

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Adopted Rule Reviews

Texas Medical Board

Title 22, Part 9

Pursuant to the notice of proposed rule review published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3818), the Texas Medical Board (Board) adopts the review of the following chapters listed below, in its entirety, contained in Title 22, Part 9, of the Texas Administrative Code:

Chapter 160, Medical Physicists
Chapter 161, General Provisions
Chapter 162, Supervision of Medical School Students
Chapter 163, Licensure
Chapter 164, Physician Advertising
Chapter 165, Medical Records
Chapter 166, Physician Registration
Chapter 167, Reinstatement and Reissuance
Chapter 168, Criminal History Evaluation Letters
Chapter 169, Authority of Physicians To Supply Drugs
Chapter 170, Prescription of Controlled Substances
Chapter 171, Postgraduate Training Permits
Chapter 172, Temporary and Limited Licenses
Chapter 173, Physician Profiles
Chapter 174, Telemedicine
Chapter 175, Fees and Penalties
Chapter 176, Health Care Liability Lawsuits and Settlements
Chapter 177, Business Organizations and Agreements
Chapter 178, Complaints
Chapter 179, Investigations
Chapter 180, Texas Physician Health Program
Chapter 181, Contact Lens Prescriptions
Chapter 182, Use of Experts
Chapter 183, Acupuncture
Chapter 184, Surgical Assistants
Chapter 185, Physician Assistants

Chapter 186, Respiratory Care Practitioners
Chapter 187, Procedural Rules
Chapter 188, Perfusionists
Chapter 189, Compliance Program
Chapter 190, Disciplinary Guidelines
Chapter 191, District Review Committees
Chapter 192, Office-Based Anesthesia Services
Chapter 193, Standing Delegation Orders
Chapter 194, Medical Radiologic Technology
Chapter 195, Pain Management Clinics
Chapter 196, Voluntary Relinquishment Or Surrender Of A Medical License
Chapter 197, Emergency Medical Service
Chapter 198, Standards For Use Of Investigational Agents
Chapter 199, Public Information
Chapter 200, Standards For Physicians Practicing Complementary and Alternative Medicine

This review was conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist.

The Board has completed its review and determined that the reasons for originally adopting these rules continue to exist, but an extensive reorganization was necessary. As a result of the rule review process, the Board proposed and adopted a repeal of the above-listed chapters, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001. (Proposals can be found in the September 27, 2024, and October 4, 2024, editions of the *Texas Register* (49 TexReg 7704 - 7835 and 49 TexReg 8015 - 8018.) Concurrently, the Board proposed and adopted new rules in the following chapters contained in Title 22, Part 9, of the Texas Administrative Code:

Chapter 160, General Provisions
Chapter 161, Physician Licensure
Chapter 162, Physician Profiles
Chapter 163, Medical Records
Chapter 164, Physician Advertising

Chapter 169, Physician Delegation and Supervision
 Chapter 170, Standards for the Use of Investigational Agents
 Chapter 171, Standards for Physicians Practicing Complementary and Alternative Medicine
 Chapter 172, Pain Management Clinics
 Chapter 173, Office-Based Anesthesia
 Chapter 174, Business Organizations
 Chapter 175, Telemedicine
 Chapter 176, Health Care Liability Lawsuits
 Chapter 177, Complaints and Investigations
 Chapter 179, Procedural Rules
 Chapter 180, Disciplinary Guidelines
 Chapter 181, Compliance
 Chapter 182, Texas Physician Health Program
 Chapter 183, Physician Assistants
 Chapter 184, Acupuncture
 Chapter 185, Surgical Assistants
 Chapter 186, Medical Radiologic Technology
 Chapter 187, Respiratory Care Practitioners
 Chapter 188, Perfusionists
 Chapter 189, Medical Physicists

(Adoptions can be found in the January 10, 2025, edition of the *Texas Register* (50 TexReg 315 - 426).)

The Board accepted comments on the rule review and proposed repeals/new rules. Comments received on the proposed repeals/new rules were addressed in preambles of the adopted repeals/new rules.

With regard to the proposed rule review itself, the Board received written form comments from over 295 individuals associated with the National Board of Physicians and Surgeons (NBPAS). The commenters asked that 22 TAC §164.4(a) be amended to allow physicians to advertise as "board certified" if the physician achieved an initial board certification and the physician continues to practice medicine in the same specialty of the initial certification. The commenters also requested that subsection (c) be eliminated to remove certification renewal requirements. They stated that the rule without amendment placed barriers to physician employment and a disincentive to practice medicine in Texas for some physicians. Some commenters also asked that 22 TAC §164.4 be amended to allow NBPAS member physicians to advertise as board-certified.

The Board thanks the commenters for their input but declined to make the requested changes in their adoption of new 22 TAC §164.4 (see 50 TexReg 338). The rule as proposed allowed for boards' recognition for advertising as board certified; currently at least 14 certifying boards are recognized by TMB. Additionally, board certification is not required for licensure to practice in Texas. However, allowing those licensees who were initially certified, but later lost that certification, to advertise as "board-certified" is not in the best interest of the public.

The Board also received a written comment from the President of the NBPAS, along with a compilation of additional, personal comments from NBPAS members. (Additional written comments from the President of the NBPAS were submitted and considered by the Board in response to the proposed repeal/new §164.4 published in September

27, 2024. The Board's response can be found in the adoption preamble found in the January 10, 2025, edition of the *Texas Register* (50 TexReg 338). This comment (and the accompanying additional, personal comments from NBPAS members) requested the same language addition as noted above- the amendment of 22 TAC §164.4(a) to allow physicians to advertise as "board certified" if the physician achieved an initial board certification and the physician continues to practice medicine in the same specialty of the initial certification. He also asked that subsection (c) be eliminated, as detailed above.

The Board thanks the President of NBPAS and NBPAS members for their input but declined to make the requested changes in their adoption of new 22 TAC §164.4 (see 50 TexReg 338). The Board reiterates its response and rationale above.

The Board received no other comments regarding any other chapters or rules in response to the proposed rule review.

This concludes the Board's review of 22 TAC Chapters 160 - 200.

TRD-202501094
 Scott Freshour
 General Counsel
 Texas Medical Board
 Filed: April 7, 2025



Department of Family and Protective Services

Title 40, Part 19

The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 700, concerning Child Protective Services, in its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1829).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 700. Any amendments, if applicable to Chapter 700 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 700 as required by the Texas Government Code §2001.039.

TRD-202501120
 Sanjuanita Maltos
 Legal Rules Coordinator
 Department of Family and Protective Services
 Filed: April 8, 2025



The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 702, concerning General Administration, in its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1830).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 702. Any amend-

ments, if applicable to Chapter 702 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 702 as required by the Texas Government Code §2001.039.

TRD-202501121

Sanjuanita Maltos

Legal Rules Coordinator

Department of Family and Protective Services

Filed: April 8, 2025



The Texas Department of Family and Protective Services ("DFPS") has completed the rule review of Texas Administrative Code, Title 40, Part 19, Chapter 704, concerning Prevention and Early Intervention Services, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1830).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter do not continue to exist and the need for repeal of Chapter 704 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 704 as required by the Texas Government Code §2001.039.

TRD-202501122

Sanjuanita Maltos

Legal Rules Coordinator

Department of Family and Protective Services

Filed: April 8, 2025



The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 705, concerning Adult Protective Services, in its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1830).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 705. Any amendments, if applicable to Chapter 705 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 705 as required by the Texas Government Code §2001.039.

TRD-202501123

Sanjuanita Maltos

Legal Rules Coordinator

Department of Family and Protective Services

Filed: April 8, 2025



The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 707, concerning Child Protective Investigations, in

its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1830).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 707. Any amendments, if applicable to Chapter 707 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 707 as required by the Texas Government Code §2001.039.

TRD-202501124

Sanjuanita Maltos

Legal Rules Coordinator

Department of Family and Protective Services

Filed: April 8, 2025



The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 730, concerning Legal Services, in its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1831).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 730. Any amendments, if applicable to Chapter 730 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 730 as required by the Texas Government Code §2001.039.

TRD-202501125

Sanjuanita Maltos

Legal Rules Coordinator

Department of Family and Protective Services

Filed: April 8, 2025



The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 732, concerning Contracted Services, in its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1831).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 732.

This concludes DFPS's review of 40 TAC Chapter 732 as required by the Texas Government Code §2001.039.

TRD-202501126

Sanjuanita Maltos

Legal Rules Coordinator

Department of Family and Protective Services

Filed: April 8, 2025



The Texas Department of Family and Protective Services (DFPS) has completed its four-year rule review of Texas Administrative Code, Title 40, Part 19, Chapter 735, concerning Independent Court-Ordered Adoption Evaluations, in its entirety. This rule review was conducted under Texas Government Code, §2001.039.

The notice of proposed rule review was published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1831).

DFPS received no comments during the public review period.

The agency determined that the original reason for adopting all rules in the chapter continues to exist and readopts Chapter 735. Any amend-

ments, if applicable to Chapter 735 identified by DFPS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DFPS's review of 40 TAC Chapter 735 as required by the Texas Government Code §2001.039.

TRD-202501127
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: April 8, 2025

