creating or updating the PDP or person-centered service plans. Commenter stated that such updates are the responsibility of the service coordinator and the individual, or the LAR, and DAHS-Individualized Skills and Socialization providers would not have the capacity to update the plan.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The intent of this requirement is not to imply that a DAHS-Individualized Skills and Socialization provider would be responsible for updating an individual's PDP or person-centered service plan; this requirement indicates that providers must inform service providers, which are defined in §559.203 of rule concerning Definitions, as employees, contractors, or volunteers who directly provide Individualized Skills and Socialization services, of modifications or restrictions to an individual's plan. This requirement aligns with existing rule requirements and ensures health and safety needs are met while maintaining the provider's defined responsibilities.

Comment: Several commenters made remarks about §559.227(l). Commenters stated trainings are required too frequently and recommended extending the period of time allowed between trainings. Commenters recommended changing the current rule regarding the ongoing training requirement for Cardiopulmonary Resuscitation (CPR) in §559.227(l)(1)(B)(i) from "ensure service providers maintain current CPR certification" to "maintain current documentation of course completion or current certification in CPR."

Response: HHSC agrees with the commenters and revised the timeframe between required training. While initial and ongoing training requirements will remain consistent with existing requirements, HHSC will incorporate language into the rules to extend retraining requirements to every two years (biannually). For the population served, retraining will be required whenever there is an update to an individual's plan.

Comment: With respect to §559.227(m)(1)(C)(i) and (ii), several commenters recommended refining medication documentation requirements to align with standard medical and pharmacy practices, including verification through the pharmacy label or updated healthcare provider order, and allowing temporary use of a prescriber's order until a new pharmacy label is available. Commenters stated that requiring providers to verify prescription orders with the pharmacy or healthcare provider, or the requirement to document certain details, such as pharmacist instructions, generic substitutions, administration times, doses received, and administration specifics could be confusing and burdensome.

Response: HHSC agrees with the commenters and revised rule language to indicate that medication documentation must reflect information on the prescription label. The requirement to document this information in the medication record is essential to ensure that medications are properly accounted for and accurately administered. Omitting this information creates potential risk to the individual's health and safety and increases the likelihood of medication discrepancies or drug diversion. These requirements align with federal and state pharmacy labeling requirements and ensure safe, accurate medication administration.

Comment: Several commenters stated of §559.227(m)(3)(E) that requiring Schedule II medications to be stored in a locked, permanently attached cabinet, box, or drawer is impractical for off-site, community-based services. Commenters expressed concern that individuals needing these medications could potentially be excluded from off-site activities or face care disruptions. One commenter recommended allowing secure, portable storage under authorized staff control for off-site services.

Response: HHSC agrees with the commenters and revised rule language to incorporate provisions pertaining to off-site storage of Schedule II medications under §559.227(m)(3)(iii).

Comment: Several commenters made remarks about §559.228(e), recommending that HHSC revise rule language to require DAHS-Individualized Skills and Socialization providers to support individuals in addressing concerns that apply only to the provision of Individualized Skills and Socialization services and not to unrelated waiver services.

Response: HHSC agrees with the commenters and revised rule language to clarify that this requirement applies to individualized skills and socialization providers addressing concerns with the program provider regarding the individual plan of care (IPC), IPP, PDP, or implementation plan when the individual dislikes or disagrees with the services being rendered by the individualized skills and socialization provider.

Comment: Several commenters recommended that, under §559.229(f)(2)(C), providers be permitted to use provider-developed documentation systems for forms such as the Fire Drill Report Form (4719), the individual information document (as outlined in §559.225(e) and §559.231(f)(3)), or an individual's Electronic Health Record (EHR), whether paper or electronic, so long as all HHSC-required elements are included.

Response: HHSC agrees with the commenters and revised rule language to incorporate this flexibility into rule under §559.225(g). This allows for flexibility regarding certain forms, documents, and records required under the Individualized Skills

and Socialization Licensure Rules, such as the HHSC Fire Drill Report Form (4719) referenced under §559.229(f)(2)(C) of this subchapter, the individual information document referenced under §559.225(e), the list of individuals referenced under §559.231(f), and Electronic Health Records (EHRs). These documents may be completed and maintained electronically, either on the HHSC-prescribed form or on a provider-developed form or template that includes, at a minimum, the information required by HHSC. After rule adoption, HHSC will issue communication to providers about this flexibility. Rule language found under §559.229(f)(2)(C) referencing the HHSC Fire Drill Report Form will be amended to include this clarification in a future rule project, as changes to this rule section were not included as part of this rulemaking.

Comment: Several commenters stated that requirements under §559.241(d) eliminate the ability for providers to use their own forms or electronic systems for provider investigation reports. Commenters further stated that many providers use internal tools that capture all required elements, and requiring providers to use specific HHSC forms could create duplicative documentation, increase costs, and reduce efficiency without improving protections for individuals.

Response: HHSC disagrees and declines to revise the rule in response to these comments. HHSC Form 3613-A, Provider Investigation Report, is the standard form used by licensed long-term care providers when submitting written investigation reports to HHSC in accordance with regulatory requirements. This requirement to send a written investigation report on Form 3613-A, Provider Investigation Report, is necessary to avoid delays in processing submissions and ensure investigations are undertaken consistently among providers.

Comment: Several commenters stated that the term "complaint" in §559.243 is confusing because it has been historically used in two ways: to refer to allegations of ANE, and to refer to programmatic grievances posted under §559.225(d)(2) for other services. Commenters recommend clarifying the definition under §559.203(8) concerning Definitions, to reflect both uses or provide additional guidance on the intended context.

Response: HHSC disagrees and declines to revise the rule in response to these comments. "Complaint," as defined in §559.203(8) concerning Definitions, applies specifically to allegations of abuse, neglect, or exploitation, and any violations of Texas Human Resources Code, Chapter 103, or a rule, standard, or order adopted under Chapter 103. Any allegation, whether of abuse, neglect, and exploitation, or otherwise, reported to Complaint and Incident Intake (CII) from anyone who is not considered the provider, is considered a complaint. Use of the term in this subsection is consistent with the definition found under §559.203(8).

Comment: Several commenters made remarks about §559.253, stating that HHSC cannot reasonably impose costly new obligations without addressing rate adequacy, or services will continue to destabilize.

Response: HHSC disagrees and declines to revise the rule in response to these comments. The cost to providers regarding administrative penalties will depend on each provider's compliance with regulatory requirements. Rates are not within the scope of this rulemaking.

Comment: A commenter recommended that HHSC insert the phrase "against the individualized skills and socialization provider" in §559.253(a) to increase clarity.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The Individualized Skills and Socialization licensure rules apply specifically to licensed DAHS-Individualized Skills and Socialization providers.

Comment: Several commenters made remarks about §559.253(b) regarding administrative penalty amounts. Commenters stated that penalties should not exceed $500 per violation, and recommended HHSC change rule language to align Individualized Skills and Socialization penalties with DAHS penalty standards and Texas Human Resources Code §103.012(b).

Response: HHSC agrees with the commenters and revised administrative penalty amounts, as shown under Figure §559.253(b) in rule. Penalty amounts have been revised to align with Texas Human Resources Code §103.012(b).

Comment: Several commenters recommended revising §559.253(f)(1) so that the penalty period begins on the date the provider is formally notified of the violation, not on the date HHSC internally "identifies" it.

Response: HHSC disagrees and declines to revise the rule in response to these comments. The penalty period should begin when the violation began. The beginning of the violation corresponds better with when HHSC identifies the violation to protect the health and safety of individuals than when HHSC provides formal notice of it.

Comment: Several commenters recommended aligning §559.253(g) with DAHS administrative penalty rules regarding the date of correction, which presume the date of correction identified in the provider's written plan of correction to be the actual date of correction unless HHSC later determines the correction was not made or was unsatisfactory.

Response: HHSC disagrees and declines to revise the rule in response to these comments. The plan of correction gives a presumed date of correction. Because actual correction is determined by follow-up visit, HHSC will not amend the proposed rule.

Comment: Several commenters requested that HHSC consider, under §559.253 regarding implementation of administrative penalties for DAHS-Individualized Skills and Socialization providers, an effective date for implementation of administrative penalties that is at least six months from the effective date of the new administrative penalty rules.

Response: HHSC disagrees and declines to revise the rule in response to these comments. As the Individualized Skills and Socialization Licensure rules are an extension of the DAHS rules generally, providers were aware of administrative penalties as a possible remedy in the Individualized Skills and Socialization rules.

Comment: Several commenters recommended including information about the Informal Dispute Resolution (IDR) process under §559.255(g)(3)(B).

Response: HHSC disagrees and declines to revise the rule in response to these comments. The IDR process for DAHS-Individualized Skills and Socialization providers is outlined under §559.233(g) of existing licensure rules for Individualized Skills and Socialization, and no changes to §559.233(g) were proposed as part of this rulemaking.

Comment: Several commenters recommended matching DAHS penalty rule language regarding the date of correction under §559.255(l).

Response: HHSC disagrees and declines to revise the rule in response to these comments. The language under §559.255(l) is consistent with the current DAHS rule language regarding the date of correction located at §559.107(c).

HHSC made changes to rule language independent of the formal comment process and as a result of internal and external stakeholder meeting feedback.

HHSC received several comments that fell outside the scope of this project. Comments included that HHSC provide adequate reimbursement rates to cover operational costs; include language in the Individualized Skills and Socialization licensure rules that prohibits providers from charging individuals and their LARs additional fees; and outline HHSC's internal processes for licensure surveys.

HHSC did not make changes as a result of the comments noted above, as they were outside the scope of this rulemaking.

## DIVISION 1. INTRODUCTION

**26 TAC §559.201, §559.203**

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and §532.0051, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC adopt rules necessary for the proper and efficient operation of the Medicaid program, and §103.004, which requires the executive commissioner of HHSC to adopt rules and set standards implementing Chapter 103.

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

Filed with the Office of the Secretary of State on January 20, 2026.

TRD-202600192
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: February 9, 2026
Proposal publication date: July 25, 2025
For further information, please call: (512) 438-3161

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## DIVISION 2. LICENSING

**26 TAC §559.205, §559.215**

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and §532.0051, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC adopt rules necessary for the proper and efficient operation of the Medicaid program, and §103.004, which requires the executive commissioner of HHSC to adopt rules and set standards implementing Chapter 103.

*§559.205. Criteria for Licensing.*

(a) An entity may not establish or provide individualized skills and socialization services in Texas without a license issued by the Texas Health and Human Services Commission (HHSC) in accordance with Texas Human Resources Code, Chapter 103, and this subchapter.

(b) An individualized skills and socialization provider must be listed on the HHSC Day Activity and Health Services (DAHS) directory as an individualized skills and socialization provider to provide individualized skills and socialization services.

(c) An applicant for a license must follow the application instructions and submit a completed application form, required documentation, and required license fee to HHSC through the online licensure portal.

(d) An applicant for a license must complete HHSC required training to become an individualized skills and socialization provider and provide documentation that required training is complete through the application in the online licensure portal.

(e) An applicant for a license must submit to HHSC as part of the application the:

(1) name of the business entity to be licensed;

(2) tax identification number;

(3) name of the chief executive officer (CEO) or equivalent person;

(4) ownership information;

(5) address of the on-site individualized skills and socialization location or, for providers of off-site individualized skills and socialization services only, the designated place of business where records are kept;

(6) name of program providers using this entity for individualized skills and socialization services, if any;

(7) maximum number of individuals, regardless of funding source, who can receive services at or from this location, as determined by the provider and informed by building occupancy requirements, staff availability, and Medicaid program requirements, which will become the licensed capacity when approved;

(8) effective date the entity will be available to provide individualized skills and socialization services;

(9) attestation that the applicant has created and implemented a community engagement plan, including:

(A) a description of how the organization will meet the requirement to make off-site individualized skills and socialization available to individuals;

(B) a description of how the organization will work with contracted program providers to obtain information from the individuals' person-directed plans (PDP) and implementation plan, and use that information to inform on-site and off-site activities that are aligned with an individual's PDP; and

(C) a description of how staff will respond to an emergency or other unexpected circumstance that may occur during the provision of on-site and off-site individualized skills and socialization services to ensure the health and safety of all individuals; and

(10) any other information required by the online application instructions.

(f) HHSC may deny an application that remains incomplete after 120 days.

(g) Before issuing a license, HHSC considers the background and qualifications of:

(1) the applicant or license holder;

(2) a person with a disclosable interest;

(3) an affiliate of the applicant or license holder;

(4) an administrator;

(5) a manager; and

(6) any other person disclosed on the submitted application as defined by the application instructions.

(h) If the location where an applicant intends to provide on-site or off-site individualized skills and socialization services is located within, on the grounds of, or physically adjacent to a prohibited setting as set forth in the rules governing the Home and Community-based Services (HCBS) waiver programs, as described in §263.2005(d) of this title (relating to Description of On-Site and Off-Site Individualized Skills and Socialization), and the applicant has not been approved through heightened scrutiny process as described in §263.2005(e) of this title, HHSC will refer the application for enforcement.

(i) HHSC issues a license if it finds that the applicant or license holder, and all persons described in subsection (g) of this section, affirmatively demonstrate compliance with all applicable requirements of this subchapter, based on an on-site survey.

(j) For DAHS Individualized Skills and Socialization Only licensure applications, HHSC may:

(1) at its sole discretion, issue a temporary initial license effective for 180 days, which may be extended until such time as an applicant demonstrates that it meets the requirements for operation based on an on-site survey; and

(2) issue a three-year license to applicants described under this subsection.

(k) For DAHS with Individualized Skills and Socialization licensure applications, HHSC will follow the criteria for licensure as described in §559.11 of this chapter (related to Criteria for Licensing).

(l) An individualized skills and socialization provider must not provide services to more individuals than the number of individuals specified on its license.

(m) An individualized skills and socialization provider must prominently and conspicuously post its license for display in a public area of the on-site individualized skills and socialization location that is readily accessible to individuals, employees, and visitors. For an off-site only individualized skills and socialization provider, the license must be displayed in a conspicuous place in the designated place of business.

(n) If any information submitted through the application process changes following licensure, the license holder must submit an application through the online licensure portal to make the changes.

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

Filed with the Office of the Secretary of State on January 20, 2026.

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Karen Ray
Chief Counsel
Health and Human Services Commission
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## DIVISION 3. PROVIDER REQUIREMENTS

### 26 TAC §§559.225 - 559.228

STATUTORY AUTHORITY

The amendments and new sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and §532.0051, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC adopt rules necessary for the proper and efficient operation of the Medicaid program, and §103.004, which requires the executive commissioner of HHSC to adopt rules and set standards implementing Chapter 103.

*§559.225. General Requirements.*

(a) An individualized skills and socialization provider must:

(1) comply with the provisions of Texas Health and Safety Code (HSC), Chapter 250 (relating to Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons with Disabilities, or Persons with Terminal Illnesses);

(2) before offering employment to any person, search the following registries to determine if the person is eligible for employment:

(A) the employee misconduct registry (EMR) established under HSC §253.007;

(B) the Texas Health and Human Services Commission (HHSC) nurse aide registry (NAR) and medication aide registry (MAR);

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

(D) the List of Excluded Individuals and Entities (LEIE) maintained by HHSC Office of Inspector General;

(3) not employ a person who is listed on the:

(A) HHSC employee misconduct registry as unemployable; or

(B) HHSC nurse or medication aide registries as revoked or suspended; and

(4) provide information about the EMR to an employee in accordance with §561.3 of this title (relating to Employment and Registry Information).

(b) In addition to the initial search of the EMR, LEIE, NAR, MAR, and USLEIE, an individualized skills and socialization provider must:

(1) conduct a search of the NAR, MAR, and EMR to determine if the employee is designated in those registries as unemployable at least every 12 months;

(2) keep a copy of the results of the initial and annual searches of the NAR, MAR, and EMR in the employee's personnel file and make it available to HHSC upon request; and

(3) comply with all relevant federal and state standards.

(c) An individualized skills and socialization provider must:

(1) report abuse, neglect, and exploitation in accordance with §559.241 of this subchapter (relating to Reporting Abuse, Neglect, or Exploitation to HHSC);

(2) suspend a service provider who HHSC finds has engaged in reportable conduct while the service provider exhausts any applicable appeals process, including informal and formal appeals and any hearing or judicial review, pending a final decision by an administrative law judge, and may not reinstate the service provider during any applicable appeals process;

(3) develop and enforce policies and procedures for creating and maintaining incident reports; and

(4) ensure the confidentiality of individual records and other information related to individuals.

(d) An individualized skills and socialization provider must prominently and conspicuously post for display in a public area of the on-site individualized skills and socialization location, or designated place of business for off-site only individualized skills and socialization, that is readily available to individuals, employees, and visitors:

(1) the license issued under this chapter;

(2) a sign prescribed by HHSC that describes complaint procedures and specifies how complaints may be filed with HHSC;

(3) a notice in the form prescribed by HHSC stating that survey and related reports are available at the on-site individualized skills and socialization location for public survey and providing the HHSC toll-free telephone number that may be used to obtain information concerning the individualized skills and socialization provider;

(4) a copy of the most recent survey report relating to the individualized skills and socialization provider;

(5) a brochure, letter, or website that outlines the individualized skills and socialization provider's hours of operation, holidays, and a description of activities offered; and

(6) emergency telephone numbers, including the abuse hotline telephone number.

(e) In addition to the list of individuals served as described in §559.231(f)(3) of this subchapter (relating to Surveys and Visits), an individualized skills and socialization provider must also maintain an individual information document that includes:

(1) information on the individualized skills and socialization provider's service delivery method for each individual, such as on-site and off-site, or off-site only;

(2) the individual's name, identification, or clinical record number; and

(3) the date the individual began receiving on-site and off-site, or off-site only individualized skills and socialization services from the provider.

(f) An individualized skills and socialization provider may combine the list of individuals served and the information required for the individual information document into a single document. However, the provider must ensure the combined document meets all requirements of §559.231(f)(3) of this subchapter and subsection (e) of this section.

(g) An individualized skills and socialization provider may maintain records or forms either on the HHSC-prescribed form or on a provider-developed form or template maintained through the provider's own documentation system, whether digital or paper, including electronic health records or other documents maintained for the purpose of compliance with the licensure requirements of this subchapter, unless otherwise specified. Records maintained through the provider's own documentation system must:

(1) contain the same information as the HHSC-prescribed document or form as outlined in this subchapter;

(2) meet the confidentiality and recordkeeping requirements outlined in this subchapter; and

(3) be readily accessible and available for review by HHSC upon request, as required under §559.231(f) of this subchapter.

*§559.226. Environmental Safety Requirements.*

(a) An individualized skills and socialization provider must ensure the facility interior of the on-site location:

(1) has furnishings that are appropriately maintained and safe for use;

(2) is clean, sanitary, and free of odors that are considered disruptive, unpleasant, or potentially offensive;

(3) is free of infestation by bugs, rodents, and other pests;

(4) has walls, ceilings, floors, and windows that are structurally sound;

(5) is free of environmental contaminants, physical hazards, and accumulated waste or trash;

(6) has bathrooms that are accessible, functional, and safe for use;

(7) has hot water available for use by individuals receiving services that:

(A) is located at sinks in the facility that may be used by individuals receiving services; and

(B) does not exceed 120 degrees Fahrenheit;

(8) has any major appliances maintained in a safe and operational condition necessary to meet the health and safety needs of individuals served by the provider, such as refrigerators for medication storage;

(9) has a secure storage area for cleaning chemicals and supplies that is located separately from any storage area for food items;

(10) has cleaning chemicals that are used in accordance with directions and warnings on the product label and that are stored:

(A) in their original containers; or

(B) in clearly labeled secondary containers with a label that includes, at a minimum, warnings, chemical names, and handling precautions;

(11) has a location where perishable food is either refrigerated or otherwise stored safely; and

(12) has working smoke alarms in all main areas that:

(A) are maintained in accordance with the manufacturer's instructions;

(B) emit a distinguishable audible response that can be heard throughout the facility including classrooms, common areas, and hallways; and

(C) are used solely for the purpose of alerting individuals and service providers of a fire.

(b) When determining whether a violation of the standards outlined in subsection (a)(2) or (3) of this section has occurred, HHSC considers actions taken by the provider to meet the requirements of these standards.

(c) An individualized skills and socialization provider must ensure the interior of the on-site location is serviced by a functioning heating and cooling system.

(1) If the heating and cooling system fails, the provider must ensure temporary alternate methods of heating and cooling are available to individuals, including methods such as using back-up generators or fans that meet state, local, and federal guidelines in the event the system does not work or is in repair.

(2) If alternate methods are not available, the provider must ensure alternate arrangements of service provision or methods of heating and cooling are provided in accordance with the provider's emergency plan, as outlined in §559.229 of this division (relating to Environment and Emergency Response Plan).

(3) The provider must ensure that heating and cooling temperature settings for its system, or any alternate method, are appropriate for maintaining a safe environment for individuals and consider the specific health and safety needs of individuals when determining the appropriate heating and cooling temperature settings.

(d) An individualized skills and socialization provider must ensure the facility exterior of the on-site location:

(1) is free of hazards and the accumulation of waste and trash;

(2) is accessible to individuals receiving services;

(3) does not compromise the health or safety of individuals; and

(4) if applicable, has exterior furnishings that are maintained appropriately and safe for use.

*§559.227. Program Requirements.*

(a) Staff qualifications.

(1) An individualized skills and socialization provider must:

(A) employ an administrator;

(B) ensure the administrator meets the requirements outlined in paragraph (2) of this subsection; and

(C) have a policy regarding the delegation of responsibility in the administrator's absence.

(2) A service provider of individualized skills and socialization must be at least 18 years of age and:

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

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

*(i)* a written competency-based assessment of the ability to document service delivery and observations of the individuals receiving services; and

*(ii)* at least three written personal references from persons not related by blood that indicate the ability to provide a safe, healthy environment for the individuals receiving services.

(3) A service provider of individualized skills and socialization who provides transportation must:

(A) have a valid driver's license; and

(B) transport individuals in a vehicle that:

*(i)* is insured in accordance with state law; and

*(ii)* meets all state registration and safety requirements.

(b) Admission and retention of individuals; staffing. An individualized skills and socialization provider must ensure the following.

(1) An individualized skills and socialization provider must not admit an individual whose needs the provider cannot meet. The determination that the provider cannot meet the individual's needs must be based on:

(A) information provided by the program provider regarding the individual's health and safety needs, as documented in the individual plan of care (IPC), individual program plan (IPP), person-directed plan (PDP), and implementation plan, as applicable; and

(B) the provider's availability of trained staff to meet the individual's needs.

(2) An individualized skills and socialization provider must not retain an individual whose needs the provider can no longer meet. The determination that the provider can no longer meet the individual's needs must be based on:

(A) documented reasonable efforts by the individualized skills and socialization provider to meet the individual's needs and discussion with the individual, the individual's LAR, and the program provider, as applicable, regarding the provider's efforts and any identified areas of concern; and

(B) notification to the individual, the individual's LAR, and the program provider, as applicable, prior to discharge, that the individualized skills and socialization provider can no longer meet the individual's needs.

(3) An individualized skills and socialization provider must maintain a ratio of service providers to individuals in accordance with §260.507 of this title (relating to Staffing Ratios), §262.917 of this title (relating to Staffing Ratios for Off-Site Individualized Skills and Socialization), and §263.2017 of this title (relating to Staffing Ratios for Off-Site Individualized Skills and Socialization), during the provision of off-site individualized skills and socialization, including during transportation.

(4) An individualized skills and socialization provider must ensure adequate numbers of appropriately trained staff are on

duty at all times during the provision of on-site individualized skills and socialization to ensure:

(A) the health and safety of the individuals;

(B) the needs and behaviors of the individuals are managed;

(C) supervision is provided in accordance with the needs of an individual; and

(D) individualized skills and socialization services or similar services are provided in accordance with an individual's individual plan of care (IPC), individual program plan (IPP), person-directed plan (PDP), and implementation plan, as applicable.

(c) Staff responsibilities.

(1) The administrator:

(A) manages the individualized skills and socialization services and the on-site individualized skills and socialization location;

(B) ensures staff are trained;

(C) supervises staff; and

(D) maintains all records.

(2) A service provider:

(A) delivers individualized skills and socialization services;

(B) assists with recreational activities;

(C) provides protective supervision through observation and monitoring; and

(D) is trained on the needs of the individual.

(d) An individualized skills and socialization provider must make both on-site and off-site individualized skills and socialization services available to an individual who receives Home and Community-based Services (HCS), Texas Home Living (TxHmL), or Deaf Blind with Multiple Disabilities (DBMD) services, unless the individualized skills and socialization provider provides off-site individualized skills and socialization services only.

(e) An individualized skills and socialization provider must ensure that on-site individualized skills and socialization services:

(1) are provided in a building or a portion of a building that is owned or leased by an individualized skills and socialization provider;

(2) promote an individual's development of skills and behavior that support the individual's independence and personal choice; and

(3) are not provided in:

(A) a prohibited setting for an individual, as set forth in the rules governing Home and Community-based Services (HCBS) waiver programs; or

(B) the residence of an individual or another person.

(f) An individualized skills and socialization provider must ensure that off-site individualized skills and socialization services:

(1) include activities that:

(A) integrate the individual into the community; and

(B) promote the individual's development of skills and behavior that support the individual's independence and personal choice;

(2) are provided in a community setting chosen by the individual from among available community setting options;

(3) include transportation necessary for the individual's participation in off-site individualized skills and socialization; and

(4) are not provided in:

(A) a building in which on-site individualized skills and socialization are provided;

(B) a prohibited setting for an individual, as set forth in the rules governing Home and Community-based Services (HCBS) waiver programs, unless:

*(i)* provided in an event open to the public; or

*(ii)* the activity is a volunteer activity performed by an individual in such a setting; or

(C) the residence of an individual or another person, unless the activity is a volunteer activity performed by an individual in the residence.

(g) An individualized skills and socialization provider must:

(1) provide services:

(A) that promote autonomy and positive social interaction;

(B) in accordance with:

*(i)* the individuals IPC, IPP, PDP, or implementation plan as applicable; and

*(ii)* the individuals identified health and safety needs, physicians' orders, and goals, as documented and agreed upon by the individual or the individual's legally authorized representative (LAR); and

(2) develop and implement written policies and procedures for consistent and effective monitoring and documentation of an individual's progress towards person-centered objectives related to skill development and socialization, in accordance with the individuals IPC, IPP, PDP, or implementation plan as applicable.

(h) An individualized skills and socialization provider must not require an individual to take a skills test or meet other requirements to receive off-site individualized skills and socialization services.

(i) If an individual does not want to participate in a scheduled on-site or off-site individualized skills and socialization activity, or the individual's LAR does not want the individual to participate in a scheduled on-site or off-site individualized skills and socialization activity, the individualized skills and socialization provider must document the decision not to participate in the individual's record. Documentation is not required if an individual chooses one activity over another during the scheduled on-site or off-site individualized skills and socialization activity.

(j) If an individualized skills and socialization provider becomes aware that a modification or restriction to the services provided is needed based on a specific assessed need of an individual, the individualized skills and socialization provider must:

(1) inform the individual's program provider of the needed modification or restriction;

(2) obtain updated documentation from the program provider outlining the modification or restriction on the individual's person-centered service plan, which includes:

(A) for HCS and TxHmL, the individual's PDP; or

(B) for DBMD, the individual's IPP;

(3) ensure the updated person-centered service plan is received from the program provider and maintained in the individual's record, and that any updates are included on the individual information document as described in §559.225(e) of this division (relating to General Requirements) prior to the implementation of the modification or restriction;

(4) inform service providers of updates to an individual's person-centered service plan; and

(5) ensure the implementation of modifications or restrictions is in accordance with the individual's updated person-centered service plan.

(k) An individualized skills and socialization provider must provide on-site and off-site individualized skills and socialization services in-person.

(l) Training.

(1) Initial training.

(A) An individualized skills and socialization provider must:

*(i)* provide service providers with training on fire, disaster, and their responsibilities under the emergency response plan developed in accordance with §559.229 of this division (relating to Environment and Emergency Response Plan) within three workdays after the start of employment and document the training in the individualized skills and socialization provider's records; and

*(ii)* provide service providers with a minimum of eight hours of training during the first three months after the start of employment and document the training in the records of the individualized skills and socialization provider.

(B) The training provided in accordance with subparagraph (A)(ii) of this paragraph must include:

*(i)* any nationally or locally recognized adult CPR course or certification;

*(ii)* first aid;

*(iii)* infection control;

*(iv)* an overview of the population served by the individualized skills and socialization provider; and

*(v)* identification and reporting of abuse, neglect, or exploitation.

(2) Ongoing training. In addition to initial training requirements described in paragraph (1)(A) of this subsection, an individualized skills and socialization provider must:

(A) maintain current documentation of each service provider's CPR course completion or certification in CPR;

(B) retrain service providers on their responsibilities under the emergency response plan developed in accordance with §559.229 of this division at least biannually and when the service provider's responsibilities under the plan change;

(C) conduct training for service providers on infection control policies and procedures developed in accordance with subsection (o) of this section at least biannually;

(D) retrain service providers on the population served whenever there is an update to an individual's plan; and

(E) conduct training for service providers on the identification and reporting of abuse, neglect, or exploitation at least biannually.

(m) Medications.

(1) Administration.

(A) If individuals cannot or choose not to self-administer medications, an individualized skills and socialization provider must provide assistance with such medications and the performance of related tasks if:

*(i)* a registered nurse has assessed the need for assistance and related tasks and delegated such to the individualized skills and socialization provider in accordance with state law and rules; or

*(ii)* a physician has delegated the assistance and related tasks as a medical act to the individualized skills and socialization provider under Texas Occupations Code Chapter 157, as documented by the physician.

(B) An individualized skills and socialization provider must record an individual's medications, including over-the-counter medications, on the individual's medication profile record and ensure that medication labels are:

*(i)* original and current;

*(ii)* easily readable;

*(iii)* affixed to the corresponding prescription bottle, container, or packaging; and

*(iv)* include the appropriate accessory and cautionary instructions and prescription expiration date when applicable.

(C) An individualized skills and socialization provider must ensure that information on the medication profile record:

*(i)* reflects current prescription orders as verified by the pharmacy label or updated healthcare provider order; and

*(ii)* includes the medication name, strength, dosage, doses received, directions for use, route of administration, prescription number, pharmacy name, and the date each medication was issued by the pharmacy.

(2) General.

(A) An individualized skills and socialization provider must immediately report to an individual's program provider any unusual reactions to a medication or treatment.

(B) When an individualized skills and socialization provider supervises or administers medications, the individualized skills and socialization provider must:

*(i)* maintain accurate, current, and accessible documentation of medication administration for each individual; and

*(ii)* document the date and time each medication was taken in accordance with recorded information on the individual's medication profile record.

(C) In the event of a medication error, or if an individual does not receive or take the medication or treatment as prescribed, the individualized skills and socialization provider must:

*(i)* document the date and time the medication dose should have been administered or provided to the individual; and

*(ii)* the name and strength of any medication missed.

(3) Storage.

(A) An individualized skills and socialization provider must provide a locked area for all medications, which may include:

*(i)* a central storage area;

*(ii)* a medication cart that, when not in use, is secured in the area designated for its storage; or

*(iii)* for off-site individualized skills and socialization services, a secure, portable, locked container under the direct control of authorized staff at all times.

(B) An individualized skills and socialization provider must store an individual's medication separately from other individuals' medications within the storage area.

(C) An on-site individualized skills and socialization provider must store medication requiring refrigeration in a locked refrigerator used only for medication storage, or in a separate, permanently attached, locked medication storage box in a refrigerator.

(D) An individualized skills and socialization provider must store poisonous substances and medications labeled for "external use only" separately within the locked area.

(E) An on-site individualized skills and socialization provider must store drugs covered by Schedule II of the Controlled Substances Act of 1970 in a locked, permanently attached cabinet, box, or drawer that is separate from the locked storage area for other medications.

(F) An individualized skills and socialization provider must store medications in accordance with manufacturer's instructions, under sanitary conditions, and with consideration of requirements pertaining to temperature, light, moisture, ventilation, segregation, and security.

(G) An individualized skills and socialization provider must ensure that during the provision of off-site individualized skills and socialization services, all medications for which the provider is responsible:

*(i)* remain in a secure, portable, locked container; and

*(ii)* remain under the direct control of authorized staff at all times.

(H) An individualized skills and socialization provider must ensure that, during the provision of off-site individualized skills and socialization services, all medications requiring refrigeration:

*(i)* are maintained at the manufacturer's recommended temperature using a portable, insulated, temperature-controlled container;

*(ii)* remain under the direct control and supervision of authorized staff at all times; and

*(iii)* have documented temperature maintenance and chain of custody in accordance with the requirements of this section.

(I) An individualized skills and socialization provider must ensure that, during the provision of off-site individualized skills and socialization services, medications classified as Schedule II under the Controlled Substances Act of 1970:

*(i)* are stored in a secure, locked container or drawer, separately from medications that are not Schedule II;

*(ii)* remain under direct control of authorized staff at all times; and

*(iii)* are handled in accordance with all state and federal requirements for long-term care providers relating to security and safeguarding of Schedule II controlled substances.

(J) An individualized skills and socialization provider must develop written policies and procedures addressing the storage, transportation, administration, and safeguarding of all medications for which the provider is responsible and ensure staff compliance with these policies and procedures. The provider's written policies and procedures must:

*(i)* designate authorized staff;

*(ii)* describe security and handling procedures, including off-site transportation and refrigeration;

*(iii)* specify documentation, accountability, and reporting requirements for discrepancies, loss, or theft; and

*(iv)* ensure compliance with the requirements of this subsection and any applicable federal requirements relating to the security and safeguarding of Schedule II controlled substances.

(n) Accident, injury, or acute illness.

(1) An individualized skills and socialization provider must stock and maintain in a single location in the on-site individualized skills and socialization location first aid supplies to treat burns, cuts, and poisoning.

(2) An individualized skills and socialization provider delivering off-site individualized skills and socialization must ensure first aid supplies to treat burns, cuts, and poisoning are immediately available at all times during service provision.

(3) In the event of accident or injury to an individual requiring emergency care, or in the event of death of an individual, an individualized skills and socialization provider must:

(A) arrange for emergency care or transfer to an appropriate place for treatment, including:

*(i)* a physician's office;

*(ii)* a clinic; or

*(iii)* a hospital;

(B) immediately notify an individual's program provider with which the individualized skills and socialization provider contracts to provide services to the individual; and

(C) describe and document the accident, injury, or illness on a separate report containing a statement of final disposition and maintain the report on file.

(o) An individualized skills and socialization provider must develop and enforce written policies and procedures for infection control, including spread of disease to ensure staff compliance with state law, the Occupational Safety and Health Administration, and the Centers for Disease Control and Prevention.

*§559.228. Rights of Individuals.*

(a) An individualized skills and socialization provider must:

(1) provide each individual referenced in Texas Human Resources Code (HRC) §103.011 and the individual's legally authorized representative (LAR), as appropriate, with a written list of the indi-

vidual's rights, as outlined under HRC §102.004 (relating to List of Rights); and

(2) comply with all applicable provisions of HRC Chapter 102 (relating to Rights of the Elderly).

(b) An individualized skills and socialization provider must ensure that individuals are informed of their rights and responsibilities and of grievance procedures in a language they comprehend:

(1) through the individual's preferred mode of communication; and

(2) in a manner accessible to the individual.

(c) An individualized skills and socialization provider must develop and implement written policies and procedures that protect and promote the rights of all individuals receiving services and ensure individuals can exercise their rights without interference, coercion, discrimination, or retaliation from the provider.

(d) An individualized skills and socialization provider must ensure that any deviation from the requirements of this section is based on an assessed need and documented in accordance with the requirements outlined in §559.227(j) of this division (relating to Program Requirements) prior to implementation. This includes an individual's right to:

(1) control and support personal schedules and activities;

(2) access personal food items at any time;

(3) receive visitors of the individual's choosing at any time; and

(4) physically access the building.

(e) An individualized skills and socialization provider must develop and implement policies and procedures for ensuring individuals:

(1) receive support and assistance from the individualized skills and socialization provider in addressing concerns with the program provider regarding the individual plan of care (IPC), individual program plan (IPP), person-directed plan (PDP), or implementation plan when the individual dislikes or disagrees with the services being rendered by the individualized skills and socialization provider;

(2) live free from abuse, neglect, or exploitation;

(3) receive services in a safe and clean environment;

(4) receive services in accordance with the individuals IPC, IPP, PDP, and implementation plan, as applicable, through service providers who are responsive to the needs of the individual;

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

(6) participate in social, recreational, and group activities.

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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Proposal publication date: July 25, 2025
For further information, please call: (512) 438-3161

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## DIVISION 4. SURVEYS, INVESTIGATIONS, AND ENFORCEMENT

### 26 TAC §559.239

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and §532.0051, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC adopt rules necessary for the proper and efficient operation of the Medicaid program, and §103.004, which requires the executive commissioner of HHSC to adopt rules and set standards implementing Chapter 103.

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

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### 26 TAC §§559.241, 559.243, 559.253, 559.255, 559.257

STATUTORY AUTHORITY

The amendments and new sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and §532.0051, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code §32.021, which provides that HHSC adopt rules necessary for the proper and efficient operation of the Medicaid program, and §103.004, which requires the executive commissioner of HHSC to adopt rules and set standards implementing Chapter 103.

*§559.253. Administrative Penalties.*

(a) The Texas Health and Human Services Commission (HHSC) may impose an administrative penalty if an individualized skills and socialization provider:

(1) fails to comply with Texas Human Resources Code (HRC) Chapter 103 or a rule, standard, or order adopted under HRC Chapter 103;

(2) makes a false statement of a material fact that the provider knows or should know is false:

(A) on an application for a license or a renewal of a license or in an attachment to the application; or

(B) with respect to a matter under investigation by HHSC;

(3) refuses to allow an HHSC representative to inspect:

(A) a book, record, or file required to be maintained by the provider; or

(B) any portion of the premises of the on-site location, or for off-site only providers, the designated place of business where records are kept;

(4) willfully interferes with the work of an HHSC representative who is preserving evidence of a violation of:

(A) HRC Chapter 103;

(B) a rule, standard, or order adopted under HRC Chapter 103; or

(C) a term of a license issued under this chapter;

(5) willfully interferes with the work of an HHSC representative or the enforcement of this chapter;

(6) fails to pay a penalty assessed under HRC Chapter 103, or a rule adopted under this chapter within 30 calendar days after the date the assessment of the penalty becomes final;

(7) fails to notify HHSC of a change of ownership in accordance with §559.211 of this subchapter (relating to Change of Ownership and Notice of Changes); or

(8) fails to submit an approved plan of correction to HHSC within 10 calendar days after receiving the final notification of assessed penalties.

(b) The range of the administrative penalty that may be imposed against the individualized skills and socialization provider each day for a violation described in subsection (a)(1) of this section is based on the scope and severity of the violation and whether it is an initial or repeated violation, as set forth in the following figure.
Figure: 26 TAC §559.253(b)

(c) HHSC imposes administrative penalties in accordance with the schedule of appropriate and graduated penalties established in this section. When determining the amount of an administrative penalty, HHSC considers:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the situation, and the hazard or potential hazard created by the situation to the health or safety of the public;

(2) the history of previous violations by a facility;

(3) the amount necessary to deter future violations;

(4) the facility's efforts to correct the violation; and

(5) any other matter that justice may require.

(d) If HHSC determines a violation is non-substantial, HHSC allows the individualized skills and socialization provider one opportunity to correct the violation to avoid an administrative penalty.

(e) If HHSC determines a violation is substantial as defined in §559.203 of this subchapter (relating to Definitions), HHSC does not allow the individualized skills and socialization provider an opportunity to correct the violation before HHSC imposes an administrative penalty.

(f) If HHSC imposes an administrative penalty for a violation as described in subsection (a) of this section, the administrative penalty begins accruing:

(1) for a substantial violation, on the date HHSC identifies the violation; or

(2) for a violation that is non-substantial, on the date of the exit conference of the post 45-day follow-up survey.

(g) An administrative penalty accrues each day until the individualized skills and socialization provider completes corrective action for that violation, as determined by HHSC.

(h) If an individualized skills and socialization provider demonstrates the corrective action is complete on the same day an administrative penalty begins accruing, HHSC imposes an administrative penalty for one day.

(i) For an administrative penalty imposed in accordance with subsection (a)(2) of this section:

(1) HHSC imposes the penalty no more than once per survey;

(2) HHSC does not allow the individualized skills and socialization provider an opportunity to correct the action before imposing the penalty; and

(3) the amount of the penalty is $500.

(j) If HHSC imposes an administrative penalty against the individualized skills and socialization provider in accordance with subsection (a)(2) - (8) of this section, HHSC does not, at the same time, impose a closing order or licensure suspension from the program provider for the same violation, action, or failure to act.

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

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# TITLE 37. PUBLIC SAFETY AND CORRECTIONS

## PART 5. TEXAS BOARD OF PARDONS AND PAROLES

### CHAPTER 145. PAROLE

### SUBCHAPTER A. PAROLE PROCESS

**37 TAC §145.12**

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 145, Subchapter A, §145.12 concerning parole process. Section 145.12 is adopted with substantive changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5667) and will be republished.

No public comments were received regarding adoption of these amendments.

The amended rule is adopted pursuant to Senate Bill 1506, 89th Legislative Session (2025) regarding the reconsideration of parole after the first anniversary date of denial.

No other statutes, articles, or codes are affected by these amendments.

*§145.12. Action Upon Review.*

A case reviewed by a parole panel for parole consideration may be:

(1) deferred for request and receipt of further information;

(2) denied a favorable parole action at this time and set for review on a future specific month and year (Set-Off).

(A) The next review date (Month/Year) for an offender serving a sentence listed in Section 508.149(a), Government Code, or serving a sentence for second or third degree felony under Section 22.04, Penal Code may be set at any date of after the first anniversary of the date of denial and end before the fifth anniversary of the date of denial; or

(B) If the offender is serving a sentence under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, the next review date (Month/Year) may begin as soon as practicable after the first anniversary of the date of denial; or

(C) If the offender is serving a sentence for an offense under Section 22.021, Penal Code, or a life sentence for a capital felony, the next review date begins after the first anniversary of the date of the denial and before the 10th anniversary of the date of denial.

(3) denied parole and ordered serve all, but in no event shall this be utilized if the offender's projected release date is greater than five (5) years for offenders serving sentences listed in Section 508.149(a), Government Code, or serving a sentence for second or third degree felony under Section 22.04 Penal Code; or greater than one year for offenders not serving sentences listed in Section 508.149(a), Government Code. If the serve-all date in effect on the date of the panel decision is extended by more than 180 days, the case shall be placed in regular parole review;

(4) determined the totality of the circumstances favor the offender's release on parole, further investigation (FI) is ordered with the following available voting options; and impose all conditions of parole or release to mandatory supervision that the parole panel is required or authorized by law to impose as a condition of parole or release to mandatory supervision;

(A) FI-1--Release the offender when eligible;

(B) FI-2 (Month/Year)--Release on a specified future date;

(C) FI-3 R--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion;

(D) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);

(E) FI-5--Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program;

(F) FI-6--Transfer to a TDCJ DWI Program. Release to continuum of care program as required by paragraph (5) of this section;

(G) FI-6 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six (6) months from specified date. Such TDCJ program may include the Pre-Release Therapeutic Community (PRTC), Pre-Release Substance Abuse Program (PRSAP), or In-Prison Therapeutic Community Program, or any other approved program;

(H) FI-7 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven (7) months from the specified date. Such TDCJ program shall be the Serious and Violent Offender Reentry Initiative (SVORI);

(I) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9);

(J) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-18);

(5) any person released to parole after completing a TDCJ rehabilitation program as a prerequisite for parole, must participate in and complete any required post-release program. A parole panel shall require as a condition of release on parole or release to mandatory supervision that an offender who immediately before release is a participant in the program established under Section 501.0931, Government Code, participate as a releasee in a drug or alcohol abuse continuum of care treatment program; or

(6) any offender receiving an FI vote, as listed in paragraph (4)(A) - (J) of this section, shall be placed in a program consistent with the vote. If treatment program managers recommend a different program for an offender, a transmittal shall be forwarded to the parole panel requesting approval to place the offender in a different program.

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

Filed with the Office of the Secretary of State on January 23, 2026.

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Richard Gamboa
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Texas Board of Pardons and Paroles
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For further information, please call: (512) 406-5309

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# PART 13. TEXAS COMMISSION ON FIRE PROTECTION

## CHAPTER 435. FIRE FIGHTER SAFETY

**37 TAC §435.7**

The Texas Commission on Fire Protection (Commission) adopts amendments to 37 TAC §435.7, Fire Fighter Safety, Implementation of Mandatory NFPA Standards. The proposed amendments were published in the *Texas Register* (50 TexReg 7532) on November 21, 2025. The amendments are adopted without changes to the proposed text and will not be republished.

JUSTIFICATION FOR RULE ACTION

The Texas Commission on Fire Protection reviewed §435.7 as part of its statutory rule review process and determined that the rule continues to be necessary to implement mandatory NFPA standards and to allow the Commission to grant limited implementation extensions when appropriate. The rule supports the Commission's responsibility to establish and maintain minimum fire service safety standards statewide.

HOW THE RULE WILL FUNCTION

Section 435.7 establishes requirements for the implementation of mandatory NFPA standards and provides a process for granting extensions when warranted. The rule allows the Commission to ensure consistent application of safety standards while maintaining flexibility for regulated entities to comply within defined timeframes.

SUMMARY OF COMMENTS

No comments were received regarding the proposed amendments.

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §419.008(f) and §419.008(a).

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

Filed with the Office of the Secretary of State on January 23, 2026.

TRD-202600289
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: February 12, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 936-3812

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## CHAPTER 437. FEES

**37 TAC §437.3**

The Texas Commission on Fire Protection (Commission) adopts amendments to 37 Texas Administrative Code, Chapter 437, Fees, §437.3, Certification Application Processing Fees. The amendments are adopted without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7533). The rule will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission reviewed §437.3 and determined that the rule continues to be necessary to establish and maintain minimum certification requirements for fire protection personnel in Texas. The adopted amendments support the Commission's statutory responsibility to ensure that fire fighters meet established training and certification standards to protect public safety.

HOW THE RULE WILL FUNCTION

Section 437.3 establishes certification requirements for fire protection personnel and outlines applicable standards necessary for certification eligibility. The adopted amendments allow the Commission to continue administering certification requirements consistently and in accordance with statutory authority.

SUMMARY OF COMMENTS

No comments were received regarding the proposed amendments.

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §419.008(a) and §419.008(f), which authorize the Commission to adopt rules necessary for the administration of its statutory responsibilities.

CROSS-REFERENCE TO STATUTE

Texas Government Code §419.008 and Texas Occupations Code Chapter 55.

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

Filed with the Office of the Secretary of State on January 26, 2026.

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Mike Wisko
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