

ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §355.8085, concerning Reimbursement Methodology for Physicians and Other Practitioners; and §355.8441, concerning Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services.

Sections 355.8085 and 355.8441 are adopted without changes to the proposed text as published in the January 31, 2025, issue of the *Texas Register* (50 TexReg 595). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to clarify the current structure of reimbursement methodologies for certain services and programs administered by HHSC. The amendments add details to describe the methodology HHSC uses to determine reimbursement amounts to Licensed Behavior Analysts (LBAs) and Licensed Assistant Behavior Analysts (LaBAs) for Applied Behavior Analysis (ABA) professional services. The amendments also add to the types of analyses that can be utilized for reimbursement methodology for Physicians and Other Practitioners.

In addition, following a Centers for Medicare & Medicaid Services (CMS) revision of their reimbursement methodologies, references to the Medicare reimbursement methodology are updated to comply with the CMS changes. The intent is to remove outdated reimbursement percentages and references to the Medicare average sales price and replace them with simpler references to the Medicare fee schedules where applicable. Where §355.8085 currently specifies its applicability to the Texas Medicaid program, the language has been revised to include "and other programs administered by Texas HHSC," in order to add clarity that the rule can apply to other programs in addition to Medicaid. This update provides clarification regarding the scope of the reimbursement methods.

COMMENTS

The 31-day comment period ended on March 3, 2025.

During this period, HHSC received comments regarding the proposed rules from one commenter. HHSC received comments from the Texas Association for Behavior Analysis, Public Pol-

icy Group. A summary of comments relating to the rules and HHSC's responses follow.

Comment: The commenter requested that "HHSC include a provider type (20) Behavior Technicians (Registered Behavior Technician (RBT), Board Certified Autism Technician, or Applied Behavior Analysis Technician) to the proposed list of providers...and the same rate setting process should apply to the services rendered by this provider type."

Response: HHSC appreciates this request but declines to make an update at this time because the cost of adding a new provider type would be an added cost in the existing claims system that is not required to implement the existing rate methodology. Amending provider types without additional funding available is not economic and efficient at this time.

Comment: The commenter requests that "HHSC adopt a differential rate strategy that attracts providers to underserved communities and improves access to medically necessary care across the state."

Response: HHSC declines to revise the rule in response to this comment because it is a broad request that would require extensive research on differential rate strategy as well as time to receive public comment on such a strategy. HHSC will take this comment into consideration in future rule updates related to this topic.

Comment: The commenter requests that HHSC specify the reimbursement methodology for Adaptive Behavior Service Current Procedure Terminology codes, since "there is no Medicare fee schedule for [these codes]" and "HHSC cannot base the Relative Value Unit (RVUs) in the HHSC reimbursement methodology on the RVUs of the individual services as specified within the Medicare Fee Schedule." The request was made for LBA, LaBA, and RBT provider types.

Response: HHSC declines to revise the rules in response to this comment. Section 355.8085 outlines different reimbursement methodologies utilized to reimburse providers, including when Medicare rates do not exist. Reimbursement methodologies applicable to services administered by LBAs and LaBAs are outlined in Section 355.8441.

DIVISION 5. GENERAL ADMINISTRATION

1 TAC §355.8085

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 agencies; and Texas Human Resources Code §32.021 and Texas Government Code §532.0051(a), which provide HHSC with the authority to

administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501506

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: May 22, 2025

Proposal publication date: January 31, 2025

For further information, please call: (512) 217-1686



DIVISION 23. EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)

1 TAC §355.8441

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 agencies; and Texas Human Resources Code §32.021 and Texas Government Code §532.0051(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501507

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Texas Health and Human Services Commission

Effective date: May 22, 2025

Proposal publication date: January 31, 2025

For further information, please call: (512) 217-1686



TITLE 16. ECONOMIC REGULATION

PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

The Texas Lottery Commission (Commission or TLC) adopts amendments to 16 TAC §§401.158 (Suspension or Revocation of License), 401.160 (Standard Penalty Chart), and 401.355 (Restricted Sales) without changes to the proposed text as published in the March 21, 2025 issue of the *Texas Register* (50 TexReg 2015). The rules will not be republished. The purpose of the amendments is to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Texas Lottery by prohibiting the use of lottery ticket courier services that, by any remote means, such as telephone, Internet application, or mobile application, accept and fulfill, for a fee or compensation, orders to purchase lottery tickets on behalf of another person not present to effect an in-person sale (couriers). The TLC intends to exercise this authority through administrative enforcement proceedings to revoke the lottery ticket sales agent license of a retailer that works in concert with a courier, whether under a common ownership arrangement or otherwise.

Two entities provided written comments to the proposal and those same commenters and one other provided oral comments at a public comment hearing held on April 3, 2025. Comments in support of the proposal were provided by the Texas Food and Fuel Association, which represents the wholesale and retail levels of the food and petroleum industries in Texas, and whose members own, operate, or supply more than 16,500 retail convenience stores in Texas.

Comments opposed to the proposal were provided by the Coalition of Texas Lottery Couriers (comprised of couriers Jackpocket, Jackpot.com, and Lotto.com) (CTLC). At the hearing, Lotto.com was separately identified as joining in the oral comments of the CTLC.

COMMENT: The CTLC's written comments assert that couriers do not violate prohibitions on the following:

- A person playing a lottery game by telephone (State Lottery Act (Texas Government Code ch. 466) (SLA) Section 466.015(b)(4));
- Advertisements that unduly influence a person to purchase a lottery ticket (SLA Section 466.110);
- The purchase of a ticket by officers and employees of TLC vendors, TLC employees, and the immediate family members of those individuals (SLA Section 466.254);
- Selling a ticket at a price greater than that fixed by the TLC (SLA Section 466.302);
- The sale of a ticket by an unauthorized person (SLA Section 466.303);
- Selling a ticket at an unauthorized location (SLA Section 466.304);
- The sale of lottery tickets on credit or using other unauthorized methods of payment (SLA Sections 466.305, 466.3052);
- The sale of lottery tickets to persons younger than 18 years of age (SLA Section 466.3051);
- Establishing a group purchase or pooling arrangement for financial gain (SLA Section 466.3054);
- Influencing the selection of a winner of a lottery game (SLA Section 466.307);

- Claiming a lottery prize by fraud (SLA Section 466.308);
- Inducing another person to assign or transfer a right to claim a prize (SLA Section 466.310); or
- Using an unauthorized quick response (QR) code to enter draw game plays (TLC Rule 401.304(b)(1)(F)).

The CTLC/Lotto.com provided the following additional comments at the public comment hearing:

- The commenters disagree with the fiscal impact statement in the proposal preamble that there is no anticipated significant financial impact for state or local governments as a result of the proposed amendments. The commenters stated that, collectively, couriers contribute in excess of \$100 million of Texas Lottery sales and that if the ban is implemented the state stands to lose hundreds of millions of dollars of funds.
- The commenters disagree with the Commission's concern that courier operations present opportunities to violate prohibitions on ticket purchase by Commission employees or vendors, stating that this prohibition is not a restriction on retailers.
- The commenters disagree with the Commission's concern that courier operations present opportunities to violate prohibitions on influencing the selection of a winner of a lottery game, stating that neither retailers nor couriers can do that.
- The commenters state that no responsible courier has ever been cited for credit card orders, that there have been no documented instances of access by minors to courier systems, and that there have been no concerns expressed by the Texas Lottery about responsible courier advertising.
- The commenters support state regulation of couriers and asks the Commission to allow the Legislature to determine whether couriers should be regulated or banned before taking action.

RESPONSE: The Commission recognizes there are differing views on whether the prohibitions noted by the CTLC are not violated by responsible couriers. However, even if some couriers have implemented internal processes to demonstrate a commitment to responsible operations, such actions are unregulated and voluntary, have not been reviewed by a regulatory authority, and are not enforceable.

Regardless of the voluntary efforts of some couriers, courier activity in Texas has operated without the oversight of a regulatory authority to ensure that the public is protected from potential crime and other harms identified in the Commission's February 2024 Policy Statement on the Prohibition of Lottery Ticket Courier Services through a common set of enforceable statutes and rules. The impetus for these amendments is the need to protect against the potential for violations and circumvention of state law attributable to the operation of unregulated couriers. Recent retailer investigations by the Commission have raised concerns that many couriers may have allowed unauthorized methods of entering a draw game play, including quick response (QR) codes not approved by the Commission, and potentially other electronic methods of entering a draw ticket play. In addition, unregulated courier operations provide opportunities for other illegal and fraudulent activities to flourish, including money laundering, the sale of fictitious tickets, and false representations of a courier's association with the TLC. The Commission's base of knowledge continues to grow with time and experience, and has informed the Commission's decision to exercise discretionary authority under the SLA to determine that the operation of unregulated couriers poses a threat to the integrity, security,

honesty, and fairness in the operation and administration of the Texas Lottery.

Accordingly, after the amendments take effect, the Commission will revoke the license of any retailer that works with or assists a courier service, to ensure that all aspects of ticket purchases and sales comply with state law and agency regulation and remain within a clearly defined, secure and enforceable legal framework.

Regarding items specifically noted in the oral comments of CTLC/Lotto.com, the commenters assert certain of the Commission's concerns are misplaced, either because responsible couriers do not commit particular violations or because the commenters are not aware of any instances where the Commission has identified violations or expressed concerns.

First, with respect to the fiscal impact statement in the proposal preamble, the Commission does not anticipate a significant financial impact solely from the implementation of this rule. There are various economic factors which may negatively impact consumer purchase behavior. In this situation, if couriers are prohibited, consumers continue to have alternative options to purchase lottery tickets.

With respect to SLA Section 466.254 (Purchase of Ticket by or Payment of Prize to Certain Persons), the Commission's concern is that the insertion of a courier in the ticket purchase transaction, where the end-use customer does not interface directly with a retailer, provides a buffer from regulatory oversight, creating additional opportunities for a person subject to the prohibition on purchasing tickets and claiming prizes to more easily circumvent the prohibition and remain undetected.

With respect to SLA Section 466.307 (Influencing Selection of Winner), the Commission encounters instances where a retailer or a retailer employee has "pin-pricked" or micro-scratched the play area of a scratch ticket to determine if a ticket is a winner, kept the winning tickets to claim, and placed non-winning tickets in the store dispenser for sale to unsuspecting customers. Thus, influencing the selection of a winner is a violation that retailers can and do commit from time to time, and couriers, as bearers of the tickets purchased by their customers, can likewise commit; but, in the instance of couriers, there is no regulatory oversight or enforcement mechanism to protect customers. A lottery ticket is a bearer instrument, and in the hands of an unregulated courier, with no regulatory oversight, there is arguably greater potential to influence the selection of a winner and remain undetected than with a licensed retailer.

In summary, the lack of regulatory oversight and enforcement mechanisms for courier operations threatens the integrity, security, honesty, and fairness of the Texas Lottery. The opposing commenters urge the Commission to allow the legislative process in Texas to proceed rather than act to prohibit courier operations. Given the current unregulated state of courier activity, the Commission believes prohibition is appropriate at this time. If the Texas Legislature enacts laws addressing lawful courier operations, the Commission stands ready to implement them.

SUBCHAPTER B. LICENSING OF SALES AGENTS

16 TAC §401.158, §401.160

These amendments are adopted under Texas Government Code §466.015(c)(15)(A), which authorizes the Commission to adopt rules to promote and ensure the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

§467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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 April 29, 2025.

TRD-202501419

Bob Biard

General Counsel

Texas Lottery Commission

Effective date: May 19, 2025

Proposal publication date: March 21, 2025

For further information, please call: (512) 344-5392



SUBCHAPTER E. RETAILER RULES

16 TAC §401.355

These amendments are adopted under Texas Government Code §466.015(c)(15)(A), which authorizes the Commission to adopt rules to promote and ensure the integrity, security, honesty, and fairness of the operation and administration of the lottery; and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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 April 29, 2025.

TRD-202501420

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Effective date: May 19, 2025

Proposal publication date: March 21, 2025

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 67. STATE REVIEW AND

APPROVAL OF INSTRUCTIONAL MATERIALS

SUBCHAPTER C. LOCAL OPERATIONS

19 TAC §67.69

The State Board of Education (SBOE) adopts new §67.69, concerning the local review of classroom instructional materials. The new section is adopted without changes to the proposed text as published in the February 28, 2025 issue of the *Texas Register* (50 TexReg 1076) and will not be republished. The new section implements House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, by outlining the local process requirements for a parent to petition for a review of instructional materials.

REASONED JUSTIFICATION: HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised Texas Education Code (TEC), Chapter 31, including adding a provision for local classroom reviews of instructional materials.

HB 1605 established new TEC, §31.0252, Local Review of Classroom Instructional Materials, which requires that the Texas Education Agency (TEA) develop standards in consultation with stakeholders, including educators, by which a school district is authorized to conduct a review of instructional materials used by a classroom teacher in a foundation curriculum course under TEC, §28.002(a)(1), to determine the degree to which the material corresponds with the instructional materials adopted by the school district or campus and meets the level of rigor of the essential knowledge and skills adopted under TEC, §28.002, for the grade level in which it is being used.

TEC, §31.0252, also requires TEA to develop a rubric, approved by the SBOE, to determine if reviewed instructional material complies with the rigor requirements.

At the June 2023 SBOE meeting, the Committee of the Full Board held a work session to receive an overview presentation on HB 1605 from the commissioner of education and begin discussing preliminary decisions and next steps. The June 2023 SBOE HB 1605 Work Session Presentation shared during the work session is available on the TEA website at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-2023/sboe-2023-june/sboe-hb1605-working-session-slidedeck-062223.pdf>.

At the November 2024 SBOE meeting, TEA staff presented to the Committee of the Full Board for discussion the local classroom review rubrics and considerations for the proposed rule.

New §67.69 clarifies the conditions under which a local review of classroom instructional materials will be conducted.

In accordance with TEC, §7.102(f), the SBOE approved the new section for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will allow the rule to apply to the 2025-2026 school year. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began February 28, 2025, and ended at 5:00 p.m. on March 31, 2025. The SBOE also provided an opportunity for registered oral and written comments at its April 2025 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comment received and the corresponding response.

Comment. A commenter requested that TEA review a math intervention product from a publisher.

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

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §26.0061, as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which requires the board of trustees of each school district to establish a process by which a parent may request an instructional material review under TEC, §31.0252, for a subject area in the grade level in which the student is enrolled and allows the State Board of Education (SBOE) to adopt rules to implement this section; TEC, §31.003(a), which permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use,

and disposal of instructional materials; and TEC, §31.0252, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the Texas Education Agency to develop a rubric, approved by the SBOE, to determine if reviewed instructional material complies with the rigor requirements described by TEC, §31.0252(a)(2).

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code (TEC), §26.0061, as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023; TEC, §31.003(a); and TEC, §31.0252, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023.

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

Filed with the Office of the Secretary of State on May 5, 2025.

TRD-202501521

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: May 25, 2025

Proposal publication date: February 28, 2025

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



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 104. CONTINUING EDUCATION

22 TAC §104.2

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §104.2, concerning continuing education providers. The amendment is adopted without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2152) and will not be republished. The Board conducted a review of the continuing education providers in accordance with this rule, and voted to review the provider Dental Risk Solutions, LLC. The Board sent a notice to the mailing address of record for Dental Risk Solutions, LLC, informing it that the Board will consider whether to remove or reclassify it as a provider during its next scheduled meetings on February 20-21, 2025. The notice was returned to the Board as "Unable to Forward." The Board voted to remove Dental Risk Solutions, LLC as a continuing education provider at the February 2025 meeting.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501513

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: May 22, 2025

Proposal publication date: March 28, 2025

For further information, please call: (737) 363-2333



CHAPTER 107. DENTAL BOARD PROCEDURES

SUBCHAPTER E. DATA REPORTING

22 TAC §107.400

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §107.400, concerning collection and reporting of enforcement and licensing data. The amendment is adopted without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2153) and will not be republished. The adopted amendment requires a yearly report to the Board instead of a quarterly report because a yearly report will provide a better snapshot of the data. The adopted amendment updates the rule to reflect that the Board no longer issues administrative citations, but rather administrative penalties. The adopted amendment also corrects a punctuation error.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501509

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: May 22, 2025

Proposal publication date: March 28, 2025

For further information, please call: (737) 363-2333



CHAPTER 108. PROFESSIONAL CONDUCT

SUBCHAPTER A. PROFESSIONAL RESPONSIBILITY

22 TAC §108.8

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.8, concerning the records of a dentist. The amendment is adopted without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2155) and will not be republished. The adopted amendment removes the language that the use of radiographs should be in accordance with ADA guidelines, and

instead requires dentists to use radiographs in accordance with the minimum standard of care.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501510

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: May 22, 2025

Proposal publication date: March 28, 2025

For further information, please call: (737) 363-2333



SUBCHAPTER E. BUSINESS PROMOTION

22 TAC §108.52

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.52, concerning names and responsibilities. The amendment is adopted without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2157) and will not be republished. The adopted amendment specifies that dental specialties are approved by the National Commission on Recognition of Dental Specialties and Certifying Boards. The proposed amendment also includes grammar changes.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501511

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: May 22, 2025

Proposal publication date: March 28, 2025

For further information, please call: (737) 363-2333



TITLE 25. HEALTH SERVICES

PART 7. TEXAS MEDICAL DISCLOSURE PANEL

CHAPTER 602. PROCEDURE REQUIRING FULL DISCLOSURE OF SPECIFIC RISKS AND HAZARDS--LIST A

25 TAC §§602.3, 602.5, 602.9, 602.16

The Texas Medical Disclosure Panel (Panel) adopts amendments to §602.3, concerning Digestive System Treatments and Procedures; §602.5, concerning Endocrine System Treatments and Procedures; §602.9, concerning Breast Surgery (non-cosmetic) Treatments and Procedures; and §602.16, concerning Urinary System Treatments and Procedures.

Sections 602.3, 602.9, and 602.16 are adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9880). These rules will not be republished.

Section 602.5 is adopted with changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9880). This rule will be republished.

BACKGROUND AND JUSTIFICATION

These amendments are adopted in accordance with Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure.

The amendments modify the lists of procedures in §§602.3, 602.5, 602.9, and 602.16 requiring full disclosure of risks and hazards and update the rules using plain language when possible.

PUBLIC COMMENT

The 31-day public comment period ended January 6, 2025.

During this period, the Panel did not receive any comments from the public.

The Panel made a minor editorial change in §602.5 to delete duplicate subsection (d) Other Procedures.

STATUTORY AUTHORITY

The amendments are adopted under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

§602.5. *Endocrine System Treatments and Procedures.*

(a) Thyroidectomy.

(1) Acute airway obstruction requiring temporary tracheostomy (creation of hole in neck to breathe).

(2) Injury to nerves resulting in hoarseness or impairment of speech.

(3) Injury to parathyroid glands resulting in low blood calcium levels that require extensive medication to avoid serious degener-

ative conditions, such as cataracts, brittle bones, muscle weakness and muscle irritability.

(4) Lifelong requirement of thyroid medication.

(b) For scarless/minimally invasive thyroidectomy.

(1) All risks of standard thyroidectomy.

(2) For axillary approach.

(A) Injury to brachial plexus (nerves in shoulder/neck) which can affect function of muscles and sensation in the affected extremity.

(B) Tract seeding of thyroid tissue (thyroid tissue can deposit and grow along the surgical tract).

(C) Postoperative seroma (fluid collection in the area of the surgery).

(D) Great vessel injury (injury to large blood vessels of the upper chest and neck).

(3) Transoral/transoral vestibular approach (TOETVA)).

(A) CO2 embolism (gas bubbles enter bloodstream) (Transoral/transoral vestibular approach (TOETVA)).

(B) Mental nerve injury (nerve injury causing paresthesias (pins and needles sensation) of the lower lip and/or chin) (Transoral/transoral vestibular approach (TOETVA)).

(C) Skin perforation (hole in skin) (Transoral/transoral vestibular approach (TOETVA)).

(D) Burns (Transoral/transoral vestibular approach (TOETVA)).

(E) Surgical space infection (Transoral/transoral vestibular approach (TOETVA)).

(c) Parathyroidectomy.

(1) Acute airway obstruction requiring temporary tracheostomy (creation of hole in neck to breathe).

(2) Injury to nerves resulting in hoarseness or impairment of speech.

(3) Low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness, and muscle irritability.

(4) Persistent high calcium level with need for additional treatment/surgery.

(d) Adrenalectomy.

(1) Loss of endocrine functions (lifelong requirement for hormone replacement therapy and steroid medication).

(2) Damage to kidneys.

(e) For pituitary surgery, see §602.13 of this chapter (relating to Nervous System Treatments and Procedures).

(f) For pancreatic surgery, see §602.3 of this chapter (relating to Digestive System Treatments and Procedures).

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

Filed with the Office of the Secretary of State on May 5, 2025.

TRD-202501525

Dr. Noah Appel

Panel Chairman

Texas Medical Disclosure Panel

Effective date: May 25, 2025

Proposal publication date: December 6, 2024

For further information, please call: (512) 438-2889

CHAPTER 603. PROCEDURES REQUIRING NO DISCLOSURE OF SPECIFIC RISKS AND HAZARDS--LIST B

25 TAC §603.3, §603.16

The Texas Medical Disclosure Panel (Panel) adopts amendments to §603.3, concerning Digestive System Treatments and Procedures; and §603.16, concerning Urinary System Treatments and Procedures. Section 603.3 and §603.16 are adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9886). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

These amendments are adopted in accordance with Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure.

The amendments modify the lists of procedures in §603.3 and §603.16 requiring no disclosure of specific risks and hazards and update the rules using plain language when possible.

PUBLIC COMMENT

The 31-day public comment period ended January 6, 2025.

During this period, the Panel did not receive any comments from the public.

STATUTORY AUTHORITY

The amendments are adopted under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

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

Filed with the Office of the Secretary of State on May 5, 2025.

TRD-202501526

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TITLE 26. HEALTH AND HUMAN SERVICES
PART 1. HEALTH AND HUMAN
SERVICES COMMISSION

CHAPTER 356. FAMILY VIOLENCE
PROGRAM

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §§356.1, 356.101 - 356.104, 356.201 - 356.206, 356.301, 356.302, 356.401 - 356.403, 356.405, 356.501, 356.503 - 356.507, 356.510, 356.601, 356.602, 356.604, 356.606, 356.607, 356.609 - 356.621, 356.623, 356.626, 356.627, 356.629, 356.631, 356.635, 356.701 - 356.704, 356.706 - 356.709, 356.711, 356.713, 356.714, 356.718, 356.803, 356.901, 356.902, 356.1001, 356.1002, 356.1101 - 356.1103, 356.1105, 356.1201, 356.1202, 356.1301, 356.1302, 356.1304, 356.1306, 356.1308 - 356.1313, 356.1315 - 356.1319, 356.1321, 356.1402, 356.1403, 356.1405, 356.1501 - 356.1504, 356.1602, 356.1604, 356.1605, 356.1701, 356.1702, 356.1801 - 356.1803, 356.1805, 356.1901 - 356.1903, 356.2001, 356.2002, 356.2004, 356.2006, 356.2007, 356.2009 - 356.2019, 356.2021, 356.2024, 356.2026, 356.2029, 356.2033, 356.2101 - 356.2103, 356.2105, 356.2106, 356.2108, 356.2110; new §§356.208, 356.303, 356.603, 356.636, 356.637, 356.705, 356.710, 356.716, 356.719, 356.720, 356.1003, 356.1303, 356.1324, 356.1325, 356.1401, 356.1404, 356.1408, 356.1409, 356.1703, 356.2003, 356.2034, 356.2035, 356.2104, 356.2107, 356.2112, 356.2114, 356.2115, and 356.2201; and the repeal of §§356.207, 356.406 - 356.408, 356.508, 356.603, 356.622, 356.624, 356.625, 356.630, 356.632, 356.633, 356.705, 356.710, 356.712, 356.716, 356.717, 356.719, 356.1303, 356.1314, 356.1320, 356.1322, 356.1401, 356.1404, 356.1406, 356.1408, 356.1806, 356.1807, 356.2003, 356.2020, 356.2022, 356.2028, 356.2030, 356.2031, 356.2104, 356.2107, 356.2109, 356.2112, 356.2113, and 356.2114, concerning Family Violence Program.

New §356.716 and the amendments to §§356.612, 356.1402, and 356.2105 are adopted with changes to the proposed text as published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10229). These rules will be republished.

The amendments to §§356.1, 356.101 - 356.104, 356.201 - 356.206, 356.301, 356.302, 356.401 - 356.403, 356.405, 356.501, 356.503 - 356.507, 356.510, 356.601, 356.602, 356.604, 356.606, 356.607, 356.609 - 356.621, 356.623, 356.626, 356.627, 356.629, 356.631, 356.635, 356.701 - 356.704, 356.706 - 356.709, 356.711, 356.713, 356.714, 356.718, 356.803, 356.901, 356.902, 356.1001, 356.1002, 356.1101 - 356.1103, 356.1105, 356.1201, 356.1202, 356.1301, 356.1302, 356.1304, 356.1306, 356.1308 - 356.1313, 356.1315 - 356.1319, 356.1321, 356.1402, 356.1403, 356.1405, 356.1501 - 356.1504, 356.1602, 356.1604, 356.1605, 356.1701, 356.1702, 356.1801 - 356.1803, 356.1805, 356.1901 -

356.1903, 356.2001, 356.2002, 356.2004, 356.2006, 356.2007, 356.2009 - 356.2019, 356.2021, 356.2024, 356.2026, 356.2029, 356.2033, 356.2101 - 356.2103, 356.2106, 356.2108, and 356.2110; new §§356.208, 356.303, 356.603, 356.636, 356.637, 356.705, 356.710, 356.719, 356.720, 356.1003, 356.1303, 356.1324, 356.1325, 356.1401, 356.1404, 356.1408, 356.1409, 356.1703, 356.2003, 356.2034, 356.2035, 356.2104, 356.2107, 356.2112, 356.2114, 356.2115, and 356.2201; and the repeal of §§356.207, 356.406 - 356.408, 356.508, 356.603, 356.622, 356.624, 356.625, 356.630, 356.632, 356.633, 356.705, 356.710, 356.712, 356.716, 356.717, 356.719, 356.1303, 356.1314, 356.1320, 356.1322, 356.1401, 356.1404, 356.1406, 356.1408, 356.1806, 356.1807, 356.2003, 356.2020, 356.2022, 356.2028, 356.2030, 356.2031, 356.2104, 356.2107, 356.2109, and 356.2112 - 356.2114 are adopted without changes to the proposed text as published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10229). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments, new sections, and repeals ensure that the rules in Texas Administrative Code (TAC) Title 26, Chapter 356 comply with changes to state and federal laws and regulations. The adoption clarifies and improves the rules to be more survivor-centered, trauma-informed, and accessible. The adoption will enable Family Violence Program (FVP) providers to better serve survivors of family violence and their children across the state and improve confidential and privileged communications in response to statutory changes.

Specifically, the amendments, new sections, and repeals implement changes made to the Code of Federal Regulations, Title 45 (45 CFR), Part 1370, on November 2, 2016; as well as changes to Texas Human Resources Code Chapter 51, made by Senate Bill 1841, 88th Legislature, Regular Session, 2023; Texas Human Resources Code Chapter 51A, created by Senate Bill 1325, 88th Legislature, Regular Session, 2023; and Texas Family Code Chapter 93, created by House Bill 3649, 85th Legislature, Regular Session, 2017.

45 CFR, Part 1370 ensures that rules pertaining to the administration of the Family Violence Prevention and Services Act (FVPSA) meet statutory requirements and best practices. These rule updates include training provisions, trauma-informed and survivor-centered service regulations, and increase access to services for survivors from underserved populations.

Texas Human Resources Code Chapter 51 promotes development of and access to locally based and supported nonprofit services for victims of family violence throughout the state. These updates add definitions, change the minimum required services for contracting with the FVP, and require FVP centers to demonstrate the use of a voluntary and trauma-informed advocacy service model. These updates also add the new requirement in Texas Human Resources Code Chapter 51A requiring HHSC to adopt a written notice to be provided to victims of family violence, stalking, harassment, or terroristic threat to assist victims in obtaining services.

Texas Family Code Chapter 93 establishes a victim-advocate privilege that victims and certain other parties may invoke to refuse to disclose and to prevent another from disclosing a confidential communication between the victim and family violence center trained advocates.

Additionally, the adoption updates child care rule references as a result of the administrative transfer of chapters from 40 TAC

Chapters 743, 745, and 746 to 26 TAC Chapters 743, 745, and 746 in May 2018, July 2019, and March 2018, respectively.

COMMENTS

The 31-day comment period ended January 20, 2025.

During this period, HHSC received a comment regarding the proposed rules from one commenter, the Texas Council on Family Violence. A summary of the comment relating to the rules and HHSC's response follows.

Comment: The commenter suggested that the term "Advocacy" as defined in §356.1(3) should be changed to be defined as "Actions that help the individual obtain needed resources or services, including working to reduce barriers to services within systems and communities. Advocacy is trauma informed and led by the individual requesting services to meet their unique needs" to highlight the active role that advocates have in supporting survivor empowerment and safety. The definition stresses the vital role that advocates play in acknowledging the many barriers that support gender-based violence.

Response: HHSC declines to revise the rule in response to this comment. The current definition focuses on providing direct services to survivors of family violence. HHSC believes the current definition implies that barriers to resources may be addressed when helping individual survivors obtain services they need.

A minor editorial change was made to §§356.612, 356.716, 356.1402, and 356.2105 to fix formatting errors.

SUBCHAPTER A. DEFINITIONS

26 TAC §356.1

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501438

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



SUBCHAPTER B. SHELTER CENTERS

DIVISION 1. BOARD OF DIRECTORS

26 TAC §§356.101 - 356.104

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501439

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 2. CONTRACT STANDARDS

26 TAC §§356.201 - 356.206, 356.208

STATUTORY AUTHORITY

The amendments and new section 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501441

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992

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26 TAC §356.207

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501440

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992

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DIVISION 3. FISCAL MANAGEMENT

26 TAC §§356.301 - 356.303

STATUTORY AUTHORITY

The amendments and new section 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501442

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992

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DIVISION 4. PERSONNEL

26 TAC §§356.401 - 356.403, 356.405

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501444

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992

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26 TAC §§356.406 - 356.408

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501443
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



DIVISION 5. FACILITY, SAFETY, AND HEALTH REQUIREMENTS

26 TAC §§356.501, 356.503 - 356.507, 356.510

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501446
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



26 TAC §356.508

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501445
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



DIVISION 6. PROGRAM ADMINISTRATION

26 TAC §§356.601 - 356.604, 356.606, 356.607, 356.609 - 356.621, 356.623, 356.626, 356.627, 356.629, 356.631, 356.635 - 356.637

STATUTORY AUTHORITY

The amendments and new rules 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

§356.612. Termination of Services.

(a) A center must develop, maintain, and comply with written policies and procedures that:

(1) outline behaviors that threaten the safety and security of staff, other residents, and nonresidents for which the center may terminate services;

(2) do not allow for termination of a resident's or nonresident's services, for any reason other than behaviors that threaten the safety and security of shelter staff, other residents, and nonresidents;

(3) allow considerations for residents and nonresidents to have contact with an abuser without grounds for termination;

(4) address how current and former residents and nonresidents can appeal terminations and file complaints with the center;

(5) apply equally to all people;

(6) comply with:

(A) the laws and regulations described in §356.604 of this division (relating to Federal and State Laws Regarding Eligibility); and

(B) other applicable laws and regulations; and

(7) allow a resident or nonresident to voluntarily terminate their services at any time.

(b) Before the termination of services to a resident or a nonresident, regardless of whether the resident's or nonresident's termination is voluntary or involuntary, the center must make reasonable efforts to:

(1) assist the resident or nonresident in re-evaluating the resident's or nonresident's safety plan;

(2) assist in obtaining alternate resources for the resident or nonresident whose services are terminated;

(3) provide written notice to the resident or nonresident of the termination;

(4) provide written notice to the resident or nonresident of the right to file a complaint with the center and an explanation of the center's complaint procedure; and

(5) upon request of the resident or nonresident, provide contact information for the Texas Health and Human Services Commission Family Violence Program for complaint purposes.

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 April 30, 2025.

TRD-202501448

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



26 TAC §§356.603, 356.622, 356.624, 356.625, 356.630, 356.632, 356.633

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501447

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 7. SERVICE DELIVERY

26 TAC §§356.701 - 356.711, 356.713, 356.714, 356.716, 356.718 - 356.720

STATUTORY AUTHORITY

The amendments and new rules 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

§356.716. *Child Care Permit.*

A center that provides child care may be subject to Texas Health and Human Services Commission regulation under Texas Human Resources Code Chapter 42, and relevant sections of Chapter 745, Chapter 743, and Chapter 746 of this title (relating to Licensing, Minimum Standards for Shelter Care, and Minimum Standards for Child-Care Centers, respectively), and any other relevant set of minimum standards.

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 April 30, 2025.

TRD-202501450

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



26 TAC §§356.705, 356.710, 356.712, 356.716, 356.717, 356.719

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501449

Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992

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SUBCHAPTER C. SPECIAL NONRESIDENTIAL PROJECT CENTERS

DIVISION 1. BOARD OF DIRECTORS

26 TAC §356.803

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501451

Karen Ray
Chief Counsel

Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992

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DIVISION 2. CONTRACT STANDARDS

26 TAC §356.901, §356.902

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501452

Karen Ray
Chief Counsel

Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992

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DIVISION 3. FISCAL MANAGEMENT

26 TAC §§356.1001 - 356.1003

STATUTORY AUTHORITY

The amendments and new rule 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501453

Karen Ray
Chief Counsel

Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992

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DIVISION 4. PERSONNEL

26 TAC §§356.1101 - 356.1103, 356.1105

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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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 April 30, 2025.

TRD-202501454

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 5. FACILITY, SAFETY, AND HEALTH REQUIREMENTS

26 TAC §§356.1201, §356.1202

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501455

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 6. PROGRAM ADMINISTRATION

26 TAC §§356.1301 - 356.1304, 356.1306, 356.1308 - 356.1313, 356.1315 - 356.1319, 356.1321, 356.1324, 356.1325

STATUTORY AUTHORITY

The amendments and new rules 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,

Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501457

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



SUBCHAPTER C. SPECIAL NONRESIDENTIAL PROJECTS

DIVISION 6. PROGRAM ADMINISTRATION

26 TAC §§356.1303, 356.1314, 356.1320, 356.1322

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501456

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 7. SERVICE DELIVERY

26 TAC §§356.1401, 356.1404, 356.1406, 356.1408

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501458

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



SUBCHAPTER C. SPECIAL NONRESIDENTIAL PROJECT CENTERS DIVISION 7. SERVICE DELIVERY

26 TAC §§356.1401 - 356.1405, 356.1408, 356.1409

STATUTORY AUTHORITY

The amendments and new rules 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

§356.1402. Reporting Data to HHSC.

(a) A center must regularly report complete and accurate data through the secure file protocol designated by the Texas Health and Human Services Commission (HHSC). Data submission is due by the deadline specified in the HHSC contract related to family violence service delivery. HHSC reserves the right to impose sanctions if a center does not submit complete and accurate data by the deadline specified in the contract.

(b) If extenuating circumstances exist, a center must contact HHSC via email before the due date of the data submission to request an extension of said due date.

(c) A center must contact HHSC via email within two business days of discovering data errors or inconsistencies that will result in the center's inability to report accurate data in a timely manner.

(d) When collecting and reporting data, a center must comply with state and federal confidentiality provisions. Data that a center submits must be in the aggregate and not contain personally identifying information.

(e) Program participant data collected by a center for HHSC reporting must be provided voluntarily by a program participant, and the program participant may refuse to offer any element of data at any time.

(f) A center must notify HHSC within 24 hours after discovery of a data breach. Notification must include all information reasonably available to the center about the breach and contact information for the center's point of contact who will communicate with HHSC regarding the breach.

(g) A center must provide written notification to HHSC by the third business day after discovery of a data breach of the following:

(1) all reasonably available information about the data breach, and the center's investigation, to the extent practicable;

(2) the date the data breach occurred;

(3) the date of the center's and, if applicable, subcontractor's discovery of the data breach;

(4) a brief description of the data breach, including how it occurred and who is responsible (or hypotheses, if not yet determined);

(5) a brief description of the center's investigation into the data breach and the status of the investigation;

(6) a description of the types and amount of confidential information involved;

(7) the steps the center has taken to mitigate any harm or potential harm caused by the data breach, including without limitation the provision of sufficient resources to mitigate;

(8) the steps the center has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar data breach;

(9) identify and describe any law enforcement that may be involved in the response to the data breach;

(10) a reasonable schedule for the center to provide regular updates regarding response to the data breach; and

(11) any reasonably available, pertinent information, documents, or reports related to the data breach that HHSC requests following the report of the data breach.

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 April 30, 2025.

TRD-202501459

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



SUBCHAPTER D. NONRESIDENTIAL CENTERS

DIVISION 1. BOARD OF DIRECTORS

26 TAC §§356.1501 - 356.1504

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501460

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 2. CONTRACT STANDARDS

26 TAC §§356.1602, 356.1604, 356.1605

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501461

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 3. FISCAL MANAGEMENT

26 TAC §§356.1701 - 356.1703

STATUTORY AUTHORITY

The amendments and new rule 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501462

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 4. PERSONNEL

26 TAC §§356.1801 - 356.1803, 356.1805

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.
TRD-202501464
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



26 TAC §356.1806, §356.1807

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.
TRD-202501463
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



DIVISION 5. FACILITY, SAFETY, AND HEALTH REQUIREMENTS

26 TAC §§356.1901 - 356.1903

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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.
TRD-202501465
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



DIVISION 6. PROGRAM ADMINISTRATION

26 TAC §§356.2001 - 356.2004, 356.2006, 356.2007, 356.2009 - 356.2019, 356.2021, 356.2024, 356.2026, 356.2029, 356.2033 - 356.2035

STATUTORY AUTHORITY

The amendments and new rules 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.
TRD-202501467
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 20, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 460-0992



26 TAC §§356.2003, 356.2020, 356.2022, 356.2028, 356.2030, 356.2031

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat;

Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501466

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



DIVISION 7. SERVICE DELIVERY

26 TAC §§356.2101 - 356.2108, 356.2110, 356.2112, 356.2114, 356.2115

STATUTORY AUTHORITY

The amendments and new rules 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

§356.2105. *Medical Care.*

A center is not required to provide or pay for emergency medical care, but must:

(1) maintain a current list of medical care resources that meet the diverse needs of survivors, including preventative care, and that can provide medical services for victims of family violence and their dependents, including, when available:

(A) local affordable options; and

(B) local physical, mental, and behavioral health resources;

(2) develop, maintain, and comply with written policies and procedures about providing or arranging for emergency transportation to and from emergency medical facilities for program participants or victims of family violence and their dependents being considered for acceptance as program participants; and

(3) maintain and provide standard first aid medical supplies that are accessible to program participants 24-hours-a-day.

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 April 30, 2025.

TRD-202501469

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



26 TAC §§356.2104, 356.2107, 356.2109, 356.2112 - 356.2114

STATUTORY AUTHORITY

The repeals 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501468

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



SUBCHAPTER E. WRITTEN NOTICE TO VICTIMS

DIVISION 1. NOTICE

26 TAC §356.2201

STATUTORY AUTHORITY

The new rule 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, Texas Human Resources Code §51.010, which authorizes the executive commissioner of HHSC to adopt rules governing the HHSC Family Violence Program; Texas Human Resources Code §51A.003, which requires HHSC to adopt by rule the notice to victims of family violence, stalking, harassment, and terroristic threat; Texas Family Code Chapter 93, which creates the victim-advocate privilege; and Senate Bill 1841, 88th Legislature, Regular Session, 2023, which made several changes to requirements for contracts with family violence centers.

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 April 30, 2025.

TRD-202501470

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: May 20, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 460-0992



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)

SUBCHAPTER E. CLAIMS PROCESSING-- PURCHASE VOUCHERS

34 TAC §5.54

The Comptroller of Public Accounts adopts amendments to §5.54 concerning consulting services contracts, without changes to the proposed text as published in the February 21, 2025, issue of the *Texas Register* (50 TexReg 966). The rule will not be republished.

The legislation enacted within the last four years that provides the statutory authority for the amendments is Senate Bill 799, 87th Legislature, R.S., 2021.

The amendments to subsection (a) add a definition of "university system" because a reference to "university system" is being added in subsection (f)(1)(B) and delete the definition of "SPD" because references to "SPD" are being deleted from subsection (e).

The amendments to subsection (c)(1) delete the reference to subsection (d) because subsection (d) is being deleted from this section; add a reference to Government Code, §2254.028(a)(3) because Government Code, §2254.028(b) states that failure to obtain the finding required by Government Code, §2254.028(a)(3) will cause a major consulting services contract, renewal, amendment, or extension to be void; and add the phrase "if applicable" because some of the sections referenced in this subsection apply to all consulting contracts and some apply only to major consulting services contracts.

The amendments to subsections (c) and (e) make non-substantive changes by deleting the word "then" as unnecessary.

The amendments to subsection (d) delete the entire subsection because the requirements in subsection (d)(1)(A) are not currently authorized by Government Code, Chapter 2254, Subchapter B, and the requirements in subsections (d)(1)(B) and (d)(2) are not needed in this section because they are set forth in Government Code, §2254.031.

The amendments to subsection (e) change "SPD" to "the comptroller" because Government Code, §2254.040 refers to "the comptroller."

The amendments to subsection (f) change the threshold amount for reporting a consulting services contract to the Legislative Budget Board in subsection (f)(1)(B) from "\$14,000" to "\$50,000"; add the exception that the state agency requesting the payment is not subject to the requirements of subsection (f)(1)(B) if it is a university system or an institution of higher education, to comply with the current provisions of Government Code, §2254.0301(a); change "payer" to "state agency" in subsection (f)(2) to clarify the language of the subsection by using the defined term "state agency"; change "volume and page numbers of the *Texas Register*" to "solicitation ID of the Electronic State Business Daily posting" in subsection (f)(2)(B) to comply with the current provisions of Government Code, §2254.029(a); and delete the reference to Government Code, §2254.033(b) in subsection (f)(2)(A) and §2254.031(a)(2) and (c)(2) in subsection (f)(2)(B) because these provisions no longer exist.

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments are adopted under Government Code, §2254.039(a), which requires the comptroller to adopt rules to implement and administer Government Code, Chapter 2254, Subchapter B, concerning consulting services. The governor has reviewed the amendments to §5.54 as required by Government Code, §2254.039(b).

The amendments implement Government Code, Chapter 2254, Subchapter B concerning consulting services.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501516

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: May 22, 2025

Proposal publication date: February 21, 2025

For further information, please call: (512) 475-2220



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 374. DISCIPLINARY ACTIONS/DETRIMENTAL PRACTICE/COMPLAINT PROCESS/CODE OF ETHICS/LICENSURE OF PERSONS WITH CRIMINAL CONVICTIONS

40 TAC §374.1, §374.2

The Texas Board of Occupational Therapy Examiners adopts amendments to the Schedule of Sanctions figure in 40 Texas Administrative Code §374.1, Disciplinary Actions, and §374.2, Detrimental Practice. The amendments are adopted with changes to the proposed text as published in the March 14, 2025, issue of the *Texas Register* (50 TexReg 1896). The amendments will be republished. The changes at adoption are to correct a clerical error and replace the word "and" with "or" in §374.2(5) and (6) and in the corresponding items in the Schedule of Sanctions.

The amendments to §374.2 will update the definition of "practiced occupational therapy in a manner detrimental to the public health and welfare" and clarify conduct that constitutes grounds to take disciplinary action against license holders.

Amendments to the Schedule of Sanctions in §374.1 will align the provisions therein with the changes to §374.2; update the minimum, intermediate, and maximum discipline columns to reflect current trends in disciplinary action; and update administrative penalties for each day a violation continues or occurs. The amendments to the Schedule of Sanctions also include the addition of a violation related to failure to inform the Board of information changes pursuant to §369.2, Changes of Name or Contact Information. The amendments include general cleanups, as well, including the removal of the current §374.2(12) and corresponding item in the Schedule of Sanctions, which concerned deceptive and fraudulent advertising, as a related item is already listed under Texas Occupations Code §454.301, Grounds for Denial of License or Discipline of License Holder; in tandem with the change, that related item from §454.301 has been added to the Schedule of Sanctions.

The amendments are adopted to ensure that the rules clearly identify the conduct that may be considered detrimental practice and the corresponding discipline. The changes will also facilitate the ability of individuals and the Board to identify violations and related discipline in order to ensure the health, safety, and welfare of the public.

Public comment from the Texas Occupational Therapy Association (TOTA) was received regarding the proposed amendments to §374.2, Detrimental Practice. The comment noted that TOTA appreciates the Board's efforts in updating the definition of "practiced occupational therapy in a manner detrimental to the public health and welfare" and clarifying conduct for which the Board may take disciplinary action. The comment also noted that TOTA's Standards and Practice Committee members have concerns regarding Section 18, "failing to provide sufficient prior written notice of resignation from employment or termination of contract." TOTA asked if the Board could include that occupational therapy practitioners who are concerned regarding abandonment can contact the Board to prevent possible disciplinary action.

The Board disagrees with the comment. Firstly, the amendments would replace more general extant language with language that is more specific with regard to what abandonment entails, which will better facilitate a licensee's ability to identify what abandonment is and avoid it. Secondly, while a licensee can contact the Board regarding provisions in the OT Act and Rules, the ultimate responsibility for compliance with such is the licensee's and it is through the complaint process, addressed in Chapter 374 of the OT Rules, that it is determined if a violation has occurred. In addition, with regard to disciplinary action by the Board, as noted for

each item in the Schedule of Sanctions, alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.

The amendments are adopted under Texas Occupations Code §454.102, which authorizes the Board to adopt rules to carry out its duties under Chapter 454. The amendments are also adopted under §454.3025, which requires the Board by rule to adopt a schedule of administrative penalties and other sanctions that the Board may impose under this chapter, and under §454.3521, which authorizes the Board to impose an administrative penalty, not to exceed \$200 for each day a violation continues or occurs, under this chapter for a violation of this chapter or a rule or order adopted under this chapter. The amendments, lastly, are adopted under Texas Occupations Code §454.301, which includes that the Board may deny, suspend, or revoke a license or take other disciplinary action against a license holder if the applicant or license holder has practiced occupational therapy in a manner detrimental to the public health and welfare.

No other statutes, articles, or codes are affected by these amendments.

§374.1. Disciplinary Actions.

(a) The board, in accordance with the Administrative Procedure Act, may deny, revoke, suspend, or refuse to renew or issue a license, or may reprimand or impose probationary conditions, if the licensee or applicant for licensure has been found in violation of the rules or the Act. The board will adhere to procedures for such action as stated in the Act, §§454.301, 454.302, 454.303, and 454.304.

(b) The board recognizes four levels of disciplinary action for its licensees.

(1) Level I: Order and/or Letter of Reprimand or Other Appropriate Disciplinary Action (including but not limited to community service hours).

(2) Level II: Probation--The licensee may continue to practice while on probation. The board orders the probationary status which may include but is not limited to restrictions on practice and continued monitoring by the board during the specified time period.

(3) Level III: Suspension--A specified period of time that the licensee may not practice as an occupational therapist or occupational therapy assistant. Upon the successful completion of the suspension period, the license will be reinstated upon the licensee successfully meeting all requirements.

(4) Level IV: Revocation--A determination that the licensee may not practice as an occupational therapist or occupational therapy assistant. Upon passage of 180 days, from the date the revocation order becomes final, the former licensee may petition the board for re-issuance of a license. The former licensee may be required to re-take the Examination.

(c) The board shall utilize the following schedule of sanctions in all disciplinary matters.

Figure: 40 TAC §374.1(c)

(d) The board shall consider the following factors in conjunction with the schedule of sanctions when determining the appropriate penalty/sanction in disciplinary matters:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the violation; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts to correct the violation;
- (5) the economic harm to the public interest or public confidence caused by the violation;
- (6) whether the violation was intentional; and
- (7) any other matter that justice requires.

(e) Licensees who provide occupational therapy services are responsible for understanding and complying with Chapter 454 of the Occupations Code (the Occupational Therapy Practice Act), and the Texas Board of Occupational Therapy Examiners' rules.

(f) Final disciplinary actions taken by the board will be routinely published as to the names and offenses of the licensees.

(g) A licensee who is ordered by the board to perform certain act(s) will be monitored by the board to ensure that the required act(s) are completed per the order of the board.

(h) The board may expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of §454.215 of the Act (relating to Occupational Therapy Facility Registration), as that section existed on January 1, 2019. The board may not expunge a record under this subsection after September 1, 2021.

(i) A licensee or applicant is required to report to the board a felony of which he/she is convicted within 60 days after the conviction occurs.

§374.2. *Detrimental Practice.*

§454.301(a)(6) of the Act (relating to Grounds for Denial of License or Discipline of License Holder) states, "practiced occupational therapy in a manner detrimental to the public health and welfare," which is defined, but not limited to, the following:

- (1) failing to document occupational therapy services or inaccurately recording, falsifying, or altering client records;
- (2) making or filing a false or misleading report, or failing to file a report when it is required by law or third person or obstructing or attempting to obstruct another person from filing such a report;
- (3) failing to report or otherwise concealing any conduct by self or another licensee likely to be a violation of the Act or Rules;
- (4) drug diversion. In this paragraph, "drug diversion" refers to when a medication is diverted from the person to whom it was prescribed;
- (5) not providing the supervision required by the Act or Rules for those individuals to whom occupational therapy services are delegated;
- (6) practicing occupational therapy without receiving the supervision required by the Act or Rules;
- (7) impersonating another person holding a license; aiding, abetting, authorizing, condoning, or allowing the practice of occupational therapy or the representation of oneself as an occupational therapy practitioner by a person without a license; or aiding, abetting, authorizing, condoning, or allowing the use of a license by a person other than the holder of the license;
- (8) practicing occupational therapy or representing oneself in a manner not authorized by the license;

(9) failing to cooperate with the agency by not responding to agency correspondence addressed to the individual's designated address(es) or by not furnishing papers or documents requested or not responding to subpoenas issued by the agency within 90 days;

(10) failing to complete the requirements of an agreed order;

(11) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or Board or by the use of threats, intimidation, or harassment against any clients or witnesses with the potential of preventing them from providing evidence in a disciplinary proceeding or any other legal action;

(12) practicing occupational therapy without a valid license, including after the expiration, surrender, or revocation of the license, during the suspension of the license, or after the license is void;

(13) failing to conform to the minimal standards of acceptable prevailing practice, including, but not limited to:

(A) using occupational therapy techniques or modalities for purposes not consistent with the development of occupational therapy as a profession or science or as a means of promoting the public health and welfare;

(B) delegating, performing, or attempting to perform techniques or procedures in which one is untrained by education or experience;

(C) delegating occupational therapy functions or responsibilities to an individual lacking the competency to perform such;

(D) harassing, abusing, or intimidating a client either physically or verbally;

(E) causing or enabling physical or emotional injury to or the impairment of the dignity or safety of the client; and

(F) violating the principles or related standards of conduct of §374.4 of this title (relating to Code of Ethics);

(14) engaging in sexual contact or an inappropriate relationship with a client, including, but not limited to:

(A) engaging in inappropriate behavior with or comments directed toward a client; and

(B) becoming financially or personally involved in an inappropriate manner with a client;

(15) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting clients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code §1320a-7b(b) or its regulations;

(16) recommending therapeutic devices or modalities sold by a third person for the purpose or with the result of receiving a fee or other consideration from a third person;

(17) failing to maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communication, including compliance with Health Insurance Portability and Accountability Act (HIPAA) regulations; and

(18) failing to provide sufficient prior written notice of resignation of employment or termination of contract, or if self-employed, sufficient prior written notice to existing clients or any licensees under

the individual's supervision, resulting in the loss or delay of occupational therapy services. In this paragraph, "sufficient" means at least 14 days; however, should an employment contract, or if self-employed, a comparable written agreement with clients, specify a different period of time, "sufficient" means the term dictated by such, up to and including 30 days.

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

Filed with the Office of the Secretary of State on May 2, 2025.

TRD-202501517
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Effective date: June 1, 2025
Proposal publication date: March 14, 2025
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