TITLE 19. EDUCATION
PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD
CHAPTER 1. AGENCY ADMINISTRATION
SUBCHAPTER A. GENERAL PROVISIONS
19 TAC §1.16

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 1, Subchapter A, §1.16, concerning enhanced monitoring of contracts and grants without changes to the proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 383). The rule will not be republished. Specifically, the amendments add a new subsection (l) that will address Texas Government Code 2261.253(c). Each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency’s governing body or, if the agency is not governed by a multimeember governing body, the officer who governs the agency. The agency’s contract management office or procurement director shall immediately notify the agency’s governing body or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

There were no comments received regarding the amendments.

The amendments are adopted under the Texas Government Code §2261.253(c), Required Posting of Certain Contracts; Enhanced Contract and Performance Monitoring.

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

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

SUBCHAPTER A. GENERAL PROVISIONS
19 TAC §§4.8 - 4.12

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of §§4.8 - 4.12 of Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter A, General Provisions, without changes to the proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 384). Specifically, this repeal will remove a section of rules which are no longer supported by statute.

No comments were received regarding the repeal of these sections.

The repeal of these sections is adopted under the Texas Education Code, §61.0815, which was repealed effective September 1, 2011.

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

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19 TAC §§4.8 - 4.11

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§4.8 - 4.11 of Chapter 4, Subchapter A, Rules Applying to All Public Institutions of Higher Education in Texas, General Provisions, allowing these rules to receive new section numbers as part of the repeal of the Expert Witnesses rules which are no longer supported by statute. The new rules are adopted without changes to the proposed text as published in the January 25, 2019 issue of the Texas Register (44 TexReg 384). The rules will not be republished.

No comments were received regarding these new sections.

The new sections are adopted under the Texas Education Code, §61.0815, which was repealed effective September 1, 2011.

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

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

19 TAC §4.32, §4.33

The Texas Higher Education Coordinating Board (Board) adopts amendments to Chapter 4, Subchapter B, §4.32, concerning students enrolled at more than one institution, and §4.33, concerning the review schedules for Field of Study curricula, without changes to the proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 387). The amendments will not be re-published.

The amendments eliminate a contradiction in the two sections about the scheduling of compliance reports. Section 4.32(f) required a report every ten years, and §4.33 required a report every five years. Section 4.32(f) is repealed in the proposed changes and §4.33 is clarified to state that the compliance report shall follow the same schedule as accreditation reports. Section 4.33(c) is added to establish a review schedule for updating existing Fields of Study.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823(e), which provides the Texas Higher Education Coordinating Board the authority to periodically review Field of Study curricula.

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

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SUBCHAPTER D. DUAL CREDIT PARTNERSHIPS BETWEEN SECONDARY SCHOOLS AND TEXAS PUBLIC COLLEGES

19 TAC §4.84, §4.85

The Texas Higher Education Coordinating Board adopts amendments to Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter D, Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges, §4.84, concerning institutional agreements; and §4.85, concerning dual credit requirements, with changes to correct grammar issues to the proposed text as published in the January 25, 2019 issue of the Texas Register (44 TexReg 388). The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule. The rules will be re-published.

The following comments were received regarding the amendments:

Comment: Cypress Ridge High School submitted a comment on February 11, 2019 by the Associate Principal and on March 8, 2019, after the comment period ended, by the Principal.

Cypress Ridge High School comments expressed concerns about their perceived impact resulting from the proposed changes to §4.85 (d), which states:

(d) Composition of Class. Dual credit courses may be composed of dual credit students only or of dual and college credit students. Notwithstanding the requirements of subsection (e) of this section, exceptions for a mixed class that combines college credit and high school credit-only students (which would also include high school credit-only students) may be allowed only when the creation of a high school credit-only class is not financially viable for the high school and only under one of the following conditions:

1. If the course involved is required for completion under the State Board of Education High School Program graduation requirements, and the high school involved is otherwise unable to offer such a course.

2. If the high school credit-only students are College Board Advanced Placement or International Baccalaureate students.

3. If the course is a career and technical/college workforce education course and the high school credit-only students are eligible to earn articulated college credit.

Cypress Ridge High School's Principal and Associate Principal commented that they perceived the rule change would prohibit the school from combining College Board Advanced Placement (AP) and dual credit students in the same class. They indicated that this would cause challenges in the creation of the school's master schedule.

Staff Response: Staff disagree with the Cypress Ridge High School regarding the impact the rule change would have on the ability for the school to combine AP and dual credit students. The rule change adds a condition that the high school may only combine college credit and high school credit-only students when the creation of a high school credit-only class is not financially viable for the high school. When this condition is met, the proposed rule continues to allow the high school to combine AP or International Baccalaureate students with college credit students.

No changes were made as a result of the comments.

The amendments are adopted under the Texas Education Code, §28.009(b) and §130.001(b)(3) - (4), which provide the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institutions and public universities with secondary schools.

§4.84. Institutional Agreements.

(a) Need for Institutional Agreements. For any dual credit partnership between a secondary school and a public college, an agreement must be approved by the governing boards or designated authorities (e.g., principal and chief academic officer) of both the public school...
district or private secondary school and the public college prior to the offering of such courses.

(b) Elements of Institutional Agreements. Any dual credit agreement must address the following elements:

(1) Eligible Courses;
(2) Student Eligibility;
(3) Location of Class;
(4) Student Composition of Class;
(5) Faculty Selection, Supervision, and Evaluation;
(6) Course Curriculum, Instruction, and Grading;
(7) Academic Policies and Student Support Services;
(8) Transcripting of Credit;
(9) Funding; and
(10) Defined sequences of courses, where applicable.

c) Institutional Agreement between Public Institution of Higher Education and Public School District. Any agreement entered into or renewed between a public institution of higher education and public school district, including a memorandum of understanding or articulation agreement, must:

(1) include specific program goals aligned with the statewide goals developed under TEC 28.009, Subsection (b-1);
(2) establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including developing a course equivalency crosswalk or other method of equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;
(3) describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;
(4) establish the institution of higher education's and the school district's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program; and
(5) be posted each year on the institution of higher education's and the school district's respective Internet websites.

§4.85. Dual Credit Requirements.

(a) Eligible Courses.

(1) Courses offered for dual credit by public two-year associate degree granting institutions must be identified as college-level academic courses in the current edition of the Lower Division Academic Course Guide Manual adopted by the Board or as college-level workforce education courses in the current edition of the Workforce Education Course Manual adopted by the Board.
(2) Courses offered for dual credit by public universities must be in the approved undergraduate course inventory of the university.
(3) A college course offered for dual credit must be:
   (A) in the core curriculum of the public institution of higher education providing the credit;
   (B) a career and technical education course; or
   (C) a foreign language course.

(b) Student Eligibility.

(1) A high school student is eligible to enroll in academic dual credit courses if the student:

   (A) demonstrates college readiness by achieving the minimum passing standards under the provisions of the Texas Success Initiative as set forth in §4.57 of this title (relating to College Readiness and Adult Basic Education (ABE) Standards) on relevant section(s) of an assessment instrument approved by the Board as set forth in §4.56 of this title (relating to Assessment Instruments); or
   (B) demonstrates that he or she is exempt under the provisions of the Texas Success Initiative as set forth in §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).

   (2) A high school student is also eligible to enroll in academic dual credit courses that require demonstration of TSI college readiness in reading, writing, and/or mathematics under the following conditions:

   (A) Courses that require demonstration of TSI college readiness in reading and/or writing:

      (i) if the student achieves a minimum score of 4000 on the English II State of Texas Assessment of Academic Readiness End of Course (STAAR EOC); or
      (ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

         (I) a combined score of 107 with a minimum of 50 on the reading test on a PSAT/NMSQT exam administered prior to October 15, 2015; or
         (II) a score of 460 on the evidence-based reading and writing (EBRW) test on a PSAT/NMSQT exam administered on or after October 15, 2015; or
         (iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an English score of 435 on the ACT-Aspire.

   (B) Courses that require demonstration of TSI college readiness in mathematics:

      (i) if the student achieves a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course; or
      (ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the
PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

(I) a combined score of 107 with a minimum of 50 on the mathematics test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 510 on the mathematics test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or a mathematics score of 431 on the ACT-Aspire.

(3) A high school student is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 1 certificate program, or a program leading to a credential of less than a Level 1 certificate, at a public junior college or public technical institute and shall not be required to provide demonstration of college readiness or dual credit enrollment eligibility.

(4) A high school student is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 2 certificate or applied associate degree program under the following conditions:

(A) Courses that require demonstration of TSI college readiness in reading and/or writing:

(i) if the student achieves a minimum score of 4000 on the English II STAAR EOC; or

(ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

(I) a combined score of 107 with a minimum of 50 on the reading test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 460 on the evidence-based reading and writing (EBRW) test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an English score of 435 on the ACT-Aspire.

(B) Courses that require demonstration of TSI college readiness in mathematics:

(i) if the student achieves a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course; or

(ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

(I) a combined score of 107 with a minimum of 50 on the mathematics test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 510 on the mathematics test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or a mathematics score of 431 on the ACT-Aspire.

(C) A student who is exempt from taking STAAR EOC assessments may be otherwise evaluated by an institution to determine eligibility for enrolling in workforce education dual credit courses.

(5) Students who are enrolled in private or non-accredited secondary schools or who are home-schooled must satisfy paragraphs (1) - (4) of this subsection.

(6) To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

(7) An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

(8) An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

(c) Location of Class. Dual credit courses may be taught on the college campus or on the high school campus. For dual credit courses taught exclusively to high school students on the high school campus and for dual credit courses taught electronically, public colleges shall comply with applicable rules and procedures for offering courses at a distance in Subchapters P and Q of this chapter (relating to Approval of Distance Education Courses and Programs for Public Institutions and Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions). In addition, dual credit courses taught electronically shall comply with the Board's adopted Principles of Good Practice for Courses Offered Electronically.

(d) Composition of Class. Dual credit courses may be comprised of dual credit students only or of dual and college credit students. Notwithstanding the requirements of subsection (e) of this section, exceptions for a mixed class that combines college credit and high school credit-only students may be allowed only when the creation of a high school credit-only class is not financially viable for the high school and only under one of the following conditions:

(1) If the course involved is required for completion under the State Board of Education High School Program graduation requirements, and the high school involved is otherwise unable to offer such a course.

(2) If the high school credit-only students are College Board Advanced Placement or International Baccalaureate students.

(3) If the course is a career and technical/college workforce education course and the high school credit-only students are eligible to earn articulated college credit.

(e) Faculty Selection, Supervision, and Evaluation.

(1) The college shall select instructors of dual credit courses. These instructors must meet the same standards (including minimal requirements of the Southern Association of Colleges and Schools Commission on Colleges) and approval procedures used by the college to select faculty responsible for teaching the same courses at the main campus of the college.

(2) The college shall supervise and evaluate instructors of dual credit courses using the same or comparable procedures used for faculty at the main campus of the college.

(f) Course Curriculum, Instruction, and Grading. The college shall ensure that a dual credit course and the corresponding course offered at the main campus of the college are equivalent with respect to the curriculum, materials, instruction, and method/rigor of student
evaluation. These standards must be upheld regardless of the student composition of the class.

(g) Academic Policies and Student Support Services.

(1) Regular academic policies applicable to courses taught at the college's main campus must also apply to dual credit courses. These policies could include the appeal process for disputed grades, drop policy, the communication of grading policy to students, when the syllabus must be distributed, etc.

(2) Students in dual credit courses must be eligible to utilize the same or comparable support services that are afforded college students on the main campus. The college is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible.

(h) Transcripting of Credit. For dual credit courses, high school as well as college credit should be transcripted immediately upon a student’s completion of the performance required in the course.

(i) Funding.

(1) The state funding for dual credit courses will be available to both public school districts and colleges based on the current funding rules of the State Board of Education (TEC 42.005 (g)) and the Board (TEC 61.059 (p) and (q)).

(2) The college may only claim funding for students getting college credit in core curriculum, career and technical education, and foreign language dual credit courses.

(3) This provision does not apply to students enrolled in approved early college education programs under TEC 29.908.

(4) All public colleges, universities, and health-related institutions may waive all or part of tuition and fees for a Texas high school student enrolled in a course for which the student may receive dual course credit.

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

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SUBCHAPTER G. EARLY COLLEGE HIGH SCHOOLS


The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter G, Early College High Schools, §§4.151 - 4.153; 4.155 - 4.158, and 4.160, concerning alignment of rules with the addition of Texas Education Code, Chapter 29, Subchapter N, Pathways in Technology Early College High School (P-TECH) Program from the 85th Texas Legislature, Regular Session, and standardizes language throughout Chapter 4, Subchapter G, with changes to the proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 391). A correction was made to §4.155(d), therefore, the rule will be republished.

The adopted amendments align the rules with the addition of Texas Education Code, Chapter 29, Subchapter N, Pathways in Technology Early College High School (P-TECH) Program from the 85th Texas Legislature, Regular Session, and standardize language throughout Chapter 4, Subchapter G.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Education Code, Sections §§29.908, 29.557, and 130.001(b)(3) - (4), which provide the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institutions and public universities with secondary schools.

§4.155. Student Eligibility

(a) Students participating in an ECHS or P-TECH must meet eligibility requirements in accordance with §§4.81 - 4.85 of this title (relating to Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges) to enroll in college level courses for dual credit.

(b) A student participating in an ECHS or P-TECH is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 1 certificate program, or a program leading to a credential of less than a postsecondary Level 1 certificate, at a public junior college or public technical institute and shall not be required to provide demonstration of college readiness or dual credit enrollment eligibility.

(c) An ECHS shall assess each student for readiness to enroll in any academic course, or course contained in a workforce education postsecondary Level 2 certificate or applied associate degree program, prior to the student's enrollment in the course.

(d) For this assessment, an ECHS or P-TECH may use any instrument otherwise approved by the Board for Texas Success Initiative purposes in accordance with §4.54 (relating to Exemptions, Exceptions, and Waivers), §4.56 (relating to Assessment Instrument), and §4.57 (relating to College Ready Standards) of this title.

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

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or current practices pertaining to early college high schools by the Texas Higher Education Coordinating Board or Texas Education Agency without changes to proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 392). The rules will not be republished. The repeal of these sections better aligns the Texas Administrative Code with the Texas Education Code and current practices pertaining to early college high schools by the Texas Higher Education Coordinating Board and Texas Education Agency.

No comments were received regarding the repeal of these sections.

The repeal of these sections is adopted under the Texas Education Code, §§29.908, 29.557, and 130.001(b)(3) - (4), which provide the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institutions and public universities with secondary schools.

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CHAPTER 23. EDUCATION LOAN REPAYMENT PROGRAMS

SUBCHAPTER D. LOAN REPAYMENT PROGRAM FOR MENTAL HEALTH PROFESSIONALS

19 TAC §§23.94 - 23.98, 23.100

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 23, Subchapter D, §§23.94 - 23.98; §23.100, concerning Loan Repayment Program for Mental Health Professionals without changes to the proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 393). Specifically, the amendments will incorporate into existing rules new provisions enacted by House Bill 3803 and House Bill 3088, 85th Texas Legislature, Regular Session, which require the Coordinating Board to seek the maximum amount of federal grant matching funds available through the National Health Service Corps State Loan Repayment Program (SLRP). The U.S. Health Resources and Services Administration approved the Coordinating Board’s first application for SLRP providers beginning in FY 2020.

The amendments to §23.94 clarify the definition of “full-time service” for SLRP and non-SLRP providers: 40 hours per week for SLRP providers and 32 hours per week for non-SLRP providers. Additionally, a new definition for “SLRP-State Loan Repayment Program” has been added to provide the federal authority under which the SLRP is authorized.

The amendments to §23.95(6) specify the degree requirements for licensed chemical dependency counselors applying for enrollment in the SLRP.

The amendments to §23.96(6) describe the contract terms, including monetary penalties for failure to meet the service obligation and completion of counseling procedures, to which SLRP applicants must agree. The former language has been stricken.

The amendments to §23.97(d)(2) and (f) add SLRP providers to the priority ranking order for each practice specialty and allow the maximum award amounts to be adjusted in the event state funds for all eligible applicants are not sufficient.

The amendments to §23.98 add new language to address additional requirements that SLRP providers must meet to receive SLRP funds.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Education Code, §61.608, which authorizes the Coordinating Board to adopt rules for the administration of the Loan Repayment Program for Mental Health Professionals.

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

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CHAPTER 27. FIELDS OF STUDY

SUBCHAPTER A. ENGINEERING FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.101 - 27.107

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Chapter 27, Subchapter A, §§27.101 - 27.107 concerning the Engineering Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 395). The rules will not be republished. The adopted repeal eliminates the Engineering Field of Study Advisory Committee in anticipation of establishing separate advisory committees for the sub-disciplines of Civil Engineering, Mechanical Engineering, Chemical Engineering, Electrical Engineering, and other engineering fields.

No comments were received regarding the repeal of these sections.

The repeal is adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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

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SUBCHAPTER B. MUSIC FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §27.123, §27.124

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter B, §27.123 and §27.124, concerning the duration and committee membership terms for the Music Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 396). The rules will not be republished. The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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SUBCHAPTER C. NURSING FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §27.143, §27.144

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter C, §27.143 and §27.144 concerning the duration and committee membership terms for the Nursing Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 396). The rule will not be republished. The adopted amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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SUBCHAPTER D. BUSINESS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §27.163, §27.164

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter D, §27.163 and §27.164 concerning the duration and committee membership terms for the Business Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the Texas Register (44 TexReg 397). The rules will not be republished. The adopted amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

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SUBCHAPTER E. COMMUNICATIONS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §27.183, §27.184

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter E, §27.183 and §27.184 concerning the duration and committee membership terms for the Communications Field of Study Advisory Committee without changes to proposed text as published
in the January 25, 2019, issue of the Texas Register (44 TexReg 398). The rules will not be republished. The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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SUBCHAPTER G. MEXICAN AMERICAN STUDIES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.223, §27.224

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter G, §§27.223 and §27.224, concerning the duration and committee membership terms for the Mexican American Studies Field of Study Advisory Committee without changes to the proposed text as published in the January 25, 2019 issue of the Texas Register (44 TexReg 399). The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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, 2019.

TRD-201901302
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: May 22, 2019
Proposal publication date: January 25, 2019
For further information, please call: (512) 427-6104

SUBCHAPTER LL. CHEMISTRY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.841 - 27.847

The Texas Higher Education Coordinating Board (Board) adopts new Chapter 27, Subchapter LL, §§27.841 - 27.847, concerning the duration and committee membership terms for the Chemistry Field of Study Advisory Committee, without changes to the proposed text as published in the January 25, 2019, issue of the Texas Register (Volume 44, Number 4, Page 400). The amended rules will not be re-published.

The adopted new sections renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding the new sections.

The new sections are adopted under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.
TITLE 22. EXAMINING BOARDS
PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS
CHAPTER 781. SOCIAL WORKER LICENSURE

The Texas State Board of Social Worker Examiners (board) adopts amendments to §§781.402, 781.405, 781.413, and the repeal of and new §781.603, concerning the licensing and regulation of social workers. The amendments to §§781.402, 781.405, 781.413, and the repeal of and new §781.603 are adopted without changes to the proposed text as published in the February 1, 2019, issue of the Texas Register (44 TexReg 465). Therefore, these sections will not be republished.

The proposed repeal of and new §781.505 and §781.509, published in the February 1, 2019, issue of the Texas Register, are withdrawn and do not appear in this rulemaking.

BACKGROUND AND JUSTIFICATION

The amendments to the rules eliminate the Advanced Practitioner specialty recognition and clarify requirements for supervision towards licensure, modify the board processing times for applications, and provide a more detailed timeline for participants in the Alternate Method of Examining Competency program. The new rules modify the process for complaints, aligned to recommendations set forth by the Sunset Advisory Commission.

COMMITS

The 30-day comment period ended March 3, 2019.

During this period, the board received comments regarding the proposed rules from one association, the National Association of Social Workers-Texas Chapter. A summary of comments relating to the rules and the board's responses follows.

§781.205

Comment: A commenter proposes a comment relating to sexual misconduct, and states that the rule continues to put providers in the position of maintaining records well past the time required and recommended by liability experts. "Older complaints are extremely hard to prove and leave providers open to false allegations. If there is a legal conviction, wouldn't the board take action based on the conviction? Having a shorter time limit would encourage clients to report and would provide more timely protection to the public."

Response: The board appreciates the comment but cannot make a change at this time because this rule is not included in this rulemaking. The current record retention policies are necessary to protect the citizens of Texas.

§781.402

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment.

§781.405

Comment: A commenter did not support the change because it prolongs the processing of paperwork which is a critical factor in the issues surrounding board effectiveness. The commenter was not in favor of extending paperwork acknowledgement times.

Response: The board appreciates the comment but declines to keep the current fifteen working day requirement. The board's current goal is to process an application within two weeks, but it is not always practical to respond within fifteen days. A thirty-working day period response time is more reasonable.

§781.413

Comment: A commenter supports the changes.

§781.505

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment, but the board withdraws the proposed rule for further discussion of the proposed rule.

§781.509

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment, but the board withdraws the proposed rule for further discussion of the proposed rule.

§781.603

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment.

SUBCHAPTER D. LICENSES AND LICENSING PROCESS

22 TAC §§781.402, 781.405, 781.413

STATUTORY AUTHORITY

The amendments are adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §505.201, to establish the board's procedures; and §505.204, to standardize information concerning complaints made to the board; and §505.356, to establish rules regarding alternative methods of examining competency.

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 6, 2019.

TRD-201901323
Timothy Martel Brown, LCSW
Chair
Texas State Board of Social Worker Examiners
Effective date: May 26, 2019
Proposal publication date: February 1, 2019
For further information, please call: (512) 776-6972

ADOPTED RULES  May 17, 2019  44 TexReg 2459
SUBCHAPTER F. COMPLAINTS AND VIOLATIONS

22 TAC §781.603

STATUTORY AUTHORITY

The board adopts amendments to §801.18, §801.262, and §801.268; new §801.263, §801.264, and §801.266; and the repeal of §§801.263 - 801.267 concerning continuing education in regard to the licensing and regulation of marriage and family therapists.

New §801.263 and §801.264 and the amendment to §801.268 are adopted with changes to the proposed text as published in the December 14, 2018, issue of the Texas Register (43 TexReg 8006). These rules will be republished. Previously the board organized supervisors' renewal requirements under §801.143, which became effective on March 7, 2019, published in the March 1, 2019, issue of the Texas Register (44 TexReg 1131). The board removes redundant language regarding supervisors' renewal requirements from §801.263(d). The amendments to §801.18 and §801.262; new §801.266; and the repeal of §§801.263 - 801.267 are adopted without changes. Therefore, these sections will not be republished.

BACKGROUND AND JUSTIFICATION

Texas Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency. All sections of Chapter 801 have been reviewed, and the board has determined that the reasons for adopting the sections continue to exist in that rules concerning the licensing and regulation of marriage and family therapists are still needed. However, changes are needed as described in this preamble and are the result of the comprehensive rule review undertaken by the board and the board's staff.

In general, each section was reviewed and proposed for readoption in order to ensure appropriate subchapter, section, and paragraph organization; to ensure clarity; to improve spelling, grammar, and punctuation; to ensure the rules reflect current legal and policy considerations; to ensure accuracy of legal citations; to eliminate unnecessary catch-titles; to delete repetitive, obsolete, unenforceable, or unnecessary language; to improve draftsmanship; and to make the rules more accessible, understandable, and usable.

COMMENTS

The 30-day comment period ended January 14, 2019.

During this period, the board received comments regarding the proposed rules from five individuals and two associations, including Texas Counseling Association (TCA), and Texas Association for Marriage and Family Therapy (TAMFT). A summary of comments relating to the rules and the board's responses follows.

Comment: Regarding proposed rule §801.18(a)(9), concerning repeal of the $50 annual continuing education sponsor fee, two individual commenters oppose this action. One individual commenter questions why the board wants to remove this income source, how the board will handle complaints against continuing education providers (CEPRs), how the board will ensure CEPRs adhere to minimum requirements, wonders if the board's proposed repeal is in response to a board member who forgot to renew his or her CEPR approval, and opines a CEPR "free for all" does not protect licensees.

Response: The board disagrees. After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees. The fees collected are not a significant source of income for the state.
The second individual commenter states most professions require a minimum registration standard with fee for CEPRs because this "automatically separate[s] the 'wheat from the chaff'"; "mandates...minimum quality control and accountability to both the CE provider and...licens{ees}"; and "provide[s] additional revenue stream." The second commenter opines a number of possible adverse effects if the fee is repealed, reports "the LPC Board agreed to revisit this issue," and reminds the board of its responsibility to protect the public.

Response: The board agrees there is a responsibility of the board to protect the public. The board does not agree that these amendments will have an adverse impact on the public. The fees collected are not a significant source of income for the state.

Comment: Regarding proposed rules in Subchapter K (§§801.262 - 801.268), concerning Continuing Education Requirements, TCA opposes the proposed modifications to Subchapter K and is very concerned the proposed changes "will not protect the public, will limit the Board's ability to ensure some measure of quality in continuing education, and will not necessarily reduce the time to assess the qualifications of CE providers." TCA recommends the board "reinstate the requirement that a percentage of CE hours be earned in face-to-face settings." TCA reports "The Texas State Board of Examiners of Psychologists rules require that at least half of the required CE hours be delivered by designated entities" and opines "This model insures a reasonably high quality of CE providers while reducing the amount of staff time spent on oversight."

Similarly, TAMFT notes "tremendous...concern...over the language for Continuing Education" and "respectfully ask[s] the...Board to reconsider...oversight for CEU (continuing education unit) credits." TAMFT reports "Many of our members have gone to great lengths to make sure the CEU's they provide offer the utmost in quality education to further enhance MFT's field of study. Changing these requirements have the risk of our licensees ultimately being delivered a product that is inferior."

In addition, two individual commenters oppose changes to continuing education processes (collecting CEPR renewal forms and fees, maintaining a registration of approved CEPRs, ensuring presenters are duly credentialed, ensure CEPRs adhere to the minimum requirements, reviewing complaints against CEPRs). One of the commenters notes "concern...the board will no longer monitor CEU providers" and "fear[s] this...will decrease the quality of training and the ongoing competency of marriage and family therapists."

Response: After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees. The fees collected are not a significant source of income for the state.

Comment: Regarding proposed rule §801.263(a) and (b), requiring an LMFT to complete 30 clock hours of continuing education (CE) each renewal period and an LMFT Associate to complete 15 clock hours each renewal period, TCA recommends reinstatement of "the requirement that a percentage of CE hours be earned in face-to-face settings" (referring to the proposed repeal of §801.264(1)(E) which limited courses "in which real-time interaction with a facilitator[s] is not possible" to "no more than 12 hours per renewal period") and suggests requiring at least 18 hours of CE in a face-to-face setting for an LMFT and at least 6 hours of CE in a face-to-face setting for an LMFT Associate.

Similarly, TAMFT requests the board to require "that direct face to face hours still be at least half of a licensees CEU hours."

Also, an individual commenter expresses "concern...that the repeal of the limit on non-interactive study for CEUs may decrease the quality of training received by licensees and thus decrease the competency of providers serving the Texas public" and requests "the board require at least half, if not the majority, of CEU hours be earned in face-to-face settings."

Response: The board disagrees. After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees.

Comment: Regarding proposed rule §801.263(d), requiring a supervisor to complete at least three hours of clinical supervision continuing education each renewal period, an individual commenter suggests moving the requirement that a supervisor complete the jurisprudence exam each renewal period to maintain supervisor status from §801.143(i) to §801.263(d).

Response: The board disagrees and for clarity for the supervisor, it remains under §801.143. Another individual commenter requests changing "professional counseling" to "marriage and family therapy" to fix typo in subparagraph (1), adding "graduate-level transcript" in subsection (3) for clarity, and transposing paragraphs (4) and (5) for logical organization.

Response: The board makes a technical correction, changing "professional counseling" to "marriage and family therapy" in §801.264(1).

Concerning the other comments, the board disagrees. After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees.

Regarding proposed §801.268(a), concerning Reporting and Auditing of Continuing Education, the board made a technical correction, changing "of no less than 30 hours" to "as required in §801.263 of this title (relating to Requirements for Continuing Education)" to accommodate the varied number of hours required in §801.263 for each license type.

SUBCHAPTER B. THE BOARD

22 TAC §801.18

STATUTORY AUTHORITY

The amendment is adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §502.152, to establish the board's procedures; §502.153, to set fees reasonable and necessary to cover the costs of administering this chapter; §502.1565, to comply with Chapter 53,
Consequences of Criminal Conviction; §502.158, to standardize information concerning complaints made to the board; §502.202, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board; §502.204, concerning the investigation of a complaint filed with the board; §502.2541, to administer a jurisprudence examination; §502.2545, to administer a waiver of examination for certain applicants; and §502.258, to provide for the issuance of a temporary license.

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 6, 2019.

TRD-201901310
Jennifer Smothermon, M.A., LPC, LMFT
Chair
Texas State Board of Examiners of Marriage and Family Therapists
Effective date: May 26, 2019
Proposal publication date: December 14, 2018
For further information, please call: (512) 776-6972

SUBCHAPTER K. CONTINUING EDUCATION REQUIREMENTS

22 TAC §§801.262 - 801.264, 801.266, 801.268

STATUTORY AUTHORITY

The amendments and new sections are adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §502.152, to establish the board's procedures; §502.153, to set fees reasonable and necessary to cover the costs of administering this chapter; §502.1565, to comply with Chapter 53, Consequences of Criminal Conviction; §502.158, to standardize information concerning complaints made to the board; §502.202, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board; §502.204, concerning the investigation of a complaint filed with the board; §502.2541, to administer a jurisprudence examination; §502.2545, to administer a waiver of examination for certain applicants; and §502.258, to provide for the issuance of a temporary license.

§801.263. Requirements for Continuing Education.

(a) An LMFT must complete 30 clock hours of continuing education which is acceptable to the board each renewal period as described in §801.262 of this title (relating to Deadlines).

(b) An LMFT Associate must complete 15 clock hours of continuing education which is acceptable to the board each renewal period as described in §801.262 of this title.

(c) All licensees are required to complete six hours of ethics each renewal period.

§801.264. Types of Acceptable Continuing Education.

To be acceptable for the purposes of license renewal or satisfaction of disciplinary stipulations, the education must be received from a continuing education provider that:

(1) ensures the education provided is related to the practice of marriage and family therapy;

(2) ensures the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented;

(3) verifies attendance of participants and provides participants with a letter or certificate of attendance displaying the licensee’s name, topic covered, date course was taken, and hours of credit earned;

(4) maintains all continuing education records and documentation for at least three years; and

(5) provides participants a mechanism for evaluation of each continuing education activity.

§801.268. Reporting and Auditing of Continuing Education.

(a) At the time of renewal, the licensee must report completion of approved continuing education as required in §801.263 of this title (relating to Requirements for Continuing Education).

(b) The board will conduct random audits of a licensee’s compliance with the continuing education requirements. A licensee selected for audit must submit continuing education documentation upon request. Individual continuing education certificates of attendance may not be submitted unless the licensee is requested to do so by the board.

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 6, 2019.

TRD-201901311
Jennifer Smothermon, M.A., LPC, LMFT
Chair
Texas State Board of Examiners of Marriage and Family Therapists
Effective date: May 26, 2019
Proposal publication date: December 14, 2018
For further information, please call: (512) 776-6972

22 TAC §§801.263 - 801.267

STATUTORY AUTHORITY

The repeals are adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §502.152, to establish the board's procedures; §502.153, to set fees reasonable and necessary to cover the costs of administering this chapter; §502.1565, to comply with Chapter 53, Consequences of Criminal Conviction; §502.158, to standardize information concerning complaints made to the board; §502.202, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board; §502.204, concerning the investigation of a complaint filed with the board; §502.2541, to administer a jurisprudence examination; §502.2545, to administer a waiver of examination for certain applicants; and §502.258, to provide for the issuance of a temporary license.

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 6, 2019.

TRD-201901312
Jennifer Smothermon, M.A., LPC, LMFT
Chair
Texas State Board of Examiners of Marriage and Family Therapists
Effective date: May 26, 2019
Proposal publication date: December 14, 2018
For further information, please call: (512) 776-6972

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER I. VALUATION PROCEDURES

34 TAC §9.4001

The Comptroller of Public Accounts adopts amendments to §9.4001, concerning valuation of open-space and agricultural lands, without changes to the proposed text as published in the March 8, 2019, issue of the Texas Register (44 TexReg 1273). These amendments are to reflect updates and revisions to the manual for the appraisal of agricultural land.

The amendments update and revise the January 2017 manual for the appraisal of agricultural land. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising land used for agricultural and open-space land under Tax Code, Chapter 23, Subchapters C and D.

Generally, the substantive changes to the manual reflect statutory changes. The introduction includes an updated description of the adoption process for the manual to reflect changes in Senate Bill 526 and Senate Bill 594, 85th Legislature, 2017. The updated manual references provisions to a prohibition on homestead properties designated for agricultural use being used to secure home equity loans, as was amended in Texas Constitution, Article XVI, §50(a)(6). The adopted manual includes a new section titled "Cessation of Agricultural Use" to address specific circumstances for which special appraisal does not end when the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area, based on changes made in House Bill 777, House Bill 3198, and Senate Bill 1459, 85th Legislature, 2017.

The updated manual includes a new section on the 2018 Federal Farm Bill. While the bill has not yet become law, cotton is likely to be eligible again for some government programs after the bill passes. The comptroller added this section to advise chief appraisers to keep up with any possible changes to the federal farm programs.

The updated manual includes a new question in Appendix A to provide an example of property with an inaccessible area that may be classified as wasteland as determined by the chief appraiser.

Additionally, the updated manual reflects changes to improve the format, clarity and grammar of the manual.

Pursuant to Tax Code, §23.52(d), this rule has been approved by the comptroller with the review and counsel of the Department of Agriculture.

The comptroller received only one comment regarding these amendments.

Hélène McKinley, a taxpayer, suggests that "this exemption should not exist for lands within city limits where zoning is not designated as agricultural but as commercial, industrial or other zoning definition by the city or county." The comptroller declines to add this limitation to the constitutional provision because it would exceed the comptroller's authority.

These amendments are adopted under Tax Code, §23.41 (Appraisal); and §23.52 (Appraisal of Qualified Agricultural Land), which provide the comptroller with the authority to prepare and issue publications relating to the appraisal of property and to specify the methods to apply and the procedures to use in appraising qualified agricultural and open-space land for ad valorem tax purposes.

These amendments implement Tax Code, §23.41 (Appraisal) and §23.52 (Appraisal of Qualified Agricultural Land).

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, 2019.
TRD-201901304
Victoria North
Chief Counsel Fiscal and Agency Affairs Legal Services Division
Comptroller of Public Accounts
Effective date: May 22, 2019
Proposal publication date: March 8, 2019
For further information, please call: (512) 475-2220

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

SUBCHAPTER D. YOUTH RIGHTS AND REMEDIES

37 TAC §380.9313

The Texas Juvenile Justice Department (TJJD) adopts amendments to §380.9313, concerning Use of Telephone, without changes to the proposed text as published in the March 1, 2019, issue of the Texas Register (44 TexReg 932) and will not be republished.

JUSTIFICATION FOR CHANGES

The public benefit anticipated as a result of administering the section is to give TJJD greater flexibility in monitoring phone calls involving youth, which will help to resolve safety and security issues that stem from improper communication.

SUMMARY OF CHANGES

The amended rule adds that: 1) all calls made on the youth phone system are subject to being recorded, rather than only...
recording those calls that are made to the Incident Reporting Center; and 2) only appropriately designated staff may access calls that have been recorded.

The amended rule clarifies that: 1) youth are informed during orientation that all calls on the youth phone system are subject to being recorded; 2) additional prepaid minutes, beyond those provided monthly by TJJD, can be purchased for youth to make calls; and 3) TJJD is responsible for the cost of calls related to family emergencies.

The amended rule does not apply to any call that statute or a TJJD rule defines as confidential or privileged.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

STATUTORY AUTHORITY

The amended section is adopted under Section 242.003, Human Resources Code, which requires TJJD to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

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

Filed with the Office of the Secretary of State on April 30, 2019.

TRD-201901272
Christian von Wupperfeld
General Counsel
Texas Juvenile Justice Department
Effective date: May 20, 2019
Proposal publication date: March 1, 2019
For further information, please call: (512) 490-7278

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 449. HEAD OF A FIRE DEPARTMENT

The Texas Commission on Fire Protection (the commission) adopts amendments to Chapter 449, Head of a Fire Department, Subchapter A, Minimum Standards for Head of a Suppression Fire Department, concerning §449.1, Minimum Standards for the Head of a Suppression Fire Department, and Subchapter B, Minimum Standards for Head of a Prevention Only Fire Department, concerning §449.201, Minimum Standards for the Head of a Prevention Only Fire Department. The amendments are adopted without changes to the proposed text as published in the February 15, 2019, Texas Register, (44 TexReg 691) and will not be republished.

The adoption restructures current language in §449.1 and also clarifies the requirements for appointment to head of a fire department position as well as provides additional avenues for persons to qualify for the position.

No comments were received from the public regarding the adoption of the amendments.

SUBCHAPTER A. MINIMUM STANDARDS FOR HEAD OF A SUPPRESSION FIRE DEPARTMENT

37 TAC §449.1

The amendments are adopted under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to adopt rules for the administration of its powers and duties, and §419.032, which provides the commission the authority to adopt rules regarding qualifications and competencies for fire protection personnel.

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, 2019.

TRD-20190127
Tim Rutland
Executive Director
Texas Commission on Fire Protection
Effective date: May 20, 2019
Proposal publication date: February 15, 2019
For further information, please call: (512) 936-3812

SUBCHAPTER B. MINIMUM STANDARDS FOR HEAD OF A PREVENTION ONLY FIRE DEPARTMENT

37 TAC §449.201

The amendments are adopted under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to adopt rules for the administration of its powers and duties, and §419.032, which provides the commission the authority to adopt rules regarding qualifications and competencies for fire protection personnel.

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, 2019.

TRD-201901271
Tim Rutland
Executive Director
Texas Commission on Fire Protection
Effective date: May 20, 2019
Proposal publication date: February 15, 2019
For further information, please call: (512) 936-3812

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS
CHAPTER 369. DISPLAY OF LICENSES

40 TAC §369.2

The Texas Board of Occupational Therapy Examiners adopts amendments to §369.2, concerning changes of name or address, without changes to the proposed text as published in the March 8, 2019, issue of the Texas Register (44 TexReg 1277). The rule will not be republished.

The amendments are adopted to remove the requirement that an occupational therapy assistant with a regular license notify the Board of supervisor changes and to add language regarding the address of record to the section.

In the amendments, a provision concerning the requirement that a licensee or applicant notify the Board of changes of supervisor has been revised. In the current rule, licensees and applicants are required to notify the Board of changes of supervisor within 30 days. In the amendments, this has been revised to require instead that only applicants and temporary licensees notify the Board of changes of supervisor.

The repeal of §373.3, concerning supervision of an occupational therapy assistant, has also been adopted and submitted to the Texas Register for publication. The repeal of such will remove the requirement that an occupational therapy assistant with a regular license submit supervisor information on the Occupational Therapy Assistant Supervision form.

The amendments also include the addition of a provision concerning the address of record of a licensee or applicant; the address of record is the physical address that will be provided to the public. Information concerning the address of record currently appears in other sections of the OT Rules. The provision is being added to §369.2 as the section concerns changes to a licensee’s or applicant’s address information.

No comments were received regarding adoption of §369.2.

The amendments are adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901324
John P. Maline
Executive Director
Texas Board of Occupational Therapy Examiners
Effective date: June 1, 2019
Proposal publication date: March 08, 2019
For further information, please call: (512) 305-6900

CHAPTER 372. PROVISION OF SERVICES

40 TAC §372.1, §372.2

The Texas Board of Occupational Therapy Examiners adopts amendments to §372.1, concerning provision of services, and §372.2, concerning general purpose occupation-based instruction, without changes to the proposed text as published in the March 8, 2019, issue of the Texas Register (44 TexReg 1278). The rules will not be republished.

The amendments are adopted to clean up and clarify the sections and to add clarifying language to §372.1, regarding the transmission of a medical referral.

Cleanups and clarifications to §372.1 include changes to provisions regarding an occupational therapist’s delegation of the collection of data for an evaluation and the delegation of tasks. In the amendments to such provisions, references to a temporary licensee have been removed as the references to an occupational therapy assistant therein already refer to both an occupational therapy assistant with a regular or temporary license.

The amendments also include language clarifying that when a referral is required for the provision of occupational therapy services, such may be transmitted by an occupational therapy plan of care, developed according to the requirements of the section, that is signed by the licensed referral source.

The amendments, in addition, include a clarification of a requirement regarding the inclusion of an occupational therapist’s name in the intervention note.

The amendments to §372.1 include further cleanups and clarifications.

The amendments, additionally, include a change to §372.2 to strike a reference to the supervision requirements in §373.3 because the repeal of §373.3, concerning supervision of an occupational therapy assistant, has also been adopted and submitted to the Texas Register for publication.

No comments were received regarding adoption of §372.1 and §372.2.

The amendments are adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901324
John P. Maline
Executive Director
Texas Board of Occupational Therapy Examiners
Effective date: June 1, 2019
Proposal publication date: March 8, 2019
For further information, please call: (512) 305-6900

CHAPTER 373. SUPERVISION

40 TAC §373.3

The Texas Board of Occupational Therapy Examiners adopts the repeal of §373.3, concerning supervision of an occupational therapy assistant, without changes to the proposed text as published in the March 8, 2019, issue of the Texas Register (44 TexReg 1280). The rule will not be republished.

The repeal of §373.3 will remove from the OT Rules the supervision requirements in that section, which concern the supervi-
sion of an occupational therapy assistant with a regular license. Such requirements include that an occupational therapy assistant must submit the Supervision of an Occupational Therapy Assistant form with the employer information and name and license number of one of the occupational therapists working for the employer who will be providing supervision. The repeal will also remove from the OT Rules requirements concerning the Supervision Log and requirements that occupational therapy assistants with a regular license receive frequent communication supervision and interactive supervision from occupational therapists. The Board determined that the provisions to be repealed contained unnecessary paperwork requirements that took time away from patient care and unnecessarily limited occupational therapy assistants’ practice.

The repeal of §373.3 will not remove all requirements concerning the supervision of an occupational therapy assistant with a regular license from the OT Rules as requirements regarding supervision appear in other rule sections. Section 372.1(g), Documentation, requires that in each intervention note, the occupational therapy assistant must include the name of an occupational therapist who is readily available to answer questions about the client’s intervention at the time of the provision of services and that the occupational therapy assistant may not provide services unless this requirement is met. Section 372.1(f)(10) requires that an occupational therapist may only delegate to an occupational therapy assistant tasks that both agree are within the occupational therapy assistant’s competence.

Changes to §369.2, concerning changes of name or address, have also been adopted and submitted to the Texas Register for publication. Changes to that section include the removal of requirements concerning the submission of supervisor information by an occupational therapy assistant with a regular license.

The Board received comments regarding adopting the repeal of §373.3 from seven individuals.

Two commenters, one an occupational therapist and the other an occupational therapy assistant, noted the value of the Board’s repeal of the supervision requirements in §373.3, including that such could streamline requirements for the supervision of an occupational therapy assistant and would allow increased focus on direct patient care.

The Board agreed with these comments and made no changes to the repeal based on the comments.

Five commenters, all occupational therapists, opposed the repeal of §373.3. These commenters noted concerns that the repeal could result in the following: increased demand by employers that occupational therapists supervise a greater number of occupational therapy assistants; an increase in client loads for occupational therapy assistants; a lack of communication between the occupational therapist and occupational therapy assistant; a decrease in collaboration between the occupational therapist and occupational therapy assistant; and/or negative consequences for patient care. Some commenters noted, in addition, concerns regarding the possible effect of the repeal of §373.3 on occupational therapy assistants in schools, in particular that the repeal may result in fewer occupational therapists in the school setting, and demand for occupational therapy assistants to serve more students, resulting in decreased student outcomes.

The Board disagrees with the comments and declines to withdraw the proposed repeal or make other changes to the rule section in response to the comments. The Board noted that, pursuant to the Occupational Therapy Rules, the occupational therapist is responsible for determining how many occupational therapy assistants she can supervise, and the occupational therapist is responsible for the plan of care and all amendments thereto. Also, the supervising occupational therapist may only delegate to an occupational therapy assistant tasks that both agree are within the competency level of that occupational therapy assistant. The Occupational Therapy Rules require that when providing services, the occupational therapy assistant must have an occupational therapist who is readily available to answer questions about the client’s intervention at the time of the provision of services and that the occupational therapy assistant may not provide services unless this requirement is met. Furthermore, occupational therapy practitioners may choose to engage in supervision, communication, and collaboration beyond what the Occupational Therapy Rules require.

The repeal is adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on May 6, 2019.

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