

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. “(No change)” indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 358. MEDICAID ELIGIBILITY FOR THE ELDERLY AND PEOPLE WITH DISABILITIES

SUBCHAPTER D. APPLICATION AND ELIGIBILITY DETERMINATION

1 TAC §358.540

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §358.540, concerning Medical Effective Date.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with federal requirements. Federal regulations at 42 CFR §435.926 require HHSC to provide 12 months of continuous Medicaid coverage for all children under 19 years of age, regardless of most changes in family income or circumstance.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §358.540 adds new subsection (c) to align HHSC policy with 42 CFR §435.926 requirements. Proposed subsection (c) provides newborns and all recipients under 19 years of age receiving Medicaid, continuous eligibility for 12 months, regardless of changes in family income or circumstances. Proposed subsection (c) establishes when the 12 months of continuous eligibility begins and ends for a newborn and recipients under 19 years of age.

FISCAL NOTE

Trey Wood, Chief Financial and Operations Officer, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of HHSC employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to HHSC;

(5) the proposed rule will create a new regulation;

(6) the proposed rule will not expand, limit or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule; and

(8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the proposed rules do not apply to small businesses, micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons; is amended to reduce the burden or responsibilities imposed on regulated persons by the rule; and is necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Molly Regan, Chief of Family Resources and Eligibility Services, has determined that for each year of the first five years the rule is in effect, the public benefit will be extending continuous 12-month coverage for Medicaid eligible children 19 years and younger regardless of most changes in circumstance.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because there are no requirements to alter current business practices and there are no new fees or costs imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as

well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R048" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which requires the executive commissioner to adopt rules related to the administration of Medicaid.

The amendment affects Texas Government Code §524.0151.

§358.540. *Medical Effective Date.*

(a) If a person is eligible for a Medicaid-funded program for the elderly and people with disabilities (MEPD), the Texas Health and Human Services Commission (HHSC) includes in the notice of eligibility the date that the person's Medicaid benefits will begin, which is known as the medical effective date.

(b) HHSC determines the medical effective date:

(1) in accordance with 42 CFR §435.914, as the first day of the month in which a person meets all eligibility criteria, which may be up to three months before the date of application if:

(A) during the three months before the month of application, the person received MEPD services covered under the Texas State Plan for Medical Assistance; and

(B) would have been eligible for MEPD at the time the services were received if the person had applied (or someone had applied on behalf of the person), regardless of whether the person is alive when application for MEPD is made; or

(2) as approved by the Centers for Medicare and Medicaid Services for a §1915(c) waiver program.

(c) HHSC provides a continuous eligibility period of 12 months, regardless of changes in family income or circumstances:

(1) beginning on a newborn's Medicaid eligibility effective date to the last day of the month of the newborn's first birthday; and

(2) for recipients under 19 years of age:

(A) beginning with the recipient's Medicaid eligibility effective date, or the date of the most recent renewal or redetermination of eligibility; and

(B) ending on the last day of the month of the 12-month certification period or the recipient's 19th birthday, whichever is sooner.

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

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

TRD-202602525

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 354-9912



CHAPTER 366. MEDICAID ELIGIBILITY FOR WOMEN, CHILDREN, YOUTH, AND NEEDY FAMILIES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §366.527, concerning Medicaid Eligibility Effective Date; and §366.711, concerning Application Processing.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with federal requirements. Federal regulations at 42 CFR §435.926 require HHSC to provide 12 months of continuous Medicaid coverage for all children under 19 years of age, regardless of most changes in family income or circumstance.

Additionally, 42 CFR §435.907(e)(1) only permits states to request information from an applicant that is necessary to make an eligibility determination. HHSC current policy requires an interview with an initial applicant for the Medicaid for Parents and Caretaker Relatives Program. The proposed amendment to §366.711 removes this requirement.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §366.527 aligns HHSC policy with 42 CFR §435.926 requirements by reformatting the rule to add new subsection (b). Proposed new subsection (b) provides newborns and all recipients under 19 years of age receiving Medicaid, continuous eligibility for 12 months. Proposed new subsection (b) establishes when the 12 months of continuous eligibility begins and ends for a newborn and recipients under 19 years of age.

The proposed amendment to §366.711 removes subsection (d) to align HHSC policy with 42 CFR §435.907(e)(1). As amended, HHSC will no longer require an interview with an initial or renewal application for Medicaid for Parents and Caretaker Relatives benefits. The proposed amendment renumbers the remaining subsections in the rule.

FISCAL NOTE

Trey Wood, Chief Financial and Operations Officer, has determined that for each year of the first five years that the rules will be in effect, there will be an estimated additional cost to state government as a result of enforcing and administering the rules as proposed. Enforcing and administering the rules does not have foreseeable implications relating to costs or revenues of local governments.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated cost of

\$52,769 in State funds and \$103,260 in Federal funds in fiscal year (FY) 2025, \$0.00 in FY 2026, \$0.00 in FY 2027, \$0.00 in FY 2028, and \$0.00 in FY 2029.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create a new regulation;
- (6) the proposed rules will repeal an existing regulation;
- (7) the proposed rules will not change the number of individuals subject to the rule; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the proposed rules do not apply to small businesses, micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons; is amended to reduce the burden or responsibilities imposed on regulated persons by the rules; and is necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Molly Regan, Chief of Family Resources and Eligibility Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be extending continuous 12-month coverage for Medicaid eligible children 19 years and younger regardless of most changes in circumstance, and streamlining the process for applicants of Medicaid for Parents and Caretaker Relatives by removing the interview requirement will potentially increase access to health care for adults.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because there are no requirements to alter current business practices and there are no new fees or costs imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R048" in the subject line.

SUBCHAPTER E. CHILDREN'S MEDICAID

1 TAC §366.527

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which requires the executive commissioner to adopt rules related to the administration of Medicaid.

The amendment affects Texas Government Code §524.0151.

§366.527. Medicaid Eligibility Effective Date.

(a) HHSC determines the Medicaid eligibility effective date for an applicant as follows: [;]

(1) Medicaid coverage begins on the earliest day of the application month on which the applicant meets all eligibility criteria.

(2) Retroactive coverage may begin as early as three months before the application month, except that a newborn's coverage begins no earlier than the child's date of birth.

[(3) A recipient is continuously eligible for Medicaid for six months or through the month of the recipient's 19th birthday, whichever is earlier. A recipient who is a newborn has continuous eligibility through the month of his or her first birthday. If the applicant is eligible in the application or process month, the child is eligible for continuous coverage beginning the first month the applicant meets the eligibility criteria.]

(b) HHSC provides a continuous eligibility period of 12 months, regardless of changes in family income or circumstances:

(1) beginning on a newborn's Medicaid eligibility effective date to the last day of the month of the newborn's first birthday; and

(2) for recipients under 19 years of age:

(A) beginning with the recipient's Medicaid eligibility effective date, or the date of the most recent renewal or redetermination of eligibility; and

(B) ending on the last day of the month of the 12-month certification period or the recipient's 19th birthday, whichever is sooner.

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 354-9912



SUBCHAPTER G. MEDICAID FOR PARENTS AND CARETAKER RELATIVES PROGRAM

1 TAC §366.711

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which requires the executive commissioner to adopt rules related to the administration of Medicaid.

The amendment affects Texas Government Code §524.0151.

§366.711. *Application Processing.*

(a) HHSC processes Medicaid for Parents and Caretaker Relatives Program applications received electronically, by paper, or by telephone.

(b) HHSC allows any office of a state health and human services agency to accept an initial application.

(c) HHSC contracts with third parties to accept applications from hospital districts (including state-owned teaching hospitals), federally qualified health centers, and county health departments.

~~(d)~~ HHSC requires an interview with an initial applicant.]

~~(d)~~ [(e)] HHSC reopens a denied initial application, so long as the applicant complies with the missed requirements within 60 days after the date the application was submitted. HHSC otherwise requires the applicant to file a new application.

~~(e)~~ [(f)] HHSC reconsiders the eligibility of a recipient who is terminated for failure to submit a renewal form or necessary information, so long as the recipient complies with the missed requirements within 90 days after the date of termination. HHSC otherwise requires the recipient to file a new application.

~~(f)~~ [(g)] HHSC may reopen an application for three months prior coverage if:

(1) within two years after the application was filed, the applicant requests that the application be reopened; and

(2) a Medicaid eligibility determination was not previously made for the three-month prior period.

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

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 354-9912



CHAPTER 370. STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SUBCHAPTER I. MODIFIED ADJUSTED GROSS INCOME METHODOLOGY

1 TAC §370.807

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §370.807, concerning Determination of Household Composition.

BACKGROUND AND PURPOSE

The purpose of the proposed amendment to §370.807(h) is to accurately describe the population of persons referred to in the rule by replacing "pregnant individual" with "pregnant woman."

The proposed amendment is also necessary to use the same terminology, "pregnant woman," used in 1 TAC §366.1107, Determination of Household Composition, related to Pregnant Women's Medicaid, and in 42 CFR §435.603(b) in the definition of "family size" related to determining the family size of a pregnant woman.

FISCAL NOTE

Trey Wood, Chief Financial and Operations Officer, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

(1) the proposed rule will not create or eliminate a government program;

(2) implementation of the proposed rule will not affect the number of HHSC employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to HHSC;

(5) the proposed rule will not create a new regulation;

(6) the proposed rule will not expand, limit, or repeal existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule; and

(8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the proposed rule does not apply to small businesses, micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons; is amended to reduce the burden or responsibilities imposed on regulated persons by the rule; and is necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Molly Regan, Chief of Family Resources and Eligibility Services, has determined that for each year of the first five years the rule is in effect, the public benefit will be clarity of program regulations.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because there are no requirements to alter current business practices and there are no new fees or costs imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R048" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Human Resources Code §32.021, which requires the executive commissioner to adopt rules related to the administration of Medicaid.

The amendments affect Texas Government Code §524.0151.

§370.807. *Determination of Household Composition.*

(a) To determine household composition, an individual is designated as:

- (1) a taxpayer;
- (2) a tax dependent who does not meet any exceptions;
- (3) a tax dependent who meets one or more of the exceptions; or
- (4) not a taxpayer or tax dependent.

(b) If the individual is a taxpayer, the following individuals are included in the taxpayer's household composition:

- (1) the taxpayer;
- (2) the taxpayer's spouse, if the taxpayer and the spouse live together;
- (3) the taxpayer's spouse, if the taxpayer and spouse file a joint federal income tax return; and
- (4) any individual the taxpayer expects to claim as a tax dependent for the taxable year in which CHIP eligibility is requested.

(c) If the individual is a tax dependent, the following individuals are included in the tax dependent's household composition:

- (1) the tax dependent;
- (2) the taxpayer's household claiming the tax dependent; and
- (3) the tax dependent's spouse, if the tax dependent and the spouse live together.

(d) The rules in subsection (c) of this section apply to a tax dependent who:

- (1) is not the taxpayer's spouse or the taxpayer's child;
- (2) is a child who lives with both parents whose parents did not file a joint federal income tax return and was claimed as a tax dependent by one parent; or
- (3) is a child who is claimed as a tax dependent by a non-custodial parent pursuant to 42 CFR §435.603(f)(2).

(e) The household composition of an individual who is not a taxpayer or a tax dependent includes:

- (1) the individual;
- (2) the individual's spouse;
- (3) the individual's children; and
- (4) if the individual is a child, the individual's parents and siblings.

(f) A spouse is included in an individual's household composition if living together or filing a joint federal income tax return.

(g) Subsection (c) of this section applies to an individual who is both a tax dependent and taxpayer.

(h) The number of unborn children a pregnant woman [individual] is expected to have [deliver] is counted as part of the pregnant woman's [included in the] household when determining who is in the household, as stated in [composition of that pregnant individual or an applicant under] §370.401 of this chapter (relating to Perinates).

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



TITLE 7. BANKING AND SECURITIES

PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 75. SAVINGS BANKS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML), proposes rule changes in Chapter 75: amendments in Subchapter A (§75.1 and §75.2), Subchapter B (§§75.101, 75.102, 75.121 - 75.123, 75.131, 75.133, 75.141 - 75.143, 75.145, 75.151, 75.152, and 75.171), Subchapter C (§§75.201, 75.202, 75.223, 75.251, 75.252, and 75.261), and Subchapter D (§75.306); new rules in Subchapter B (§75.108), and Subchapter C (§75.228); and a repeal in Subchapter B (§75.132) (proposed rules).

Explanation of and Justification for the Rules

The rules in Chapter 75 govern the chartering, administration, and operations of Texas-chartered savings banks, including the affiliates and third-party service providers of a savings bank and the registration of savings bank holding companies, under Finance Code Title 3, Subtitle C, the Texas Savings Bank Act. The proposed rules are the result of SML's rule review of 7 TAC Chapter 75, Savings Banks, conducted in accordance with Government Code §2001.039.

Changes Concerning General Provisions (Subchapter A)

The existing rules in Chapter 75, Subchapter A, General Provisions, establish requirements of general applicability. The proposed rules: in §75.1, Purpose and Applicability, clarify the purpose of the rules in Chapter 75; in §75.2, Definitions, create new definitions for "call report," "federal banking agency," "Federal Reserve," "SML," and "unimpaired capital and surplus," remove requirements from the definition of "managing officer," and clarify the definition of "officer."

Changes Concerning Applications (Subchapter B)

The existing rules in Chapter 75, Subchapter B, Applications, establish various requirements for applications filed with SML. The proposed rules: in §75.102, Application Fees and Charges, clarify that the per-site fee for a mobile facility relates to each community where it operates; in §75.108, Federal Only Applications, create a requirement for a savings bank to notify SML when it files an application only with the federal banking agency; in §75.121, Savings Bank Charter, increase the permissible range between the temporary home office and permanent home office from half a mile to one mile, and clarify eligibility requirements for managing officers; in §75.122, Change of Name; Assumed Names, clarify requirements for a savings bank to use an assumed name; in §75.131, Additional Office (Branch Office and Mobile Facility), create a unified rule for additional office applications, restate and simplify the information required for the application, remove the requirement to publish public notice in the

county where the home office is located, clarify that a person may only request a hearing if they are a savings bank or federal savings bank that is unduly harmed, and extend the deadline to open an approved office from 12 months to 24 months; in §75.132, Mobile Facility, repeal the rule and consolidate the requirements with §75.131; in §75.133, Relocate Home or Additional Office, restate and simplify the information required for the application, remove the requirement to publish public notice in the county where the home office is located, and clarify that a person may only request a hearing if they are a savings bank or federal savings bank that is unduly harmed; in §75.141, Reorganization, Merger, Consolidation, or Purchase and Assumption Transaction - Resulting in a Savings Bank, clarify when a purchase and assumption application is required; and in §75.152, Expedited Applications, simplify the information required for the application and the public notice requirements.

Changes Concerning Operations (Subchapter C)

The existing rules in Chapter 75, Subchapter C, Operations, establish various requirements governing the operations of a savings bank. The proposed rules: in §75.201, Approval of Offices Required; Closing an Office; Activities Not Requiring an Approved Office, establish authority for a savings bank to operate a messenger service without SML approval; in §75.202, Types of Additional Offices, clarify what a branch office and mobile facility consist of, and remove the requirement to file an application and obtain approval for a savings bank to operate a messenger service; in §75.228, Call Reports, clarify requirements to file call reports, and create a requirement for a savings bank to notify SML when it files an amended call report; in §75.261, Complaint Notice, remove the form for the complaint notice from the rule, remove the requirement to include the complaint notice in every privacy notice sent to the customer, and clarify when a savings bank is deemed to be in compliance with the requirement to provide the complaint notice to customers.

Other Modernization and Update Changes

The proposed rules make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; and updating terminology.

Fiscal Impact on State and Local Government

Antonia Antov, Director of Operations for SML, has determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs or losses or increases in revenue to the state overall that would impact the state's general revenue fund as a result of enforcing or administering the proposed rules. Implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to SML because SML is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rules will not result in losses or increases in revenue to the state because SML does not contribute to or draw from the state's general revenue fund.

Public Benefits

Stephany Trotti, Deputy Commissioner and Director of Thrift Regulation for SML, has determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be for members of the public to better understand the rules governing SML's regulation of Texas-chartered savings banks.

Probable Economic Costs to Persons Required to Comply with the Proposed Rules

Stephany Trotti has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs).

One-for-One Rule Analysis

Pursuant to Finance Code §16.002, SML is a self-directed semi-independent agency that is not subject to the requirements of Government Code §2001.0045.

Government Growth Impact Statement

For each of the first five years the proposed rules are in effect, SML has determined: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning Applications (Subchapter B) and Changes Concerning Operations (Subchapter C) establish various rule requirements, as discussed in such sections; (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning Applications (Subchapter B) and Changes Concerning Operations (Subchapter C) expand or limit existing rule requirements, as discussed in such sections; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. Accordingly, preparation of a local employment impact statement pursuant to Government Code §2001.022 is not required.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

The proposed rules will not have an adverse effect on small or micro-businesses or rural communities because there are no probable economic costs anticipated to persons required to comply with the proposed rules. Accordingly, preparation of an economic impact statement and a regulatory flexibility analysis pursuant to Government Code §2006.002 are not required.

Takings Impact Assessment

There are no private real property interests affected by the proposed rules. Accordingly, preparation of a takings impact as-

essment as provided by Government Code §2007.043 is not required.

Public Comments

SML invites comments on the proposed rules, including information related to the costs, benefits, or effects of the proposed rules, and any applicable data, research, or analysis. Written comments regarding the proposed rules may be submitted by mail to Iain A. Berry, General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to rules.comments@sml.texas.gov. Comments must be received within 30 days after publication of this notice.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §75.1, §75.2

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable to savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. §75.2 is also proposed under the authority of, and to implement, Finance Code §91.002.

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.1. Purpose and Applicability.

This chapter governs the chartering, administration, and operations of [a] Texas-chartered savings banks [bank], including the affiliates and third-party service providers of a savings bank and the registration of savings bank holding companies under Finance Code Title 3, Subtitle C, the Texas Savings Bank Act (Finance Code §91.001 et seq.).

§75.2. Definitions.

As used in this chapter, and in SML's [the Commissioner's] administration and enforcement of Finance Code Title 3, Subtitle C, the following definitions apply [words and terms are assigned the following meanings], unless the context clearly indicates otherwise.

(1) - (2) (No change.)

(3) Application--An application requesting authorization or other relief from the Commissioner pursuant to this chapter or under the Texas Savings Bank Act for which a filing fee is required under §75.102 of this title [section] (relating to Application Fees and Charges).

(4) - (6) (No change.)

(7) Call report--The federal Consolidated Report of Condition and Income required to be filed under 12 U.S.C. §1817 (12 U.S.C. §324 in the case of a savings bank that is a member of the Federal Reserve System).

(8) [(7)] Capital stock--Has the meaning assigned by the Texas Savings Bank Act (Tex. Fin. Code §91.002).

(9) [(8)] Capital stock savings bank--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(10) [(9)] Certificate of formation--The document evidencing the formation of the business entity, referred to in other governmental jurisdictions as the articles of incorporation, certificate of incorporation, or articles of organization, as applicable.

(11) [(10)] Commissioner--The savings and mortgage lending commissioner appointed under Finance Code Chapter 13.

(12) [(41)] Company--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(13) [(42)] Control--The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company. Control is deemed to exist when a person, directly or indirectly, or acting through or in concert with one or more persons:

(A) - (C) (No change.)

(14) [(43)] Controlling person--A person having control as defined by paragraph (13) [(42)] of this section.

(15) [(44)] Day--A calendar day, unless another method of counting days is specified.

(16) [(45)] Deposit account--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(17) [(46)] Deposit liability--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(18) Federal banking agency--The federal banking agency that regulates a savings bank or its holding company at the federal level (FDIC or Federal Reserve).

(19) Federal Reserve--The Federal Reserve Bank that regulates a savings bank or its holding company.

(20) [(47)] FDIC--The Federal Deposit Insurance Corporation, including any successor.

(21) [(48)] Finance Commission--The Finance Commission of Texas, the oversight body responsible for overseeing and coordinating SML [~~the Department~~] under Finance Code Chapter 11.

(22) [(49)] Financial institution--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(23) [(20)] GAAP--Generally Accepted Accounting Principles.

(24) [(21)] Holding company affiliate--A company of which a savings bank is a subsidiary and any other subsidiary of such company other than a subsidiary of the savings bank.

(25) [(22)] Home office--The office where a savings bank has its headquarters and from which [~~all of~~] its operations are directed. Also known as the main office.

(26) [(23)] Immediate family--The spouse of an individual, the individual's minor children, and any of the individual's children (including adults) residing in the individual's home.

(27) [(24)] Issuer--The savings bank that issued the security in question.

(28) [(25)] Limited savings bank--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(29) [(26)] Managing officer--An individual designated by the board as being responsible for, and having the authority to direct, the day-to-day operations of the savings bank. [~~The managing officer must have sufficient banking experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that, under the management and supervision of the managing officer, the savings bank will operate in compliance with applicable law and that success of the savings bank is probable.~~]

(30) [(27)] Member--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(31) [(28)] Mutual savings bank--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(32) [(29)] Officer--The chief executive officer, president, any vice president (but not an assistant vice president, second president, or other vice president having authority similar to an assistant or second vice president), chief operating officer, chief financial officer, chief information officer, chief technology officer, chief compliance officer, chief data officer, [~~the~~] secretary, [~~the~~] treasurer, [~~the~~] comptroller, and any other person performing similar functions with respect to any entity or organization, whether incorporated or unincorporated. The term [~~"officer"~~] includes the chairman of the board, if the savings bank's certificate of formation or bylaws authorize the chairman to participate in the operating management of the entity or organization, or if the chairman actually participates in such management.

(33) [(30)] Person--An individual, corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

(34) [(31)] Recourse--A contract by a borrower or guarantor to repay 100% of all amounts due and owing under the loan.

(35) [(32)] Savings bank--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(36) [(33)] Shareholder--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(37) SML--The Department of Savings and Mortgage Lending.

(38) [(34)] Subsidiary--Any company that is controlled by the savings bank or by a company that is controlled by a company which is controlled, directly or indirectly, by the savings bank.

(39) [(35)] Surplus--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002).

(40) [(36)] Texas Savings Bank Act--Finance Code Title 3, Subtitle C (Finance Code §91.001 *et seq.*).

(41) Unimpaired capital and surplus--A savings bank's core capital equal to its Tier 1 capital calculated under 12 C.F.R. part 324 (12 C.F.R. part 217 in the case of a savings bank that is a member of the Federal Reserve System), as reported on the savings bank's most recent call report.

(42) [(37)] Unsafe or [~~and~~] unsound [~~practice~~]-Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002), in defining "unsafe and unsound practice" and includes excessive operating expenses, excessive growth, high-risk or undiversified investment positions, and non-existent or poorly followed lending or underwriting policies, procedures, or guidelines.

(43) [(38)] Voting security--Includes any security convertible into or evidencing a right to acquire a voting security.

(44) [(39)] Withdrawal value--Has the meaning assigned by the Texas Savings Bank Act (Finance Code §91.002) in defining "withdrawal value of deposit account."

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

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SUBCHAPTER B. APPLICATIONS DIVISION 1. GENERAL PROVISIONS

7 TAC §§75.101, 75.102, 75.108

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. §75.101 and §75.102 are also proposed under the authority of, and to implement, Finance Code §96.002(a)(2). §75.102 is also proposed under the authority of Finance Code §16.003(c). §75.102 is also proposed under the authority of, and to implement, Finance Code: §91.007; §92.051(a)(2); §92.063; §93.004(b); and §97.001.

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.101. *Application Filing Requirements.*

(a) Purpose ~~[and Applicability]~~. This division establishes procedural and other requirements for applications filed with SML [Applications submitted to the Department must comply with the requirements of this section].

(b) Application Forms. All applications must be made on the current form for the application prescribed by SML [the Commissioner].

(c) Incomplete Filings; Notice of Acceptance; Deemed Withdrawal. An application is complete only if all required information and supporting documentation is included and all required fees are received. Within 30 days of receipt of an application SML [the Commissioner or the Commissioner's designee] will issue a written notice to the applicant informing them either that the application is complete and accepted for filing, or that the application is incomplete and specifying the information required to render the application complete. The application may be deemed withdrawn and the applicable fee forfeited if, within 30 days ~~after [of]~~ being notified the application is ~~[was]~~ incomplete, the applicant fails to provide ~~[to the Department]~~ the supplemental information or supporting documentation ~~[necessary]~~ to render the application complete.

(d) Duty to Supplement. The applicant must [has a continuing obligation and duty to] supplement the application with any other information or supporting documentation requested by SML [the Commissioner] in writing. The applicant must provide any information or supporting documentation submitted in connection with any related application made to the ~~[appropriate]~~ federal banking agency, to the extent not previously provided to SML [the Department].

(e) Duty to Amend. If a material change occurs in the ~~[facts contained in or]~~ information provided [furnished] in support of the application, the applicant must [file an amended application or otherwise]

supplement the application to address the material change. The applicant must endeavor to resolve any potential changes or amendments to the application prior to publishing public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application). The Commissioner may, in his or her sole discretion, require the applicant to republish the public notice.

§75.102. *Application Fees and Charges.*

(a) Filing Fees. An applicant must pay the following filing fees, unless an expedited filing fee applies (see subsection (b) of this section):

(1) (No change.)

(2) Office Locations.

(A) Branch office ~~[(other than a mobile facility)]~~: \$1,500.

(B) Mobile facility: \$500, plus \$100 for each community [location] where the mobile facility will operate ~~[is to be conducting banking business for purposes of §75.132 of this title (relating to Mobile Facility)]~~.

(C) Relocate home or additional [branch] office: \$500.

(3) - (6) (No change.)

(7) Investment in subsidiaries.

(A) - (D) (No change.)

(E) Relocate home or additional [branch] office: \$100.

(b) Filing Fees for Expedited Applications. An applicant qualifying for expedited treatment under [for purposes of] §75.152 of this title ~~[chapter]~~ (relating to Expedited Applications) must pay the following filing fees in lieu of the filing fee required by subsection (a) of this section:

(1) - (2) (No change.)

(3) Relocate home or additional office ~~[location]~~: \$250.

(4) - (5) (No change.)

(c) Reimbursement for Costs. In addition to filing fees established in subsections (a) and (b) of this section, the applicant must reimburse SML [the Department] for any costs incurred in connection with investigating or conducting a hearing on the application, including travel expenses.

(d) - (e) (No change.)

§75.108. *Federal Only Applications.*

If a savings bank or its holding company is required to file an application with a federal banking agency but is not required to file a similar application with SML, the savings bank must notify the Commissioner of the application and provide:

(1) a written statement of the purpose for the application;

(2) a true and correct copy of the application filed with the federal banking agency; and

(3) all supporting information provided to the federal banking agency in connection with the application.

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

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DIVISION 2. CHARTER APPLICATIONS AND AMENDMENTS

7 TAC §§75.121 - 75.123

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. §75.121 is also proposed under the authority of, and to implement, Finance Code: Chapter 92, Subchapter B; §92.203; §92.601(b); and §96.002(a)(1), (2) and (14). §75.122 is also proposed under the authority of, and to implement, Finance Code: §92.063; and §96.002(a)(2) and (14).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.121. *Savings Bank Charter.*

(a) (No change.)

(b) Identification of Home Office; Definition of Community; Temporary Office Location. The proposed location for the home office must be specifically identified so as to exactly locate it within the community to be served. The term "community" as used in the Finance Code §92.058 means the geographical area surrounding the proposed location of the home office within which persons would be reasonably anticipated to patronize the proposed office in the ordinary course of their business. The Commissioner may approve the opening and operation of a temporary home office location for an approved charter, provided that such office is within a one-mile [~~the 1/2-mile~~] radius of the permanent home office approved in the charter. If a temporary home office location is approved, the savings bank must promptly cease operations at such office upon the permanent home office being constructed or rendered fit for occupancy, but in any event no later than 18 months from the date the charter was approved, unless extended in writing by the Commissioner.

(c) Managing Officer. The proposed managing officer(s) must have sufficient banking experience, ability, standing, competence, trustworthiness, and integrity to justify a reasonable belief that, under the management and supervision of the managing officer(s), the savings bank will operate in compliance with applicable law and that success of the savings bank is probable.

(d) [(e)] Capital Requirements. No application to incorporate a savings bank will be approved unless the Commissioner determines the proposed savings bank has received subscriptions for capital stock and paid-in surplus in the case of a capital stock savings bank, or pledges for savings liability and expense fund in the case of a mutual savings bank, in an amount not less than the greater of the amount required to obtain insurance of deposit accounts by the FDIC or the amount required of a national bank. No savings bank with an approved charter may open or do business as a savings bank until the Commis-

sioner certifies that the Commissioner has received satisfactory proof that the amounts of capital stock and additional paid-in capital, or the savings liability and expense fund, as set forth in this section, have been received by the savings bank in cash, free of encumbrance.

(e) [(d)] Public Notice. A charter application is deemed to be a complete application for purposes of Finance Code §92.057 at the time SML [~~the Department~~] notifies the applicant that the application is complete and has been accepted for filing as provided by §75.101 of this title (relating to Application Filing Requirements). Upon receipt of such notice, the proposed incorporators must publish a public notice of the charter application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published in the county where the proposed savings bank will have its home office. Such notice, when properly effected, is deemed to be the Commissioner's public notice of the application for purposes of Finance Code §92.057.

(f) [(e)] Request for Hearing; Deadline to Protest. A person may protest or otherwise request a hearing on the application as provided by Finance Code §92.057. Any person desiring to protest the application or otherwise requesting a hearing on the application must file a written protest with SML [~~the Department~~] within 10 days from the date the public notice was made as provided by subsection (c) [(d)] of this section, otherwise, any right or opportunity to protest or have a hearing on the application under Finance Code §92.057 is deemed waived.

(g) [(f)] Hearing. If a charter application is protested or a hearing on the application is otherwise requested, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title (relating to Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings).

(h) [(g)] Time of Decision. To the extent a hearing on the charter application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. Only then will the hearing be deemed to have ended for purposes of Finance Code §92.058. If a hearing on the charter application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by Finance Code §92.057.

§75.122. *Change of Name; Assumed Names.*

(a) Approval Required. A savings bank may not change its name without first filing an application and obtaining the prior written approval of the Commissioner, and a savings bank may not do business [~~operate~~] under any name which has not been approved by the Commissioner [~~in writing~~].

(b) Public Notice. The [~~An~~] applicant [~~seeking to change its name~~] must publish a public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published in the county where the savings bank has its home office.

(c) Request for Hearing; Deadline to Protest. A person affected by the proposed name change may protest or otherwise request a hearing on the change of name application as provided by Finance Code §92.063. Any person affected by the proposed name change and desiring to protest the application or otherwise requesting a hearing on the application must file a written protest with SML [~~the Department~~] within 10 days from the date the public notice was made as provided by subsection (b) of this section, otherwise, any right or opportunity

to protest or have a hearing on the application under Finance Code §92.063 is deemed waived.

(d) - (f) (No change.)

(g) Assumed Names. A savings bank seeking to do business under an assumed name must file an Assumed Name Certificate with the Texas Secretary of State and provide SML with a file-stamped copy. An assumed name is deemed approved by the Commissioner on receipt of the file-stamped certificate. A savings bank must register the assumed name and obtain similar approval in any other state or territory where the savings bank does business with the assumed name and provide evidence of such to the Commissioner.

§75.123. *Certificate of Formation or Bylaws Amendments.*

(a) Approval Required. A savings bank may not amend its certificate of formation, bylaws, or other governing documents without first filing an application and obtaining the prior written approval of the Commissioner.

(b) (No change.)

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

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Department of Savings and Mortgage Lending

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For further information, please call: (512) 475-1535



DIVISION 3. OFFICE LOCATIONS

7 TAC §75.131, §75.133

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code: §92.063; and §96.002(a)(2) and (14).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.131. *Additional Office (Branch Office and Mobile Facility).*

(a) Approval Required. A savings bank may not establish [a branch office or] an additional office as provided by §75.202 of this title (relating to Types of Additional Offices) without first filing an application and obtaining the prior written approval of the Commissioner. The application must include: [A branch office application is required if a state savings bank would like to establish and operate a courier/messenger service pursuant to §75.202 of this title (relating to Types of Additional Offices).]

(1) a statement of intent to establish the office;

(2) the exact location of the proposed site including street address. (For a mobile facility, specify the communities in which the vehicle will operate and the manner in which it will be used);

(3) a summary of the due diligence performed to determine the utility and viability of the office; and

(4) any other information deemed appropriate by the Commissioner.

[(b) Required Information. The application must provide the following information, subscribed to and sworn before a notary:]

[(1) proposed location for the office;]

[(2) the personnel and office facilities to be provided;]

[(3) the estimated cost and projected profits of such office; and]

[(4) any information deemed necessary by the Commissioner to render a determination on the matters set forth in subsection (e) of this section.]

[(e) Determination by Commissioner. The Commissioner will not approve the application unless the Commissioner determines that:]

[(1) the operation and condition of the savings bank affords no basis for supervisory objection;]

[(2) the character, responsibility and general fitness of the current management of the savings bank warrant a belief that the branch office will be operated in accordance with the Texas Savings Bank Act; and]

[(3) the financial effect of establishing and operating the proposed office will not adversely affect the safe and sound operation of the savings bank.]

[(d) Commencement of Operations. The branch office must commence operations within a period of 12 months after the date of approval unless the Commissioner grants a written extension. No more than one 12-month extension will be approved by the Commissioner, unless good cause for such extension is shown. At the end of any approved extension, if the office has not been opened, the approval for such office is deemed revoked and a new application must be made.]

[(e) Identification of Branch Office; Definition of Community. The proposed location for the branch office must be specifically identified so as to exactly locate it within the community to be served. The term "community" as used in Finance Code §92.060 means the geographical area surrounding the proposed location of the branch office within which persons would be reasonably anticipated to patronize the proposed office in the ordinary course of their business.]

(b) [(f)] Public Notice. The [An] applicant [seeking to establish a branch office] must publish a public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published [both] in the county where the proposed [branch] office will [is to] be located [and in the county where the savings bank has its home office].

(c) [(g)] Request for Hearing; Deadline to Protest. A person affected by the proposed [branch] office may protest or otherwise request a hearing [on the branch office application] as provided by Finance Code §92.063. Any person affected by the proposed [establishment of a branch] office and desiring to protest the application or otherwise request a hearing on the application must file a written protest with SML [within the Department] within 10 days from the date the public notice was made as provided by subsection (b) [(f)] of this section, otherwise any right or opportunity to protest or have

a hearing on the application under Finance Code §92.063 is deemed waived.

(d) Persons Affected by an Additional Office. A person is affected by an additional office for purposes of Finance Code §92.063 only if the proposed office, if approved, would unduly harm an existing savings bank or federal savings bank doing business in the community where the proposed office will be located. A person requesting a hearing must provide information in support of their request indicating they are a savings bank or federal savings bank that will be unduly harmed by the proposed additional office. The Commissioner will review the request for hearing and determine, in his or her sole discretion, if the person might be affected so as to require a hearing.

(e) [(h)] Hearing. If a hearing is required, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title (relating to Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings).

(f) [(i)] Time of Decision. To the extent a hearing on the application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by subsection (c) [(g)] of this section.

(g) [(j)] Offices in Other States or Territories. To the extent permitted by the laws of the state or territory in question, and subject to the requirements of this chapter, a savings bank may establish [branch] offices in any state or territory of the United States. Each application for permission to establish such [a branch] office must comply with the requirements of this section, and must include evidence of approval by [a certified copy of an order from] the appropriate banking agency approving the office or unit, or other evidence satisfactory to the Commissioner that all state or territorial regulatory requirements have been satisfied. The Commissioner will not approve the application unless the Commissioner determines that all requirements of this chapter applicable to the office have been met, and that all applicable requirements of the laws of the state or territory in question have been met.

(h) Deadline to Open. The office must open for business within 24 months after the date of approval, unless the Commissioner grants an extension in writing. If the office fails to open for business within this period, approval for the office is deemed revoked.

§75.133. Relocate Home or Additional Office.

(a) Approval Required. A savings bank may not move its home office or any additional office as provided by §75.202 of this title (relating to Types of Additional Offices) beyond its immediate vicinity without first filing an application and obtaining the prior written approval of the Commissioner. The application must include:

- (1) a statement of intent to relocate the office;
- (2) the exact location of the proposed site including street address. (For a mobile facility, specify the communities in which the vehicle will operate and the manner in which it will be used);
- (3) a summary of the due diligence performed to determine the utility and viability of the office; and
- (4) any other information deemed appropriate by the Commissioner.

[(b) Immediate Vicinity. The term "Immediate vicinity" as used in Finance Code §92.063 means the area within a radius of 1 mile from the present location of such office. However, if the office to be relocated has not been open for business at its present location for more than 2 years, approval in accordance with this section is required as if the office were not within the immediate vicinity. If the existing office has been open for more than 2 years, prior written notice must be provided to the Commissioner describing the saving bank's plans for the relocation, including the precise location for the new office, the date of the relocation, and information supporting that the new location of the office will be within the immediate vicinity of the present location and does not require the Commissioner's approval.]

[(c) Relocation of Existing Offices. Notwithstanding subsection (a) of this section, a savings bank may retain its existing home office as a branch office and relocate its home office to another established branch office by providing the Commissioner with prior written notice. Upon such notification, the establishment of such office is deemed to be an approved branch office of the savings bank.]

[(d) Required Information. Each application for prior approval, or prior written notice, whichever is applicable, must provide the following information, subscribed to and sworn before a notary:]

- [(1) the addresses of the existing or new office location;]
- [(2) a description of the land and building to be built or leased and terms thereof;]
- [(3) estimates of the cost of removal to and maintenance of the new location;]
- [(4) whether any affiliated parties are involved in transactions regarding the purchase, sale, construction, or lease of the new proposed office;]
- [(5) evidence of the board's approval of the relocation; and]
- [(6) any other information deemed necessary by the Commissioner.]

[(e) Determination by Commissioner. The Commissioner will not approve the application unless the Commissioner determines that all requirements for approval of a branch office (§75.131 of this title, relating to Branch Office) have been met.]

(b) [(f)] Public Notice. The [An] applicant [seeking to change the location of the home or an additional office] must publish a public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published in the county where the office is presently located[, and the county where the proposed new location is located[, and the county where the savings bank has its home office].

(c) [(g)] Request for Hearing; Deadline to Protest. A person affected by the proposed change in home or additional office location may protest or otherwise request a hearing on the application, as provided by Finance Code §92.063. Any person affected by the proposed change in home or branch office location and desiring to protest the application or otherwise requesting a hearing on the application must file a written protest with SML [the Department] within 10 days from the date the public notice was made as provided by subsection (b) [(f)] of this section, otherwise any right or opportunity to protest or have a hearing on the application under Finance Code §92.063 is deemed waived.

(d) Persons Affected by the Relocation. A person is affected by the relocation of a home or additional office for purposes of Finance Code §92.063 only if the proposed relocation, if approved, would unduly harm an existing savings bank or federal savings bank doing busi-

ness in the community where the office will be relocated. A person requesting a hearing must provide information in support of their request indicating they are a savings bank or federal savings bank that will be unduly harmed by the relocated office. The Commissioner will review the request and determine, in his or her sole discretion, if the person might be affected so as to require a hearing.

(c) [(h)] Hearing. If a hearing is required, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title (relating to Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings).

(f) [(+)] Time of Decision. To the extent a hearing on the application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal or decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by subsection (c) [(g)] of this section.

(g) Immediate Vicinity. The term "immediate vicinity" as used in Finance Code §92.063 means the area within a one-mile radius from the present location of such office. A savings bank seeking to relocate an office within the immediate vicinity must give prior written notice to the Commissioner describing the saving bank's plans for the relocation, including the effective date of the relocation, and information showing that the new location of the office will be within the immediate vicinity of the present location and does not require approval.

(h) Relocation of Existing Offices. Notwithstanding subsection (a) of this section, a savings bank may retain its existing home office as a branch office and relocate its home office to an existing branch office by giving prior written notice to the Commissioner, including the effective date of the relocation. Upon such notification, the establishment of such offices is deemed approved by the Commissioner.

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

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Department of Savings and Mortgage Lending

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7 TAC §75.132

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks.

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.132. Mobile Facility.

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

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DIVISION 4. REORGANIZATION, MERGER, CONSOLIDATION, CONVERSION, AND PURCHASE[_s] AND ASSUMPTION AND ACQUISITION

7 TAC §§75.141 - 75.143, 75.145

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: Chapter 92, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. §75.141 and §75.142 are also proposed under the authority of, and to implement, Finance Code: Chapter 92, Subchapters C, H, and I; and §96.002(a)(2) and (13). §75.143 is also proposed under the authority of, and to implement, Finance Code: Chapter 92, Subchapter F; and §96.002(a)(2) and (13). §75.145 is also proposed under the authority of, and to implement, Finance Code: §92.052; and §96.002(a)(2) and (13).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.141. *Reorganization, Merger, Consolidation, or Purchase and Assumption Transaction - Resulting in a Savings Bank.*

(a) Applicability. This section governs:

(1) (No change.)

(2) A purchase and assumption transaction by a savings bank as purchaser, including the purchase of assets from an entity that is not a financial institution. A savings bank must apply for and obtain approval for a purchase and assumption transaction if the purchase price is greater than three times the saving bank's unimpaired capital and surplus, or if the purchase involves potentially substantial risks to safety and soundness.

(b) (No change.)

(c) Plan Required. Any savings bank seeking to reorganize, merge, and/or consolidate or to engage in a purchase and assumption transaction in which the resulting institution will be a savings bank must do so pursuant to a plan adopted by the board and filed with the Commissioner as a part of an application for approval. [Purchase and assumption transactions include purchases of assets, deposit accounts, or other liabilities in bulk not made in the ordinary course of business.]

(d) - (e) (No change.)

(f) Request for Hearing; Deadline to Protest. Any interested person desiring to protest the plan and application or otherwise request a hearing on the plan and application must file a written protest with SML [the Department] within 10 days from the date the public notice was made as provided by subsection (e) of this section, otherwise any right or opportunity to protest or have a hearing on the application under Finance Code §92.352 is deemed waived.

(g) - (h) (No change.)

(i) Transactions Involving Financial Institutions in Other States or Territories. To the extent permitted by the laws of the state or territory in question, and subject to the requirements of this section, a savings bank may acquire, by merger or purchase of stock, a financial institution incorporated under the laws of another state or territory. Each such application must include evidence of approval by [a certified copy of an order from] the appropriate banking agency [state regulatory authority approving the merger or acquisition], or other evidence satisfactory to the Commissioner that all state or territorial regulatory requirements have been satisfied. The Commissioner will not approve such an application unless the Commissioner determines that all requirements of this section have been met, and all applicable requirements of the laws of the state or territory in question have been met.

§75.142. *Exemption for Supervisory Merger.*

(a) (No change.)

(b) For purposes of this section, unsafe condition means that the savings bank is (or savings banks are) insolvent or in imminent danger of insolvency, or that there has been a substantial dissipation of assets or earnings due to any violation(s) of applicable law, rules, or regulations, or to any unsafe or unsound practice or practices; or that the savings bank is in an unsafe and unsound condition to transact business in that there has been a substantial reduction of its capital; or that the savings bank and its directors and officers have violated any material conditions of its charter or bylaws, the terms of any order issued by the Commissioner, or any agreement between the savings bank and the Commissioner; or that the savings bank, its directors, and officers have concealed or refused to permit examination of the books, papers, accounts, records, and affairs, of the savings bank by the Commissioner or other duly authorized personnel of SML [the Department]; or any other condition affecting the savings bank which the Commissioner and the board agree place the savings bank in an unsafe condition.

(c) (No change.)

§75.143. *Reorganization, Merger, or Conversion by a Savings Bank to Another Financial Institution Charter.*

(a) - (c) (No change.)

(d) The Commissioner is deemed to have consented to the reorganization, merger or conversion into another type of financial institution charter at the time SML [the Department] notifies the savings bank that the filing made in accordance with this section is complete and has been accepted for filing as provided by §75.101 of this title (relating to Application Filing Requirements). Upon compliance with the provisions of this section and the granting of a successor charter by the appropriate banking agency, a copy of which must be filed with SML [the Commissioner], the savings bank receiving the new charter ceases to exist as a savings bank and will no longer be subject to the jurisdiction of the Commissioner. The foregoing notwithstanding, SML [the Commissioner] must receive the original charter certificate or a certified affidavit of lost certificate in order to be released from the requirement to pay annual assessments as provided by §75.251 of this title (relating to Annual Assessments.)

§75.145. *Mutual to Stock Conversion.*

(a) A savings bank may not convert from a mutual savings bank to a stock savings bank without first filing an application and obtaining the prior written approval of the Commissioner. The application for mutual to stock conversion must include:

(1) - (3) (No change.)

(b) - (c) (No change.)

(d) Public Notice. An application for mutual to stock conversion is deemed to be a complete application at the time SML [the Department] notifies the applicant that application is complete and has been accepted for filing as provided by §75.101 of this title (relating to Application Filing Requirements). Upon receipt of such notice, the proposed incorporators must publish a public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published in each county in which the savings bank has an office, and must prominently post the notice in each of its offices where it conducts business with customers in person.

(e) - (j) (No change.)

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

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DIVISION 5. EXPEDITED APPLICATIONS

7 TAC §75.151, §75.152

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code §96.002(a)(2).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.151. *Eligible Institution.*

An eligible institution is a financial institution that:

(1) (No change.)

(2) received a composite rating of either 1 or 2 as defined by the Uniform Financial Institutions Rating System (CAMELS) at the most recent examination by SML [the Department] or the federal banking agency [regulatory agencies], and management is rated either 1 or 2;

(3) received a Community Reinvestment Act [CRA] and compliance rating of satisfactory or above at the savings bank's most recent inspection by the [appropriate] federal banking agency;

(4) - (5) (No change.)

§75.152. Expedited Applications.

(a) An application filed by an eligible institution as defined in §75.151 of this title (relating to Eligible Institution) is given expedited treatment for the following application types: [may file an expedited filing in lieu of an application required pursuant to §75.131 of this title (relating to Branch Office), §75.132 of this title (relating to Mobile Facility), §75.133 of this title (relating to Relocate Home or Branch Office Location), or §75.111 of this title (relating to Reorganization, Merger, Consolidation or Purchase and Assumption Transaction - Resulting in a Savings Bank), and simultaneously tender the required filing fee pursuant to §75.102 of this title (relating to Application Fees and Charges).]

(1) §75.131 of this title (relating to Additional Office (Branch Office and Mobile Facility));

(2) §75.133 of this title (relating to Relocate Home or Additional Office); and

(3) §75.141 of this title (relating to Reorganization, Merger, Consolidation, or Purchase and Assumption Transaction - Resulting in a Savings Bank).

(b) Required Information. The application [An expedited filing] must include all information required for a non-expedited application. [the following items, unless waived in writing by the Commissioner:]

{(1) a detailed description of the transaction;}

{(2) a pro forma balance sheet and income statement for all parties to the transaction, including adjustments, reflecting the proposed transaction as of the most recent quarter ended immediately prior to the filing of the application, demonstrating that the resulting state savings bank is well capitalized as defined by 12 C.F.R. §324.403, including pro forma financials for the first four quarters after the effective date of the transaction;}

{(3) a certified resolution of the board and, if required, shareholders approving the proposed transaction;}

{(4) copies of all other required regulatory notices or filings submitted concerning the transaction; and}

{(5) evidence satisfactory to the Commissioner that a public notice of the application has been published and effected as provided by §75.103 of this title (relating to Public Notice of Application), published in each county where a non-expedited application is required to be published (however, the requirement for the publication to be preapproved by the Commissioner does not apply to an application made in accordance with this section, and the notice may be published contemporaneously with the application being submitted; provided, the notice is otherwise deemed to be acceptable to the Commissioner).}

(c) Public Notice. The applicant must publish a public notice of the application to the same extent and in the same manner required of a non-expedited application. The foregoing notwithstanding, the requirement for the public notice to be approved by the Commissioner prior to publishing does not apply to an expedited application, and the notice may be published contemporaneously with the application being filed, provided the notice is deemed acceptable to the Commissioner.

(d) [(e)] The Commissioner will render a decision on the expedited application within 30 days after the date the expedited filing is complete and has been accepted for filing as provided by §75.101

of this title (Relating to Application Filing Requirements), provided, the application is not protested or a hearing is not otherwise requested. The Commissioner may, at any time before the time period to render a decision on the application has expired, elect to refer the expedited application to a hearing. If a hearing is required, consideration of the application will proceed in the same fashion as a non-expedited application.

(e) [(d)] The applicant bears the burden to supply all material information necessary to enable the Commissioner to make a fully informed decision regarding the expedited filing, including but not limited to, the applicant's eligibility to make the application on an expedited basis in accordance with §75.151 of this title (relating to Eligible Institution).

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DIVISION 7. CAPITAL NOTES AND DEBENTURES [DEBNETURES]

7 TAC §75.171

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code: §96.002(a)(11); and §93.004(b).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.171. Capital Notes and Debentures.

(a) Approval Required. No savings bank may issue and sell its capital notes or debentures without first filing an application and obtaining the prior written approval of the Commissioner. The Commissioner, in approving the issuance and sale, may impose any conditions the Commissioner determines necessary with regard to safety and soundness and maintenance of adequate financial condition particularly in areas of preservation of capital, quality of earnings, and adequacy of reserves.

(b) (No change.)

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SUBCHAPTER C. OPERATIONS DIVISION 1. OFFICE LOCATIONS

7 TAC §75.201, §75.202

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code: §92.063; and §96.002(a)(14).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.201. Approval of Offices Required; Closing an Office; Activities Not Requiring an Approved Office.

(a) Approval Required. A [No] savings bank may not establish an additional office[; maintain,] or relocate its home office[;] or an approved additional office as provided by §75.202 of this title (relating to Types of Additional Offices), without first submitting an application and obtaining the prior written approval of the Commissioner, except as otherwise provided by §75.133 of this title (relating to Relocate Home or Additional Office).

(b) - (d) (No change.)

(e) Activities Not Requiring an Approved Office. The following activities of a savings bank, or any combination thereof, may be performed at a location other than the home or a branch office and such location does not constitute an "additional office" requiring notice to or the prior approval of the Commissioner for purposes of Finance Code §92.063:

(1) - (7) (No change.)

(8) A savings bank may establish a messenger service that is operated by a savings bank or its affiliate that picks up and delivers items relating to transactions in which deposits are received or checks paid or money lent, provided the messenger service is approved by the federal banking agency.

§75.202. Types of Additional Offices.

The following types of additional offices may be established [~~and maintained~~] by a savings bank:

(1) a branch office where deposits are received or checks paid or money lent [~~offices at which the savings bank may transact any business that could be done in the home office~~]; and

(2) a mobile facility that does not have a single permanent site and uses a vehicle that travels to various locations to enable the public to conduct banking business, and that may serve defined locations on a regular schedule or may serve a defined area at varying times and locations (also known as a mobile branch); [~~facilities at which the savings bank may transact any business of the institution which could~~

be done in the home office (a detailed record of the transactions at such facility must be maintained); and]

~~[(3) courier/messenger service to transport items relevant to the bank's transactions with its customers, including courier services between financial institutions.]~~

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DIVISION 2. BOOKS, RECORDS, ACCOUNTING PRACTICES, FINANCIAL STATEMENTS, AND RESOURCES

7 TAC §75.223, §75.228

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. §75.223 is also proposed under the authority of, and to implement, Finance Code: §96.002(a)(4), (7), (8), and (11); §96.051; and §96.053. §75.228 is also proposed under the authority of, and to implement, Finance Code: §96.002(a)(6); and §96.053.

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.223. Financial Statements; Annual Reports; Audits.

For safety and soundness purposes, no later than 90 days after its fiscal year end, each savings bank is required to submit [~~to the Department~~] the results and findings of an independent audit of its financial statements and all correspondence reasonably related to the audit to SML. The audit must [~~is to~~] be performed in accordance with generally accepted auditing standards and the provisions of the FDIC set forth in 12 C.F.R. §363.2 and §363.3, except for [~~with the exception of~~] any matters specifically addressed by this chapter or [~~section~~]; the Texas Savings Bank Act[; or the rules (regulations) adopted thereunder].

§75.228. Call Reports.

(a) Filing Requirements. Call reports must be filed with the Federal Financial Institutions Council (FFIEC) by the deadlines established by the FFIEC. The call report must be filed using the current form prescribed by the FFIEC.

(b) Duty to File Complete and Accurate Reports. The call report must contain complete and accurate information at the time it is filed. A savings bank must act diligently to compile all information necessary to complete the call report in advance of the deadline to file the call report. A call report containing incomplete or inaccurate information is deemed to be a failure to file the call report. The filing of incomplete or inaccurate information, even on a temporary basis with

the intent to amend the call report with complete and accurate information, constitutes a violation and may result in an enforcement action.

(c) Amended Filings. If a savings bank amends its call report, it must provide written notice to the Commissioner and provide an explanation of why the amended filing was necessary and a summary of the specific information amended.

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

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DIVISION 5. ASSESSMENTS AND FEES

7 TAC §75.251, §75.252

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code: §16.003(c); and §91.007. §75.252 is also made under the authority of, and to implement, Finance Code §96.055.

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.251. Annual Assessments.

(a) Annual assessment. All savings banks chartered under the laws of the state and all foreign savings banks (as defined by Finance Code §91.002 [~~the Texas Savings Bank Act~~]) holding a certificate of authority to do business in this state must pay [~~to the department~~] an annual assessment fee to SML in an amount determined by the Commissioner as provided by subsection (c) of this section in accordance with the rate requirements set by the Finance Commission [~~of Texas~~], and subject to the maximum assessment rates established by subsection (d) of this section. Information [The Department will maintain on its website information] concerning current rate requirements is available on SML's website (sml.texas.gov).

(b) Payment of Assessment. The annual assessment must be paid in quarterly installments. Upon receipt of a written invoice from SML [~~the department~~], the savings bank must pay the assessment fee by electronic/ACH payment, or by another method, if directed to do so by SML [~~the Department~~].

(c) Determination of assessment. The assessment will be determined based on either the total assets, or total risk-weighted assets of the savings bank, whichever results in the lowest fee being assessed. The valuation of assets will be determined as of the close of the calendar quarter immediately preceding the effective date of the assessment. A savings bank's total assets or total risk-weighted assets will be derived from the savings bank's call report [Federal Financial Institutions Examination Council consolidated report of condition and income (call

report)], filed in accordance with federal law]. If a savings bank is not required [~~by applicable federal law~~] to disclose its total risk-weighted assets in the call report, the savings bank may voluntarily report [~~to the Commissioner~~] information concerning its total risk-weighted assets to the Commissioner for purposes of calculating its assessment, which must be provided to the Commissioner in the manner and within the time prescribed by the Commissioner; otherwise, the assessment will be based on the savings bank's total assets.

(d) Maximum Assessment Rates. The assessment rates set by the Finance Commission [~~of Texas~~] may not exceed the maximum rates established in the following rate schedule:

Figure: 7 TAC §75.251(d) (No change.)

§75.252. Fee for Special Examination.

(a) A special examination is one that is conducted outside the context of a savings bank's annual examination and includes, but is not limited to, examinations of a savings bank holding company, interstate branches of savings banks in Texas as the host state, and a savings bank's affiliates and third-party service providers. The savings bank or other regulated entity that is the subject of the special examination is subject to a fee and liable for SML's [~~the Department's~~] costs as provided by this section in order to recoup the salary expense of the examiner(s) plus a proportionate share of SML's [~~Department~~] overhead allocable to the special examination, and the actual costs by the examiner in conducting the special examination.

(b) The fee for a special examination under this section will be calculated at a rate not to exceed \$75 per examiner per hour. The entity that is the subject of the examination must also pay [~~to the Department~~] an amount for actual travel expenses and costs incurred by SML's [~~the Department's~~] examiner(s), including mileage, public transportation, food, and lodging. The Commissioner, in his or her sole discretion, may lower the applicable rate for the examination fee or waive, in whole or in part, any fees or costs chargeable in accordance with this section.

(c) (No change.)

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DIVISION 6. COMPLAINT PROCEDURES

7 TAC §75.261

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code: Chapter §96.002(a)(11).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.261. [*Savings Bank*] *Complaint Notice* [*Notes*].

[(a)] A savings bank must give written notice to its customers concerning SML's regulatory oversight. The notice must be in the current form prescribed by SML and posted on its website (sml.texas.gov). A savings bank is deemed to be in compliance with this section if: [Definitions.]

(1) The savings bank provides the notice to the customer within 30 days after establishing a customer relationship. The notice may be included in an account agreement, a loan agreement, an initial privacy notice, or similar; [Privacy notice means any notice which a state savings bank gives regarding a consumer's right to privacy, regardless of whether it is required by a specific state or federal law or given voluntarily.]

(2) The savings bank conspicuously posts the notice in each area where the savings bank conducts business with customers in person. The notice is deemed to be conspicuously posted if it is posted in the same place as other required notices and disclosures (such as the equal housing lending poster, Community Reinvestment Act notice, and Home Mortgage Disclosure Act notice); and [Required notice means a notice in a form set forth or provided for in subsection (b)(1) of this section.]

(3) The savings bank posts the notice on each website of the savings bank, other than a social media site, that is accessible by the public and either used to conduct banking business or from which the savings bank advertises to solicit such business. The notice is deemed to be conspicuously posted when it is displayed on the initial or home page of the website (typically the base-level domain) or is contained in a linked page with the link to such page being readily apparent on such initial or home page.

[(b) Notice of how to file complaints.]

[(1) In order to let its consumers know how to file complaints, state savings banks must use the following notice: The (name of state savings bank) is chartered under the laws of the State of Texas and by state law is subject to regulatory oversight by the Department of Savings and Mortgage Lending. Any consumer wishing to file a complaint against the (name of state savings bank) should contact the Department of Savings and Mortgage Lending through one of the means indicated below: In Person or by Mail: 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705-4294, Phone: (877) 276-5550, Fax: (512) 936-2003, or through the Department's website at www.sml.texas.gov.]

[(2) A required notice must be included in each privacy notice that a state savings bank sends out.]

[(3) Regardless of whether a state savings bank is required by any state or federal law to give privacy notices, each state savings bank must take appropriate steps to let its consumers know how to file complaints by giving them the required notice in compliance with paragraph (1) of this subsection.]

[(4) The following measures are deemed to be appropriate steps to give the required notice:]

[(A) In each area where a state savings bank conducts business on a face-to-face basis, the required notice, in the form specified in paragraph (1) of this subsection, must be conspicuously posted. A notice is deemed to be conspicuously posted if a customer with 20/20 vision can read it from the place where he or she would typically conduct business or if it is included on a bulletin board, in plain view, on which all required notices to the general public (such as equal hous-

ing posters, licenses, Community Reinvestment Act notices, etc.) are posted.]

[(B) For customers who are not given privacy notices, the state savings bank must give the required notice when the customer relationship is established.]

[(C) The required notice must be posted on each website of the savings bank that is accessible by the public and either used to conduct banking activities or from which the savings bank advertises to solicit such business. The required notice is deemed to be conspicuously posted on a website when it is displayed on the initial or home page of the website (typically the base-level domain name) or is otherwise contained in a linked page with the link to such page prominently displayed on such initial or home page.]

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SUBCHAPTER D. LOANS, INVESTMENTS, SAVINGS, AND DEPOSITS

DIVISION 1. AUTHORIZED LOANS AND INVESTMENTS

7 TAC §75.306

Statutory Authority

This proposal is made under the authority of Finance Code: §11.302, authorizing the commission to adopt rules applicable savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal is also made under the authority of, and to implement, Finance Code §96.002(a)(16).

This proposal affects the statutes in Finance Code Title 3, Subtitle C.

§75.306. *Loans to and Transactions with Officers, Directors, Affiliated Persons, and Employees.*

All transactions, including loans, involving officers, directors, affiliated persons, controlling persons or employees are subject to the requirements of Federal Reserve Board Regulations O and W, which sections are hereby incorporated by reference. SML [The Department] will monitor and enforce compliance with such provisions.

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

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PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 85. PAWNSHOPS AND CRAFTED PRECIOUS METAL DEALERS

SUBCHAPTER A. RULES OF OPERATION FOR PAWNSHOPS

DIVISION 4. OPERATION OF PAWNSHOPS

7 TAC §85.402, §85.406

The Finance Commission of Texas (commission) proposes amendments to §85.402 (relating to Recordkeeping) and §85.406 (relating to Law Enforcement Reporting) in 7 TAC Chapter 85, Subchapter A, concerning Rules of Operation for Pawnshops.

The rules in 7 TAC Chapter 85, Subchapter A govern pawnshops. In general, the purpose of the proposed rule changes to 7 Chapter 85, Subchapter A is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039.

Proposed amendments to §85.402 would update recordkeeping requirements for pawnshops. Pawnshops are required to maintain transaction records under Texas Finance Code, §371.152, and are required to allow the OCCC to access records under Texas Finance Code, §371.202. Currently, provisions throughout §85.402 refer to both paper and electronic recordkeeping systems. A proposed amendment to §85.402(b) would rearrange language to refer to electronic recordkeeping systems before referring to paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Additional proposed amendments to §85.402 relate to data security recordkeeping. A proposed amendment at §85.402(i)(1) specifies that licensees must maintain written policies and procedures for an information security program to protect consumers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another proposed amendment at §83.402(i)(2) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. A proposed amendment at §83.402(j) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. Data security is a crucial issue. The OCCC's 2025-2029 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The proposed data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

A proposed amendment to §85.406 would revise a requirement related to law enforcement reporting. Pawnshops are required to allow peace officers to inspect transaction records under Texas Finance Code, §371.204. Currently, §85.406 provides suggested guidelines for pawnshops to report transactions electronically to law enforcement agencies. A proposed amendment to §85.406(b)(1) would remove a reference to transmitting information to law enforcement by disk, because the OCCC understands that disks are no longer commonly used.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules, and will better enable licensees to comply with Texas Finance Code, Chapter 371 and related legal requirements.

The OCCC does not anticipate economic costs to persons who are required to comply with the rule changes as proposed. If there are economic costs, then the OCCC anticipates that these will be minimal. Regarding the proposed amendments related to information security programs and data breach notifications in §85.402, licensees are required to develop this information by existing statutes and regulations outside of the proposed amendments, so any costs do not result from the proposed amendments.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §85.402 by adding references to certain cybersecurity-related information. The proposal would limit current §85.406 by removing a reference to disks. The proposal would not repeal a current regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

In March 2026, the OCCC issued an advance notice of rule review, seeking informal feedback on the rule review. Notice of the review of 7 TAC Chapter 85, Subchapter A was published in the *Texas Register* on April 3, 2026 (51 TexReg 2257). The OCCC

and the commission did not receive any comments in response to these notices.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review. The OCCC did not receive any written precomments on the rule text draft.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. The commission invites any comments with information related to the cost, benefit, or effect of the proposed rule changes, including any applicable data, research, or analysis, from any person required to comply with the proposed rule changes or any other interested person. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas Finance Code, §371.006, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 371 (the Texas Pawnshop Act).

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 371. In addition, Texas Finance Code, §11.304 authorizes the Finance Commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

§85.402. *Recordkeeping.*

(a) (No change.)

(b) Record retention. Any required book, record, or instrument pertaining to a transaction, whether electronic or paper [~~or electronic~~], must be available for a minimum of two years from the date of the last recorded event. Records must be available for inspection during normal business hours by the commissioner's authorized representative. For purposes of this section, the date of the last recorded event is the date a pledged item is taken into inventory, redeemed, renewed, seized, or voided.

(c) - (h) (No change.)

(i) Information security program. A licensee must maintain the following for an information security program:

(1) written policies and procedures for an information security program to protect consumers' customer information under the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314; and

(2) if a licensee maintains customer information concerning 5,000 or more consumers, a written incident response plan and written risk assessments under 16 C.F.R. §314.4.

(j) Data breach notifications. A licensee must maintain the following for data breach notifications:

(1) the text of any data breach notification provided to consumers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification; and

(2) any data breach notification provided to a government agency, including any notification provided to the Office of the Attorney General under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification.

§85.406. *Law Enforcement Reporting.*

(a) Reporting requirements. The information on the pawn ticket must be made available to the law enforcement agency electronically or through the production of a separate copy of the pawn ticket.

(b) Suggested electronic reporting guidelines. These suggested guidelines are intended to give pawnshops considerable flexibility to fit individual needs while providing some guidance. Modifications to the guidelines may be made without the loss of protection from any liability defense. Electronic reporting is voluntary and should occur under mutually acceptable terms to the pawnbroker and the law enforcement agency. Information reported electronically should be transmitted by a method mutually acceptable to both the pawnshop and the law enforcement agency. The suggested guidelines are:

(1) the transmission be made using a [~~disk,~~] flash drive, remote access to secure websites maintained by law enforcement, or remote access to secure bulletin boards or websites;

(2) the information be provided in comma-delimited ASCII text with field titles as the first record of the transmission;

(3) the information be sent in batches no smaller than the daily activity;

(4) the information include all purchase and pawn transactions in a single transmission; and

(5) the law enforcement agency not be given direct access to a pawnshop's computer system.

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

Filed with the Office of the Secretary of State on June 19, 2026.

TRD-202602508

Matthew Nance

General Counsel

Office of Consumer Credit Commissioner

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-7660

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TITLE 16. ECONOMIC REGULATION

**PART 2. PUBLIC UTILITY
COMMISSION OF TEXAS**

**CHAPTER 25. SUBSTANTIVE RULES
APPLICABLE TO ELECTRIC SERVICE
PROVIDERS**

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.61, relating to Transmission and Distribution Pole Structural Integrity Standards, a corresponding form to 16 TAC §25.61(g), and amendments to 16 TAC §25.52, relating to Reliability and Continuity of Service, and §25.94, relating to Report on Infrastructure Improvement and Maintenance. The commission proposes the new rule and corresponding form and the amendments to implement Public Utility Regulatory Act (PURA) §38.006 as established, and PURA §§38.005 and 38.101 as revised, by Senate Bill 1789 during the 89th Regular Texas Legislative Session.

New 16 TAC §25.61 will implement new PURA §38.006 by establishing inspection requirements, a serviceability grading system, and corrective action requirements to be applicable to each electric utility, municipally owned utility, or electric cooperative that operates an in-service electrical pole or tower in this state. New 16 TAC §25.61 will additionally require each of those entities to annually file, as required by a commission-prescribed form, a report demonstrating compliance with the inspection, serviceability grading, and corrective action requirements and retain records related to the same.

Amended 16 TAC §25.52 will implement revised PURA §38.005 by increasing the distribution feeder performance standards for electric utilities and transmission and distribution utilities (TDUs) and authorizing the commission to consider the duration of service interruptions on distribution feeders in determining appropriate enforcement actions against electric utilities or TDUs. Amended 16 TAC §25.94 will implement revised PURA §38.101 by removing the requirement for electric utilities to include in their annual infrastructure improvement and maintenance reports a description of distribution pole inspection activities. The scope of this rulemaking project, with regards to 16 TAC §25.52 and §25.94, is limited to the proposed amendments, any additional changes reasonably related to the proposed amendments, and nonsubstantive changes.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rules, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rules are in effect, the following statements will apply:

- (1) the proposed rules will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rules will create a new regulation;
- (6) the proposed rules will expand an existing regulation;
- (7) the proposed rules will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rules will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rules. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rules will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

James Euton, Project Engineer, Infrastructure Division, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Mr. Euton has determined that for each year of the first five years the proposed rules are in effect the public benefit anticipated as a result of enforcing the rules will be the enhanced reliability of this state's electrical system through increased distribution feeder performance standards applicable to electric utilities and TDUs and standardized inspection, serviceability grading, corrective action, reporting, and record retention requirements applicable to electric utilities, municipally owned utilities, and electric cooperatives that operate in-service electrical poles or towers in this state. The economic costs to persons required to comply with the rules under Texas Government Code §2001.024(a)(5) will vary by person.

Local Employment Impact Statement

For each year of the first five years the proposed sections are in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by July 31, 2026. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by July 31, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rules. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 59432.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

SUBCHAPTER C. INFRASTRUCTURE AND RELIABILITY

16 TAC §25.52, §25.61

Statutory Authority

The amendments and new rule are proposed under Public Utility Regulatory Act (PURA) §§14.001, which grants the commis-

sion the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; 14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; 38.005, which establishes distribution feeder performance standards applicable to electric utilities and TDUs and directs the commission to consider the performance of electric utilities' and TDUs' distribution feeders in determining appropriate enforcement actions; 38.006, which directs the commission to adopt standards for the structural integrity of transmission and distribution poles; and 38.101, which requires electric utilities to annually submit to the commission a report on infrastructure improvement and maintenance activities.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001; 14.002; 38.005; 38.006; and 38.101.

§25.52. *Reliability and Continuity of Service.*

(a) - (b) (No change.)

(c) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise.

(1) - (3) (No change.)

(4) Interruption classifications:

(A) - (C) (No change.)

(D) Major events--Interruptions that result from a catastrophic event that exceeds the design limits of the electric power system, such as an earthquake or an extreme storm. These events must include situations where there is a loss of power to 10% or more of the customers in a region over a 24-hour period and with all customers not restored within 24 hours.

(5) - (8) (No change.)

(d) - (f) (No change.)

(g) System reliability. Reliability standards apply to each utility and are limited to the Texas jurisdiction. A "reporting year" is the 12-month period beginning January 1 and ending December 31 of each year.

(1) (No change.)

(2) Distribution feeder performance. The commission will evaluate the performance of distribution feeders with ten or more customers after each reporting year. Each utility must maintain and operate its distribution system so that no distribution feeder with ten or more customers sustains a SAIDI or SAIFI value for a reporting year that is more than 200% [300%] greater than the system average of all feeders during any two consecutive reporting years.

(3) Enforcement. The commission may take appropriate enforcement action, including action against a utility, if the system and feeder performance is not operated and maintained in accordance with this subsection. In determining the appropriate enforcement action, the commission will consider:

(A) the feeder's operation and maintenance history;

(B) the cause of each interruption in the feeder's service;

(C) the duration of each interruption in the feeder's service;

(D) [~~E~~] any action taken by a utility to address the feeder's performance;

(E) [~~D~~] the estimated cost and benefit of remediating a feeder's performance; and

(F) [~~E~~] any other relevant factor as determined by the commission.

(h) (No change.)

§25.61. *Transmission and Distribution Pole Structural Integrity Standards.*

(a) Applicability. This section applies to an electric utility, a municipally owned utility, or an electric cooperative that operates a transmission or distribution asset in this state.

(b) Definitions.

(1) Entity--an electric utility, a municipally owned utility, or an electric cooperative that operates a transmission or distribution asset in this state.

(2) County, coastal--a county in this state that is defined as a "first-tier coastal county" or "second-tier coastal county" under Section 2201.003 of the Texas Insurance Code.

(3) County, non-coastal--a county in this state that is not defined as a "first-tier coastal county" or "second-tier coastal county" under Section 2201.003 of the Texas Insurance Code.

(4) Structure, non-wood--an in-service electrical pole or tower, including any attached crossarms, davit arms, guy wires, insulators, or supports, operating at any voltage that is constructed of composite, concrete, or steel materials.

(5) Structure, wood--an in-service electrical pole or tower, including any attached crossarms, davit arms, guy wires, insulators, or supports, operating at any voltage that is constructed of wood materials.

(c) Inspections.

(1) Inspection types.

(A) Visual inspection. A visual inspection allows an entity to assess any readily observable damage or defects to a wood or non-wood structure, such as broken insulators, damaged crossarms or davit arms, damaged or missing bolts, extreme rust/corrosion, or slacked or broken guy wires.

(B) Comprehensive inspection. A comprehensive inspection includes a visual inspection as well as a detailed assessment of any structural damage or defects to a wood or non-wood structure, such as below-groundline decay, rot, or loss of strength, structural corrosion or deformation, foundation issues, or poor hardware condition.

(2) Routine inspections.

(A) Structures operated at transmission-level voltage. An entity that operates a wood or non-wood structure at transmission-level voltage must develop and implement an inspection cycle that ensures:

(i) a visual inspection of each structure is conducted annually; and

(ii) a comprehensive inspection of each structure is conducted at least every five years.

(B) Structures operated at distribution-level voltage.

(i) Wood structures in a coastal county. An entity that operates a wood structure at distribution-level voltage in a coastal county of this state must develop and implement an inspection cycle that ensures a comprehensive inspection of each wood structure is conducted at least every eight years.

(ii) Wood structures in a non-coastal county. An entity that operates a wood structure at distribution-level voltage in a non-coastal county of this state must develop and implement an inspection cycle that ensures a comprehensive inspection of each wood structure is conducted at least every 10 years.

(iii) Non-wood structures. An entity that operates a non-wood structure at distribution-level voltage must develop and implement an inspection cycle that ensures a comprehensive inspection of each non-wood structure is conducted at least every 10 years.

(3) Post-event inspections. As soon as practicable, but not later than 30 calendar days, after an event that an entity reasonably expects to have impacted the physical condition of a wood or non-wood structure, the entity that operates the structure must conduct a visual inspection of the structure.

(d) Serviceability grading system. Upon conducting any inspection of a structure required by this section, an entity must assign the structure a serviceability grade.

(1) Pass. A 'Pass' grade applies when the structure meets the applicable strength requirements established by the National Electrical Safety Code (NESC).

(2) Remediate. A 'Remediate' grade applies when the structure does not meet the 'Pass' grade criteria under paragraph (1) of this subsection but can reasonably be restored through repair, reinforcement, treatment, or another means of correction.

(3) Replace. A 'Replace' grade applies when the structure does not meet the 'Pass' grade criteria under paragraph (1) of this subsection and cannot reasonably be restored through repair, reinforcement, treatment, or by another means of correction.

(4) Emergency. An 'Emergency' grade applies when the structure exhibits signs of imminent failure risk or otherwise poses a risk to public safety.

(e) Corrective actions.

(1) Remediation. As soon as practicable, but not more than six months, after the date an entity assigns a structure a 'Remediate' grade under subsection (d) of this section, the entity must restore the structure to the applicable NESC strength requirements through repair, reinforcement, treatment, or by other means of correction.

(2) Replacement. As soon as practicable, but not more than six months, after the date an entity assigns a 'Replace' grade to a structure under subsection (d) of this section, the entity must replace the structure with another structure that meets the applicable NESC strength requirements.

(3) Emergency.

(A) Make-safe. As soon as practicable, but not more than two calendar days, after the date an entity assigns an 'Emergency' grade to a structure under subsection (d) of this section, the entity must make-safe the structure by resolving the structure's imminent failure or public safety risk.

(B) Replacement. As soon as practicable, but not more than six months, after the date the entity resolves the structure's imminent failure or public safety risk, the entity must replace the structure with another structure that meets the applicable NESC strength requirements.

(f) Adoption and attestation by municipally owned utilities and electric cooperatives.

(1) Adoption. In accordance with Public Utility Regulatory Act (PURA) §38.006(d) and Senate Bill 1789, §6(c), as enacted

during the 89th Regular Texas Legislative Session, each municipally owned utility and electric cooperative must adopt the requirements established under subsections (c), (d), and (e) of this section not later than 120 days after the effective date of this section.

(2) Attestation. In accordance with PURA §38.006(f), each municipally owned utility and electric cooperative must file an attestation stating that the municipally owned utility or electric cooperative has adopted standards in compliance with PURA §38.006. The attestation must be:

(A) signed by the municipally owned utility's or electric cooperative's highest-ranking representative, official, or officer with binding authority over the municipally owned utility or electric cooperative; and

(B) filed with the first annual report under subsection (g) of this section after the municipally owned utility or electric cooperative adopts the requirements established under subsections (c), (d), and (e) of this section.

(g) Annual report. Not later than May 1 of each year, an entity must file with the commission a report on the entity's actions and results under subsections (c), (d), and (e) of this section for the prior calendar year as required by a commission-prescribed form.

(h) Record retention. An entity must retain records of the entity's actions and results under subsections (c), (d), and (e) of this section for all structures the entity operates. The entity must retain the records associated with a structure for the entirety of the structure's service life, beginning on the effective date of this section. At a minimum, the entity must retain records related to the:

(1) Identification of the structure, including a unique identifier;

(2) Physical and design characteristics of the structure, including the voltage, support type, construction material, strength rating, and length; and

(3) Installation, inspection, serviceability grading, and corrective action history of the structure, including documentation of:

(A) the date the structure was placed into service;

(B) the dates, types, and methods of inspections performed on the structure;

(C) the serviceability grades assigned to the structure, including, if assigned a serviceability grade other than 'Pass,' a description of the damage or defect resulting in that serviceability grade and the root cause of the damage or defect; and

(D) if assigned a serviceability grade other than 'Pass,' any corrective actions required to restore, replace, or make-safe the structure.

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

Filed with the Office of the Secretary of State on June 18, 2026.

TRD-202602491

Katelyn Lewis

Special Projects Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-7044



SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

16 TAC §25.94

Statutory Authority

The amendments are proposed under Public Utility Regulatory Act (PURA) §§14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; 14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; 38.005, which establishes distribution feeder performance standards applicable to electric utilities and TDUs and directs the commission to consider the performance of electric utilities' and TDUs' distribution feeders in determining appropriate enforcement actions; 38.006, which directs the commission to adopt standards for the structural integrity of transmission and distribution poles; and 38.101, which requires electric utilities to annually submit to the commission a report on infrastructure improvement and maintenance activities.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001; 14.002; 38.005; 38.006; and 38.101.

§25.94. *Report on Infrastructure Improvement and Maintenance.*

- (a) Application. This rule applies to all electric utilities.
- (b) Reports. By May 1st of each year, an electric utility must [shall] file with the commission a report that contains the information described in subsection (c) of this section for the previous calendar year.
- (c) The utility must [shall] include in the report a description of the utility's activities related to:
 - (1) Identifying areas in its service territory that are susceptible to damage during severe weather and hardening transmission and distribution facilities in those areas; and
 - (2) Vegetation management. [; and]
 - [(3) Inspecting distribution poles.]
- (d) Each electric utility must [shall] include in a report required under subsection (b) of this section a summary of the utility's activities related to preparing for emergency operations.

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

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Katelyn Lewis

Special Projects Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-7044



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 100. CHARTERS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING OPEN-ENROLLMENT CHARTER SCHOOLS

The Texas Education Agency (TEA) proposes amendments to §§100.1021, 100.1025, 100.1035, 100.1095, 100.1111, 100.1117, 100.1119, 100.1121, 100.1207, and 100.1211, concerning the commissioner of education's rules for open-enrollment charter schools. The proposed amendment to §100.1207 would specify non-discriminatory enrollment criteria concerning students with records of serious disciplinary or criminal history to align the rule with Texas Education Code (TEC), §12.111, as amended by House Bill (HB) 6, 89th Texas Legislature, Regular Session, 2025. Further proposed amendments would include new charter schools in the list of entities eligible for transfer of property, no-contact provisions for high-performing entity applicants, and clarifications for central administrative officer instructional training requirements.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 100 contains the primary rules governing open-enrollment charter schools in Texas. It outlines the regulations for charter authorization, governance, financial operations, and state oversight established by TEA and the commissioner.

The proposed amendment to §100.1021(d) would remove the citation to §100.1035(d), as that citation does not apply.

Proposed new §100.1025(h) would be added to prohibit high-performing entity applicants from contacting members of the State Board of Education during a certain period.

The proposed amendment to §100.1035 would remove subsection (c)(6), which addresses charter holder requests for high-quality campus designations prior to opening a new campus that is tied to an expansion amendment. The federal grant that required subsection (c)(6) is no longer in place.

The proposed amendment to §100.1035(d)(2)(A) would clarify the commissioner's requirements concerning campus dormancy.

New §100.1095(c)(1)(B)(ii)(I)(-b-) would be added to include new charter schools in the list of entities eligible for transfer of property.

New §100.1111(a)(6) would require each charter school to file an annual disclosure that no school officials, board members, or their close relatives would benefit financially from real estate transactions if the school seeks facilities funding under TEC, §12.106(d).

The proposed amendment to §100.1117(b) would explain the new timelines for board members to complete the Texas Open Meetings Act and Texas Public Information Act trainings, replacing the one-calendar-year timeline.

The proposed amendment to §100.1117(d)(3) would rename the training topic "Evaluating and Improving Student Outcomes" to "Academics and Student Outcomes" to provide consistency and clarity.

The proposed amendment to §100.1119(b) would align the timeline for new governing board members to complete training to be consistent with the new timelines specified in §100.1117(b).

The proposed amendment to §100.1119(e)(1) would move the requirement for central administrative officers to complete 20 additional instructional hours to new subsection (e)(2) and update

the training topic in §100.1119(e)(1)(C) to "Academic and Student Outcomes" to provide consistency and clarity.

New §100.1119(e)(2) would relocate language from §100.1119(e)(1), which requires 20 additional instructional hours for central administrative officers, as listed in §100.1117(d).

New §100.1121(b) would specify the timeline for governing board members and officers to complete their trainings by the last business day in July.

New §100.1207(d)(2)(A)-(C) would detail the non-discriminatory enrollment criteria that may be used to determine a student's ineligibility for enrollment, which would include conduct resulting in placement in a disciplinary or juvenile justice alternative education program, conduct leading to expulsion, or conviction of a criminal offense or adjudication by a juvenile court, to align with TEC, §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025.

The proposed amendment to §100.1211(g) would remove the requirement for a charter school to submit a copy of the school's calendar to TEA, which duplicates an already required calendar submission under §103.1213(e)(3).

FISCAL IMPACT: Marian Schutte, associate commissioner for authorizing and policy, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand existing regulations by requiring additional instructional hours for central administrative office roles, including new charter schools in property disposition processes, and adding new charter schools in the list of entities eligible for transfer of property and no-contact provisions for high-performing entity applicants.

It would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Schutte has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to provide open-enrollment charter schools with clarification on board training topics and timeline, updates to discipline and enrollment policies, and reduced submissions related to school safety and expansion amendments. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins July 3, 2026, and ends August 3, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on July 3, 2026. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

DIVISION 2. COMMISSIONER ACTION AND INTERVENTION

19 TAC §100.1021, §100.1025

STATUTORY AUTHORITY. The amendments are proposed under TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner to adopt rules regarding criteria for granting a charter and providing notification for the establishment of new charters or campuses; TEC, §12.1011, which requires the commissioner to adopt rules regarding charter authorization for high-performing entities; TEC, §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023, which considers open-enrollment charter schools a school district for purposes related to land development standards, licensing, zoning, and various purposes and services; TEC, §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025, which allows the commissioner to adopt rules permitting an open-enrollment charter school to voluntarily participate in any state program available to school districts if the school complies with all terms of the program; TEC, §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025, which outlines required components of an open-enrollment charter to conduct non-discrimination admissions and provides that a charter school may exclude students with documented criminal or serious disciplinary histories; TEC, §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which provides that an open-enrollment charter school may only revise its charter with the approval of the commissioner; TEC, §12.1141, which provides the

commissioner with the authority to adopt rules concerning when and how a charter campus may be designated as a high-quality campus; TEC, §12.115, which allows the commissioner to revoke or reconstitute a charter school's governing body; and TEC, §12.123, requires the commissioner to adopt rules prescribing the training for members of the governing body of a charter school and its officers.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1011; §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023; §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025; §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025; §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1141; §12.115; and §12.123.

§100.1021. Applicability of Law and Rules to Public Senior College or University Charters and Public Junior College Charters.

(a) Except as expressly provided in the rules in this subchapter, or where required by Texas Education Code (TEC), Chapter 12, Subchapter E (College or University or Junior College Charter School), a provision of the rules in this subchapter applies to a public senior college or university charter school or junior college charter school as though the public senior college or university charter school or junior college charter school were granted a charter under TEC, Chapter 12, Subchapter D (Open-Enrollment Charter School).

(b) Section 100.1011(b) of this title (relating to Application Requirements and Selection Process) applies, except that the commissioner of education may adopt a separate application form for applicants seeking a charter to operate a public senior college or university charter school or a public junior college charter school, which need not be similar to the application form adopted under that subsection for other charter applicants. The commissioner may approve or amend this separate application form without regard to the selection cycle referenced in that subsection.

(c) Section 100.1011(b), (c), (e), (g), (h), (j) and (m)-(q) of this title apply unless provided otherwise in the charter contract.

(d) The following provisions of this subchapter do not apply to a public senior college or university charter school or a public junior college charter school:

(1) [~~§100.1035(d) and~~] §100.1113 of this title (relating to [~~Charter Amendment and~~] Delegation of Powers and Duties), except as authorized in the charter contract upon written request of the governing body of the university, college, or junior college;

(2) §100.1127 of this title (relating to Record of Compliance and Disclosure of Non-compliance);

(3) §100.1101 of this title (relating to Improvements to Real Property);

(4) §§100.1131-100.1141 of this title (relating to Applicability of Nepotism Provisions; Exception for Acceptable Performance; General Nepotism Provisions; Relationships By Consanguinity or By Affinity; Nepotism Prohibitions; Nepotism Exceptions; and Enforcement of Nepotism Prohibitions);

(5) §100.1145 and §100.1147 of this title (relating to General Conflict of Interest Provisions and Conflicts Requiring Affidavit and Abstention from Voting);

(6) §100.1203(a) of this title (relating to Records Management); and

(7) §100.1205 of this title (relating to Procurement of Professional Services).

§100.1025. Authorization for High-Performing Entities.

(a) In accordance with Texas Education Code (TEC), §12.1011, notwithstanding TEC, §12.101(b), the commissioner of education may grant a charter to high-performing entities.

(b) For an applicant to be eligible for consideration as a high-performing entity, the applicant must demonstrate one of the following criteria.

(1) The entity is affiliated with a charter operator that operates one or more charter schools in another state. The affiliated charter operator must have performed at an overall level that is comparable to the highest or second highest performance rating category under TEC, Chapter 39, Subchapter C.

(A) The entity must propose to operate the charter school program that is currently implemented in the affiliated charter operator's existing charter schools.

(B) A charter operator may be considered affiliated with an entity if it utilizes shared structures, practices, or materials, including, but not limited to, a shared management structure, shared financial management or staff development practices, or shared proprietary materials, including those related to instruction.

(2) The entity is currently operating charter programs under TEC, Chapter 12, Subchapter C or E. The entity must have performed at an overall level in the highest or second highest performance rating category under TEC, Chapter 39, Subchapter C.

(c) Failure to disclose past or present accountability data is a material violation of the charter.

(d) If the applicant or its affiliate is a high-performing entity, then it may vest management of corporate affairs in a member provided that the entity may change the members of the governing body of the charter holder prior to the expiration of a member's term only with commissioner's written approval.

(e) Entities granted a charter under this provision have an initial contract term of five years.

(f) In determining a charter award for a high-performing entity, the commissioner will consider the criteria identified in §100.1011(d)(4) of this title (relating to Application Requirements and Selection Process) as established for experienced operators.

(g) Section 100.1011(b)(1), (2), and (5) of this title apply, except that the commissioner may adopt a separate application form for high-performing entities seeking a charter to operate a Subchapter D charter school, which need not be similar to the application form adopted under that subsection for other charter applicants. The commissioner may approve or amend this separate application form without regard to the selection cycle referenced in that subsection.

(h) An applicant or any person or entity acting on behalf of a high-performing entity applicant shall not knowingly communicate with any member of the State Board of Education beginning on the date the application is submitted and ending once the entity is found eligible as a high-performing entity. On finding a material violation of the no-contact period, the commissioner may reject the application and deem it ineligible for award.

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

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

TRD-202602528

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 463-9526



DIVISION 3. COMMISSIONER ACTION, PERFORMANCE MONITORING, AND INTERVENTION

19 TAC §100.1035

STATUTORY AUTHORITY. The amendments are proposed under TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner to adopt rules regarding criteria for granting a charter and providing notification for the establishment of new charters or campuses; TEC, §12.1011, which requires the commissioner to adopt rules regarding charter authorization for high-performing entities; TEC, §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023, which considers open-enrollment charter schools a school district for purposes related to land development standards, licensing, zoning, and various purposes and services; TEC, §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025, which allows the commissioner to adopt rules permitting an open-enrollment charter school to voluntarily participate in any state program available to school districts if the school complies with all terms of the program; TEC, §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025, which outlines required components of an open-enrollment charter to conduct non-discrimination admissions and provides that a charter school may exclude students with documented criminal or serious disciplinary histories; TEC, §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which provides that an open-enrollment charter school may only revise its charter with the approval of the commissioner; TEC, §12.1141, which provides the commissioner with the authority to adopt rules concerning when and how a charter campus may be designated as a high-quality campus; TEC, §12.115, which allows the commissioner to revoke or reconstitute a charter school's governing body; and TEC, §12.123, requires the commissioner to adopt rules prescribing the training for members of the governing body of a charter school and its officers.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1011; §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023; §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025; §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025; §12.114,

as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1141; §12.115; and §12.123.

§100.1035. *Charter Amendment.*

(a) Subject to the requirements of this section, the terms of an open-enrollment charter may be revised with the consent of the charter holder by expansion or non-expansion amendment as approved by the commissioner of education.

(b) Information relevant to all amendment requests.

(1) Filing of amendment request. Prior to implementation, the charter holder shall file a request, in the form prescribed, with the Texas Education Agency (TEA) division responsible for charter schools.

(2) Board resolution. The request must be attached to a written resolution adopted by the governing body of the charter holder and signed by a majority of the members indicating approval of the requested amendment.

(3) Relevant information considered. As directed by the commissioner, a charter holder requesting an amendment shall submit current information required by the prescribed amendment form, as well as any other information requested by the commissioner. In considering the amendment request, the commissioner may consider any relevant information concerning the charter holder, including its performance on the Charter School Performance Frameworks (CSPF) adopted by rule in §100.1031 of this title (relating to Performance Frameworks for Subchapters D and E Charter Schools) and §100.1033 of this title (relating to Performance Frameworks for Subchapter G Charter Schools); student and other performance; compliance, staff, financial, and organizational data; and other information.

(4) Best interest of students. The commissioner may approve an amendment only if the charter holder meets all applicable requirements, and only if the commissioner determines that the amendment is in the best interest of students. The commissioner may consider the performance of all charters operated by the same charter holder in the decision to finally grant or deny an amendment.

(5) Conditional approval. The commissioner may grant the amendment without condition or may require compliance with such conditions and/or requirements as may be in the best interest of students.

(6) Required forms and formats. The TEA division responsible for charter schools may develop and promulgate, from time to time, forms or formats for requesting charter amendments under this section. If a form or format is promulgated for a particular type of amendment, it must be used to request an amendment of that type.

(7) Ineligibility. The commissioner will not consider any amendment that is submitted by a charter holder that has been notified by the commissioner of the commissioner's intent to allow the expiration of the charter or intent to revoke the charter. This subsection does not limit the commissioner's authority to accept the surrender of a charter.

(c) Expansion amendments.

(1) Timeline for submission. A charter holder may submit a request for approval for an expansion amendment:

(A) up to 36 months before the date on which the expansion will be effective; and

(B) no later than the first day of March before the school year for which the expansion will be effective or no later than June 30 of each year for which the expansion will be effective for Subchapter G charter schools.

(2) Notification.

(A) Upon receipt of an expansion amendment request by a charter holder, the TEA division responsible for charter schools will notify the following:

(i) the superintendent and the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as defined in §100.1013 of this title (relating to Notification of Charter Application); and

(ii) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as defined in §100.1013 of this title.

(B) To be considered a school district for purposes related to land development standards, licensing, zoning, and various purposes and services, a charter school must meet the notification requirements as outlined in §100.1209 of this title (relating to Municipal Ordinances).

(C) Should a change in the location of a campus be approved after notification but prior to opening, the commissioner of education or the commissioner's designee is required to notify as required by subparagraph (A) of this paragraph based on the zip code of the new location.

(3) Expansion types. A charter holder of an open-enrollment charter may submit, as described by this section, a request for approval for either:

- (A) expedited expansion; or
- (B) discretionary expansion.

(4) Expedited expansion amendments. An expedited expansion amendment allows for the establishment of a new charter campus under Texas Education Code (TEC), §12.101(b-4).

(A) In order to submit an expedited expansion amendment, the charter school must meet the following requirements:

- (i) an accreditation status of Accredited;
- (ii) currently has at least 50% of its student population in grades assessed under TEC, Chapter 39, Subchapter B, or has had at least 50% of the students in the grades assessed enrolled in the school for at least three years;
- (iii) is currently evaluated under the standard accountability procedures for evaluation under TEC, Chapter 39, and received a district rating in the highest or second highest performance rating category under TEC, Chapter 39, Subchapter C, for three of the last five ratings;
- (iv) at least 75% of the campuses rated under the charter school also received a rating in the highest or second highest performance rating category in the most recent ratings; and
- (v) no campus received a rating in the lowest performance rating category in the most recent ratings.

(B) Unless the commissioner provides written notice that the charter holder does not meet the requirements outlined in TEC, §12.101(b-4), within 60 days of the date the charter holder submits a completed expedited expansion amendment, the amendment is considered enacted. If the commissioner denies the amendment, the commissioner must identify the legal and factual basis for denial, including the specific criteria under TEC, §12.101(b-4), that was not met.

(5) Discretionary expansion amendments. A discretionary expansion amendment permits commissioner-approved changes to the terms of an open-enrollment charter school related to expansion.

(A) Discretionary expansion amendment types. There are three types of discretionary amendments.

(i) Maximum enrollment. The commissioner may approve an expansion amendment request seeking to increase maximum allowable enrollment. For Subchapter G charter schools, the maximum enrollment may not exceed more than 2,000 students.

(ii) Grade span. The commissioner may approve an expansion amendment request seeking to extend the grade levels it serves only if it is accompanied by appropriate educational plans for the additional grade levels in accordance with Chapter 74, Subchapter A, of this title (relating to Required Curriculum), and such plan has been reviewed and approved by the charter governing board.

(iii) Adding a campus or site. The commissioner may approve an expansion amendment request seeking to add a new campus or site under a campus only if it meets the following criteria:

(I) the charter holder has operated at least one charter school campus in Texas for a minimum of three consecutive years; and

(II) a new site under an existing campus will be located within 25 miles of the campus with which it is associated.

(B) Board certification. Before voting to request a discretionary expansion amendment, the charter holder governing board must certify that they have considered a business plan and has determined by majority vote of the board that the growth proposed is financially prudent relative to the financial and operational strength of the charter school and includes such a statement in the board resolution. The commissioner may request submission of the business plan, which must be comprised of the following components:

- (i) a statement discussing the need for the expansion;
- (ii) a statement discussing the current and projected financial condition of the charter holder and charter school;
- (iii) an unaudited statement of financial position for the current fiscal year;
- (iv) an unaudited statement of financial activities for the current fiscal year;
- (v) an unaudited statement of cash flows for the current fiscal year;
- (vi) a pro forma budget that includes the costs of operating the charter school, including the implementation of the expansion amendment;
- (vii) a statement or schedule that identifies the assumptions used to calculate the charter school's estimated Foundation School Program revenues;
- (viii) a statement discussing the use of debt instruments to finance part or all of the charter school's incremental costs;
- (ix) a statement discussing the incremental cost of acquiring additional facilities, furniture, and equipment to accommodate the anticipated increase in student enrollment;
- (x) a statement discussing the incremental cost of additional on-site personnel and identifying the additional number of full-time equivalents that will be employed;
- (xi) the required statement that the growth proposed is financially prudent relative to the financial and operational strength of the charter school;

(xii) there are no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve as reported in the Governance Reporting Forms submitted to TEA for the previous three years; and

(xiii) the charter holder meets all other requirements applicable to expansion amendment requests and other amendments.

(C) Requirements. The commissioner may approve a discretionary expansion amendment only if:

(i) the expansion will be effective no earlier than the start of the fourth full school year at the affected charter school. This restriction does not apply if the affected charter school has a district rating of an A, B, or C and is operated by a charter holder that operates multiple charter campuses and all of that charter holder's most recent campus ratings of an A, B, or C;

(ii) the charter school has an accreditation status of Accredited;

(iii) the most recent district rating for the charter school is an A, B, or C;

(iv) the most recent district financial accountability rating for the charter school in the Financial Integrity Rating System of Texas for charter schools is "satisfactory" as defined by §100.1001(9) of this title (relating to Definitions);

(v) a charter holder that operates multiple charter campuses meets the criteria in subclause (I) or (II) of this clause. When calculating the percentages described, campuses that receive a 'Not Rated' rating shall not be included in the calculation.

(I) At least 90% of the campuses that receive an accountability rating are rated as an A, B, or C.

(II) If 75-89% of campuses that receive an accountability rating under the charter school are rated as an A, B, or C, the charter holder must provide additional information with the expansion request; and

(vi) the most recent designation for the charter school under the CSPF or Adult Charter School Performance Framework is "Tier 1" or "Tier 2" as defined by §100.1031 or §100.1033 of this title.

(D) Discretionary expansion amendment determination timeline. Notice of the commissioner's decision regarding a discretionary expansion amendment will be made within 60 calendar days of the date the charter holder submits a completed amendment request. The notice of the commissioner's determination may be sent electronically.

[(6) High-quality campus designation. A high-quality campus designation is a separate designation and must be requested prior to the opening of a new campus associated with an approved expansion amendment. Charter holders of charter schools that receive high-quality campus designation from the commissioner will be eligible to participate in the charter school program competitive grant process when federal funding for the Texas charter school program is available.]

[(A) The commissioner may approve a high-quality campus designation for a charter only if:]

[(i) the charter holder meets all requirements applicable to an expansion amendment set forth in this section and has operated at least one charter school campus in Texas for a minimum of five consecutive years;]

[(ii) the charter school has been evaluated under the accountability rating system established in §97.1001 of this title (relating to Accountability Rating System); has an accreditation status of Accredited, is currently evaluated under the standard accountability procedures, currently has an "A" or "B" rating at the local education agency level, and has an "A" or "B" rating in the previous two years in which ratings were issued with each campus that received a rating and operated under the charter also receiving an "A" or "B" rating as defined by §100.1001(8) of this title in the most recent state accountability ratings;]

[(iii) no charter campus has been identified for federal interventions in the most current report;]

[(iv) the charter school is not under any sanction imposed by TEA authorized under TEC, Chapter 39; Chapter 97, Subchapter EE, of this title (relating to Accreditation Status, Standards, and Sanctions); or federal requirements;]

[(v) is rated "Tier 1" in the most recent CSPF and meets the requirements of federal law and TEC, §12.111(a)(3) and (4);]

[(vi) the charter holder completes an application approved by the commissioner;]

[(vii) the amendment complies with all requirements of this paragraph; and]

[(viii) the commissioner determines that the designation is in the best interest of students.]

[(B) In addition to the requirements of subparagraph (A) of this paragraph, the commissioner may approve a high-quality campus designation only if the campus with the proposed designation:]

[(i) satisfies each element of the definition of a public charter school as set forth in federal law, including:]

[(I) admits students on the basis of a lottery, consistent with Elementary and Secondary Education Act, §4303(c)(3)(A), if more students apply for admission than can be accommodated; or]

[(II) in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in subclause (I) of this clause;]

[(ii) is separate and distinct from the existing charter school campus(es) established under the open-enrollment charter school with a separate facility and county-district-campus number; and]

[(iii) holds a valid charter contract issued by TEA.]

[(C) In making the findings required by subparagraph (B)(i) and (iii) of this paragraph, the commissioner shall consider:]

[(i) the terms of the open-enrollment charter school as a whole, as modified by the high-quality campus designation; and]

[(ii) whether the campus with the proposed designation shall be established and recognized as a separate school under Texas law.]

[(D) Failure to meet any standard or requirement for high-quality campus designation or agreed to in a performance agreement shall mean the immediate termination of any federal charter school program grant and/or any waiver exempting a charter from

some of the expansion amendment requirements that may have been granted to a charter holder as a result of the high-quality campus designation.]

~~[(E) Notice of the commissioner's decision regarding a high-quality campus designation will be made within 60 calendar days of the date the charter holder submits a completed request. The notice of the commissioner's determination may be sent electronically.]~~

(d) Non-expansion amendment. A non-expansion amendment permits changes to the terms of an open-enrollment charter school not related to expansion.

(1) Timeline for submission. All non-expansion amendments may be filed with the commissioner at any time throughout the year.

(2) Non-expansion amendment types. A non-expansion amendment is either material or non-material.

(A) Material non-expansion amendments include changes to the terms of an open-enrollment charter, including the following: relocation of a campus, campus or charter dormancy, reopening a campus after dormancy, closing or returning an active campus or site, charter holder governance, articles of incorporation, corporate bylaws, management company, admission and enrollment policy, shared services cooperatives or shared services agreements, and curriculum programs not already approved by TEA.

(i) Relocation amendment. A material non-expansion amendment to relocate solely permits a charter holder to relocate an existing campus or site to an alternate address while serving the same students and grade levels without a significant disruption to the delivery of the educational services. The alternate address of the relocation shall not be in excess of 25 miles from the existing campus address.

(ii) Material charter language change. Any material non-expansion amendment that requires changes to charter language shall set forth the text and page references in electronic format of the current open-enrollment charter language to be changed, and the text proposed as the new open-enrollment charter language.

(iii) Reopening a campus after dormancy. To reopen a campus after dormancy, the commissioner may require a charter holder to meet the requirements in subsection (c)(5)(C) of this section.

(B) Non-material non-expansion amendments include changes to the terms of an open-enrollment charter, including the following: charter holder name, charter school (district) name, charter campus name, grade levels served on a campus, campus start date change, closing or returning a dormant campus or site, and fiscal year change.

(C) Any non-expansion amendment not identified in subparagraph (A) or (B) of this paragraph is subject to commissioner determination as material or non-material.

(D) The following timelines apply to non-expansion amendment requests.

(i) Charter holders that submit material non-expansion requests will receive notice of the commissioner's decision within 60 calendar days of a completed amendment request.

(ii) Charter holders that submit non-material non-expansion requests may proceed with the request 30 calendar days after the date the charter holder submits a completed amendment request unless otherwise notified by the commissioner.

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

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

TRD-202602529

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 463-9526



DIVISION 5. PROPERTY OF OPEN-ENROLLMENT CHARTER SCHOOLS

19 TAC §100.1095

STATUTORY AUTHORITY. The amendments are proposed under TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner to adopt rules regarding criteria for granting a charter and providing notification for the establishment of new charters or campuses; TEC, §12.1011, which requires the commissioner to adopt rules regarding charter authorization for high-performing entities; TEC, §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023, which considers open-enrollment charter schools a school district for purposes related to land development standards, licensing, zoning, and various purposes and services; TEC, §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025, which allows the commissioner to adopt rules permitting an open-enrollment charter school to voluntarily participate in any state program available to school districts if the school complies with all terms of the program; TEC, §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025, which outlines required components of an open-enrollment charter to conduct non-discrimination admissions and provides that a charter school may exclude students with documented criminal or serious disciplinary histories; TEC, §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which provides that an open-enrollment charter school may only revise its charter with the approval of the commissioner; TEC, §12.1141, which provides the commissioner with the authority to adopt rules concerning when and how a charter campus may be designated as a high-quality campus; TEC, §12.115, which allows the commissioner to revoke or reconstitute a charter school's governing body; and TEC, §12.123, requires the commissioner to adopt rules prescribing the training for members of the governing body of a charter school and its officers.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1011; §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023; §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025; §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025; §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1141; §12.115; and §12.123.

§100.1095. Possession and Control of the Public Property of a Former Charter Holder.

(a) Disposition of audited property. The commissioner of education shall take possession, assume control, and supervise the disposition of the public property disclosed by the annual audit report as filed with the Texas Education Agency (TEA) or as revised pursuant to subsection (b) of this section. At any time, the commissioner may appoint a board of managers to transfer the property or may direct the governing board of the charter holder to transfer the property. The commissioner may transfer or direct the transfer of property to any public school if the commissioner determines that the transfer is in the best interest of students. For purposes of this section, references to a charter holder refers to both an organization that currently holds a charter contract and an organization that formerly held a charter contract.

(b) Disposition of property--defective audit. If the annual audit reports filed by a former charter holder are not in substantial compliance with §100.1091(f) of this title (relating to Use of Public Property by a Charter Holder), the commissioner shall use such legal process as may be available under Texas law to take possession and assume control of all property of the former charter holder and, using such legal process, supervise the disposition of such property in accordance with law. The commissioner may transfer or direct the transfer of property to any public school if the commissioner determines that the transfer is in the best interest of students.

(1) At any time, the commissioner may determine whether the exhibits to the annual audit reports filed by a former charter holder substantially comply with §100.1091(f) of this title.

(2) At the commissioner's sole discretion, the commissioner may cure any defects in the annual audit reports by reviewing the audit reports and reclassifying the transactions and restating the financial statements or by securing, at the former charter holder's expense, such professional services as may be required to create and/or audit the necessary exhibits to the annual audit reports.

(3) The commissioner may, at the commissioner's sole discretion, take possession, assume control, and supervise the disposition of the public property disclosed by those exhibits as provided by subsection (c) of this section.

(c) Method of disposition of property. The commissioner may take possession, assume control, and supervise the disposition of property by taking one or more of the following actions.

(1) For real property purchased with funds received under the Texas Education Code (TEC), §12.106, the commissioner shall direct the charter holder to dispose of the property through one of the following methods.

(A) The charter holder may retain or sell the property and provide reimbursement to the state. The following provisions apply to a charter holder that retains or sells the property.

(i) The charter holder must notify the commissioner more than 30 calendar days prior to the last day of instruction that the charter holder intends to reimburse the state for its interest in the property and specify whether the charter holder intends to retain or sell the real property.

(ii) The charter holder must provide the commissioner a written assurance that the charter holder will comply with the requirements of TEC, §12.1284.

(iii) The charter holder must obtain the written consent of the commissioner.

(iv) The charter holder must file an affidavit in the real property records of the county in which the real property is located

disclosing the state interest in the property at least 30 calendar days prior to the last day of instruction.

(v) Not later than 30 calendar days after the charter school's last day of operation, the charter holder must deposit with the Texas Comptroller of Public Accounts an amount equal to 110% of the estimated state reimbursement for the property as directed by the commissioner, which TEA will calculate by taking the fair-market value of the property as determined by an appraisal approved by the commissioner, subtracting the principal amount of any debt described by TEC, §12.128(e), and multiplying that result by a fraction for which the numerator is the funds received under TEC, §12.106, used to purchase the property and the denominator is the funds received under TEC, §12.106, plus any non-state funds used to purchase the property. If an appraisal cannot be obtained in 30 calendar days, the charter holder may request that the commissioner grant an extension.

(vi) The charter holder must prepare and submit a final audit under TEC, §44.008. This audit must be filed by the deadline specified in TEC, §44.008, and must disclose:

(I) the total amount of funds received under TEC, §12.106, that were used to purchase each separate item of real property to be retained or sold by the charter holder;

(II) the total amount of federal funds that were used to purchase each separate item of real property to be retained or sold by the former charter holder; and

(III) the total amount of state, federal, or any other private funds that were used to purchase the property to be retained or sold by the former charter holder.

(vii) The charter holder shall timely make all required payments relating to the property, including note payments; shall maintain the premises; and shall maintain full insurance coverage as determined by the commissioner until the state has received its full reimbursement and released its claim to the property.

(viii) The following provisions apply if the charter holder elects to retain the property.

(I) After the final annual audit report is filed, TEA will calculate the final state reimbursement amount, which is calculated by taking the fair-market value of the property as determined by the commissioner less the final principal amount of any debt described by TEC, §12.128(e), that was incurred prior to the charter school's cessation of operations and multiplying that amount by a fraction for which the numerator is the funds received under TEC, §12.106, used to purchase the property and the denominator is the funds received under TEC, §12.106, plus any non-state funds used to purchase the property.

(II) If the final state reimbursement amount is greater than the deposit made with the comptroller under this section, the former charter holder must make the additional deposit to the comptroller within 30 calendar days of TEA's determination of the final state reimbursement amount or as otherwise ordered by the commissioner.

(III) Once the charter holder has filed its final audit report under TEC, §44.008, and sufficient funds are on deposit with the comptroller to pay the final reimbursement amount, the commissioner may request the comptroller to distribute the deposit as directed by TEA and release any state claim on the property. Any remaining funds on deposit with the comptroller may be returned to the former charter holder once the state has received the full final reimbursement amount.

(IV) If the charter holder fails to complete its final financial audit under TEC, §44.008, or fails to make an additional payment to the comptroller as required, the charter holder shall forfeit the amount deposited with the comptroller and shall dispose of the property as ordered by the commissioner. The commissioner may extend this deadline upon request of the charter holder.

(ix) The following provisions apply if the charter holder sells the property.

(I) The property must be sold for at least fair-market value, as determined under this section.

(II) The property must be sold and fully closed no later than one year after the last day of instruction.

(III) If the property is sold prior to the completion of the final audit report under TEC, §44.008, for an amount greater than the fair-market value used to determine the estimated state reimbursement amount, the charter holder shall deposit with the comptroller an amount equal to the difference between the estimated fair-market value and the sales price multiplied by the percentage of state funds used to purchase the property based on the most recent audit pursuant to TEC, §44.008.

(IV) After the property has been sold and the final audit report, pursuant to TEC, §44.008, has been filed, TEA shall calculate the final state reimbursement amount.

(V) The final state reimbursement amount is calculated by taking the final gross sales price of the property less the remaining principal amount of any debt described by TEC, §12.128(e), that was incurred prior to the charter school's cessation of operations and multiplying that amount by a fraction for which the numerator is the funds received under TEC, §12.106, used to purchase the property and the denominator is the funds received under TEC, §12.106, plus any non-state funds used to purchase the property.

(VI) If the final state reimbursement amount is greater than the total deposit made with the comptroller, the former charter holder must make the additional deposit to the comptroller within 30 calendar days or as otherwise ordered by the commissioner.

(VII) Once the former charter holder has filed its final audit report under TEC, §44.008, and sold the property, and once sufficient funds are on deposit with the state comptroller's office to pay the final reimbursement amount, the commissioner may request the comptroller to distribute the deposit and release any state claim on the property. Any funds on deposit with the comptroller may be returned to the former charter holder once the state has received the full final reimbursement amount.

(VIII) The release of claims may be made in a closing where an independent third party is responsible for distributing the funds necessary to supplement the escrow account with the comptroller's office. If the property is sold before the final audit has been submitted to TEA, TEA may elect to release its claim on the property based on the most recent audit report.

(IX) If the charter holder fails to complete its final financial audit under TEC, §44.008, fails to sell the property within one year after the last day of instruction, or fails to make an additional payment to the comptroller as required, the charter holder shall forfeit the amount deposited with the state comptroller and shall dispose of the property as ordered by the commissioner.

(x) For purposes of determining the fair-market value of the real property, the charter holder shall provide an appraisal from a certified appraiser approved by the commissioner not less than

60 calendar days after the final order of revocation, non-renewal, surrender, or return of the charter, or as otherwise directed by the commissioner. If the charter holder cannot provide an appraisal within 60 calendar days, the charter holder may request that the commissioner grant an extension.

(xi) The commissioner may direct the charter holder to contract with a specified, certified appraiser or require the charter holder to obtain additional appraisals and may then choose which appraisal will be used to calculate fair-market value.

(xii) Subject to the satisfaction of any security interest or lien described by TEC, §12.128(e), if the commissioner determines a former charter holder failed to comply with this section or TEC, §12.1282, on request of TEA, the attorney general shall take any appropriate legal action to compel the former charter holder to convey title to TEA or other governmental entity authorized by TEA to maintain or dispose of the property.

(xiii) All payments made by the charter holder to retain real property must be made with non-state funds. Lease payments received for state property are state property.

(xiv) A decision by the commissioner under this section is final and may not be appealed.

(B) The charter holder may transfer the property using one of the following methods.

(i) Transfer to TEA.

(I) Subject to the satisfaction of any security interest or lien, the former charter holder shall transfer the property, including a conveyance of title, to TEA no later than two weeks after the last day of instruction.

(II) The following provisions apply to the sale of public real property by TEA.

(-a-) After TEA receives title to real property described by TEC, §12.128, TEA may sell the property at any price acceptable to TEA.

(-b-) On request of TEA, the General Land Office shall enter into a memorandum of understanding to sell real property for TEA as required by TEC, §12.1283. The memorandum of understanding may allow the General Land Office to recover from the sale proceeds any cost incurred by the office or commission in the sale of the property.

(-c-) Subject to the satisfaction of any security interest or lien described by TEC, §12.128(e), proceeds from the sale of property under this section shall be deposited in the charter school liquidation fund.

(ii) Transfer to a school district or open-enrollment charter school under TEC, §12.1282.

(I) The following order of priority shall be used when transferring to a school district or open-enrollment charter school under this clause. No property may be transferred to a school district or charter school if it has a financial accountability rating of lower than satisfactory.

(-a-) A charter school with the highest or second-highest academic accountability rating with no campus rated at the lowest or second-lowest accountability rating.

(-b-) A new charter school that has not yet been assigned an academic accountability rating.

(-c-) ~~[(b-)]~~ A school district that has the highest or second-highest academic accountability rating with no campus rated at the lowest or second-lowest accountability rating.

(-d-) [(~~e~~)] A charter school with the third-highest academic accountability rating with no campus rated at the lowest or second-lowest accountability rating.

(-e-) [(~~d~~)] A school district with the third-highest academic accountability rating with no campus rated at the lowest or second-lowest accountability rating.

(II) A school district or an open-enrollment charter school may receive property under this clause only if:

(-a-) the open-enrollment charter school or school district receiving the property:

(-1-) has not received notice of the expiration or revocation of the contract for charter, notice of reconstitution of its governing body, or the assignment of an accreditation rating of Not Accredited-Revoked;

(-2-) agrees to the transfer;

(-3-) agrees to identify the property as purchased wholly using state funds on the school's annual financial report filed under TEC, §44.008; and

(-4-) agrees that if the property is sold within three years, the charter holder or school district will remit the sales proceeds back to TEA to be deposited in the charter school liquidation fund;

(-b-) any creditor with a security interest in or lien on the property described by TEC, §12.128(e), agrees to the transfer; and

(-c-) the transfer of the property does not make the open-enrollment charter school or school district receiving the property insolvent.

(III) Property received by an open-enrollment charter school or school district under this clause is considered state property. TEA may require a set amount of remuneration in exchange for the property, may accept bids, or may accept bids with a minimum bid amount established. If TEA takes bids, TEA shall transfer the property to the highest qualified bidder from the highest priority category established in subclause (I) of this clause, except as provided by subsection (g) of this section.

(2) For personal property purchased with state funds, the commissioner shall direct the charter holder to dispose of the property through one of the following methods.

(A) If TEA determines that the cost of disposing of personal property described by TEC, §12.128, transferred to TEA by an open-enrollment charter school that ceases to operate exceeds the return of value from the sale of the property, TEA may distribute the personal property to open-enrollment charter schools and school districts in a manner determined by the commissioner.

(B) On request of TEA, the Texas Facilities Commission shall enter into a memorandum of understanding to sell personal property for TEA as required by TEC, §12.1283.

(i) A memorandum of understanding entered into as provided by this subparagraph may allow the Texas Facilities Commission to recover from the sale proceeds any cost incurred by the office or commission in the sale of the property.

(ii) Subject to the satisfaction of any security interest or lien described by TEC, §12.128(e), proceeds from the sale of personal property under this section shall be deposited in the charter school liquidation fund.

(3) For property leased with state funds, the commissioner may direct the charter holder to assign the charter holder's interest in the lease to TEA or may direct the charter holder to cancel the lease.

(d) Maintenance of property. TEA may approve an expenditure of remaining funds by a former charter holder for insurance or utilities for or maintenance, repairs, or improvements to property described by this section, and TEA may lease the property in its possession if TEA determines that the action is reasonably necessary to dispose of the property or preserve the property's value.

(e) Funds and assets following termination of operations. After extinguishing all payable obligations owed by the charter school that ceases to operate, and after disposing of all real and personal property owned by the charter school that ceases to operate, the former charter holder shall:

(1) remit to TEA any remaining funds as described by TEC, §12.106(h), and any state reimbursement amounts as described by TEC, §12.128, to be deposited in the charter school liquidation fund;

(2) transfer all or a portion of the remaining funds to another charter school that has all or part of the operations of the former charter school assigned to it under TEC, §12.116(d)(2), if ordered by the commissioner, only if the charter school:

(A) has not received notice of possible adverse action or sanction by the commissioner;

(B) has an academic accountability rating at the district level of A or B and no campus with a rating of D or F;

(C) has a rating under the Financial Integrity Rating System of Texas for charter schools of Meets Standard Achievement or above;

(D) has an accreditation rating of Accredited;

(E) does not have any warrant holds by which state payments issued to payees indebted to the state, or payees with a tax delinquency, are held by the comptroller until the debt is satisfied in accordance with Texas Government Code, §403.055; and

(F) agrees to classify the property as state property; or

(3) take any combination of the actions described by paragraphs (1) and (2) of this subsection.

(f) Use of legal process. Notwithstanding subsection (c) of this section, the commissioner may use such legal process as may be available under Texas law to take possession and assume control over the public property disclosed by the annual audit reports and, using such legal process, supervise the disposition of such property in accordance with law.

(g) Commissioner authority. The commissioner has discretion to direct disposition of the property in the best interest of Texas students.

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

Filed with the Office of the Secretary of State on June 22, 2026.
TRD-202602531



DIVISION 6. CHARTER SCHOOL GOVERNANCE

19 TAC §§100.1111, 100.1117, 100.1119, 100.1121

STATUTORY AUTHORITY. The amendments are proposed under TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner to adopt rules regarding criteria for granting a charter and providing notification for the establishment of new charters or campuses; TEC, §12.1011, which requires the commissioner to adopt rules regarding charter authorization for high-performing entities; TEC, §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023, which considers open-enrollment charter schools a school district for purposes related to land development standards, licensing, zoning, and various purposes and services; TEC, §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025, which allows the commissioner to adopt rules permitting an open-enrollment charter school to voluntarily participate in any state program available to school districts if the school complies with all terms of the program; TEC, §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025, which outlines required components of an open-enrollment charter to conduct non-discrimination admissions and provides that a charter school may exclude students with documented criminal or serious disciplinary histories; TEC, §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which provides that an open-enrollment charter school may only revise its charter with the approval of the commissioner; TEC, §12.1141, which provides the commissioner with the authority to adopt rules concerning when and how a charter campus may be designated as a high-quality campus; TEC, §12.115, which allows the commissioner to revoke or reconstitute a charter school's governing body; and TEC, §12.123, requires the commissioner to adopt rules prescribing the training for members of the governing body of a charter school and its officers.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1011; §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023; §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025; §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025; §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1141; §12.115; and §12.123.

§100.1111. *Annual Report on Open-Enrollment Charter Governance.*

(a) Using a format and timeline as approved by the commissioner of education, each open-enrollment charter holder shall file under §100.1003 of this title (relating to Filing of Documents), the following information on an annual basis:

(1) identifying information for and compensation of each officer and member of the governing body of the open-enrollment charter holder;

(2) identifying information for and compensation of each officer of the charter school;

(3) identifying information for and compensation of each member of the governing body of the charter school, if the charter holder has established a governing body for the charter school;

(4) identifying information for and compensation of all family members, within the third degree of consanguinity or third degree of affinity of each board member, chief executive officer/superintendent, and chief financial officer for purposes of conflict of interest; ~~and~~

(5) identifying information for and compensation of all family members, within the third degree of consanguinity or second degree of affinity of each board member and chief executive officer/superintendent for purposes of nepotism; ~~and~~[-]

(6) written certification indicating none of the following derives any financial benefit from a real estate transaction with the school should the school seek facilities funding under Texas Education Code, §12.106(d):

(A) an administrator, officer, or employee of the school;

(B) a member of the governing body of the school or its charter holder; or

(C) a person related within the third degree by consanguinity or second degree by affinity, as determined under Texas Government Code, Chapter 573, to a person described by subparagraph (A) or (B) of this section.

(b) The identifying information required for each member of the governing body of the open-enrollment charter holder, each member of the governing body of the charter school, and each chief executive officer/superintendent shall include:

(1) the title of each position held, or function performed, by the individual;

(2) the specific powers and duties that the governing body of the charter holder or charter school have delegated to the individual, as described by the powers and duties listed in the charter;

(3) the legal name of the individual;

(4) any aliases or names formerly used by the individual, including maiden name;

(5) a mailing address unique for the individual;

(6) a telephone number and electronic mail address unique for the individual;

(7) the county and state in which the individual is registered to vote, if a governing body member of the charter holder or charter school; and

(8) assurance that criminal records history check has been made and reported to the Texas Education Agency pursuant to §100.1153 of this title (relating to Criminal History; Restrictions on Serving).

(c) The compensation information required for an individual under subsection (a) of this section shall include all compensation, remuneration, and benefits received by the individual in any capacity from the charter holder or the charter school, or from any contractor or

management company doing business with the charter holder or charter school. The compensation reported shall include without limitation:

- (1) all salary, bonuses, benefits, or other compensation received pursuant to an employment relationship;
- (2) all compensation received for goods or services under contract, agreement, informal arrangement, or otherwise;
- (3) all payment of or reimbursement for personal expenses;
- (4) all credit extended to the individual by the charter holder or charter school;
- (5) the fair market value of all personal use of property paid for by the charter holder or charter school;
- (6) the fair market value of all in-kind transfers of property;
- (7) all compensation for goods or services provided to the charter holder through transactions unrelated to the charter school;
- (8) all other forms of compensation or remuneration received by the individual from the charter holder or charter school;
- (9) all forms of compensation received from a business in which a person under subsection (a) of this section has a significant interest in, pursuant to Texas Government Code, Chapter 171; and
- (10) any payment or form of compensation to an individual under subsection (a) of this section by any and all family members, within the third degree of consanguinity or third degree of affinity.

§100.1117. Core Training for New Governing Board Members and Officers.

(a) Training required. A new governing board member or officer, defined as any board member or officer who has not served in their position or similar position requiring the core program training with a Texas charter school in the last three years, must complete core training that consists of 10 instructional hours outlined in this section.

(b) Timeline for completing training. The timeline for core training is determined by the month in which new board members or officers are appointed or hired.

(1) All board members and officers, regardless of appointment or hiring month, must complete the Texas Open Meetings Act training and the Texas Public Information Act training within the first 90 days after being appointed or hired.

(2) If appointed or hired prior to October 1, core training will be due the same academic year by the last business day of July.

(3) If appointed or hired after October 1, core training will be due by December 1 of the following academic year.

~~[(b) Timeline for completing training. The core training must be completed within one calendar year of appointment or election to such governing body or employment by the charter, as applicable, unless otherwise indicated in subsection (d) of this section or as required by Texas law.]~~

(c) Required curriculum outline. The commissioner of education shall approve and disseminate a curriculum outline that specifies all core training content, time, and delivery requirements. Training that does not conform to the core curriculum outline does not satisfy the requirements of this section.

(d) Core training content. The core training shall cover, at minimum, the following topics:

- (1) Charter Law, including:
 - (A) history and purpose of charter schools;

(B) charter holder contractual obligations to the Texas Education Agency (TEA);

(C) charter holder bylaws, charter board governance policy, and charter district policies and procedures;

(D) charter School Performance Framework;

(E) charter contract renewal with TEA;

(F) charter amendments;

(G) contract revocation;

(H) student enrollment and lotteries;

(I) roles and responsibilities by officer type;

(J) ensuring services to special populations;

(K) student code of conduct, student discipline, and parental rights; and

(L) other laws and rules that apply to charter holders;

(2) Accountability to the Public, including:

(A) Texas Open Meetings Act, open meetings requirements under Texas Government Code, Chapter 551, with special emphasis on posting the agenda, executive sessions, accessibility of the meeting location to the public, employee board members, and civil and criminal sanctions, which must be completed by new governing board members and officers within the first 90 days after being appointed or hired;

(B) Texas Public Information Act requirements under Texas Government Code, Chapter 552, which must be completed by new governing board members and officers within the first 90 days after being appointed or hired;

(C) nepotism and conflicts of interest;

(D) audits, investigations, and sanctions, with an emphasis on mandatory revocation for three consecutive unacceptable performance ratings required by Texas Education Code (TEC), §12.115(c), and mandatory expiration for three out of five unacceptable performance ratings required by TEC, §12.1141(d);

(E) student records and privacy; and

(F) other accountability or transparency requirements that apply to charter holders;

(3) Academics and [Evaluating and Improving] Student Outcomes, including:

(A) Texas Essential Knowledge and Skills;

(B) State of Texas Assessments of Academic Readiness;

(C) Texas A-F Accountability System;

(D) setting school board required specific, quantifiable student outcome goals for all students and disaggregated student groups;

(E) adopting plans to improve early literacy and numeracy and college, career, and military readiness;

(F) Results Driven Accountability;

(G) progress monitoring practices to improve student outcomes; and

(H) other best practices for improving student outcomes;

- (4) Accountability for Public Funds, including:
 - (A) school finance in Texas, with an emphasis on charter finance;
 - (B) Financial Integrity Rating System of Texas;
 - (C) Annual Financial and Compliance Report;
 - (D) Financial Accountability System Resource Guide;
 - (E) financial controls and monitoring financial health;
 - (F) annual budgets; and
 - (G) other items related to school finance, risk management, related party transactions, or financial oversight; and
- (5) School Safety, including:
 - (A) school safety plans and audits;
 - (B) school emergency and safety drills;
 - (C) behavioral threat assessment;
 - (D) school safety and security committee;
 - (E) school security guard;
 - (F) traumatic injury response;
 - (G) identifying child abuse and human trafficking;
 - (H) school safety facility standards; and
 - (I) other items related to school safety or student health.

§100.1119. Additional Training for New Governing Board Members and Officers.

(a) Training required. A new governing board member or officer who has completed the core training under §100.1117 of this title (relating to Core Training for New Governing Board Members and Officers) next must complete additional training as outlined in this section.

(b) Timeline for completing training. The additional training requirements must be completed by the same timeline listed under §100.1117(b) of this title [after the core training is completed and within one calendar year of appointment or election to such governing body or employment by the charter, as applicable].

(c) Optional curriculum outline. The commissioner of education may approve and disseminate a curriculum outline that specifies all additional training content for this subsection. Training that does not conform to any curriculum outline released by the commissioner does not satisfy the requirements of this section.

(d) Governing board member requirements. A new governing board member must complete two additional instructional hours on board governance requirements and best practices, including:

- (1) hiring and evaluating a superintendent;
- (2) required training and governance requirements;
- (3) non-delegable board governance duties;
- (4) board meeting protocols; and
- (5) other practices for effective governance and continuous improvement.

(e) Officer requirements. A new officer must complete additional training hours specific to their role as follows.

(1) The chief [Chief] executive officer [and central administrative officers] must complete 20 additional instructional hours that

further explore the core training topics outlined in §100.1117(d) of this title, including:

- (A) two hours on Charter Law;
- (B) two hours on Accountability to the Public;
- (C) six hours on Academics and Student Outcomes;
- (D) three hours on Accountability for Public Funds;
- (E) three hours on School Safety; and
- (F) four hours on any other core training topic outlined in §100.1117(d) of this title.

(2) Central administrative officers must complete a total of 20 additional instructional hours that further explore the core training topics outlined in §100.1117(d) of this title as they apply to their role.

(3) [(2)] Campus administrative officers are not required to complete additional instructional hours.

(4) [(3)] Business managers must complete 20 additional instructional hours that further explore the core training topics outlined in §100.1117(d) of this title, including:

- (A) two hours on Charter Law;
- (B) two hours on Accountability to the Public;
- (C) three hours on Academics and Student Outcomes [EISO];
- (D) nine hours on Accountability for Public Funds; and
- (E) four hours on any other core training topic outlined in §100.1117(d) of this title.

(f) Excess hours earned. Twenty-five percent of instructional hours earned in excess of the requirements set forth in this section by a new governing board member or officer may be carried over to meet the following year's requirement under §100.1121 of this title (relating to Continuing Training for Governing Board Members and Officers).

§100.1121. Continuing Training for Governing Board Members and Officers.

(a) Training required. Any governing board member or officer who has completed the training requirements (a) Training required. Any governing board member or officer who has completed the training requirements under §100.1117 and §100.1119 of this title (relating to Core Training for New Governing Board Members and Officers Additional Training for New Governing Board Members and Officers) must annually thereafter complete additional training as outlined in this section.

(b) Timeline for completing training. Training must be completed each academic year and is due by the last business day in July.

(c) [(b)] Training content. Continuing training under this subsection shall:

- (1) fulfill training needs determined by the charter based on charter needs;
- (2) address updated items identified in the core training topics outlined in §100.1117(d) of this title or cover in greater depth than the curriculum outline indicates for initial training on those topics; or

(3) address applicable topics if a charter holder has lower than a C in the Texas A-F Accountability System, lower than a C in the Financial Integrity Rating System of Texas for charter schools, or is rated in TIER 3 on the Charter School Performance Framework, or

is being sanctioned, investigated, or is required by the Texas Education Agency to take corrective action training.

(d) [(e)] Governing board member requirements. Governing board members must annually receive six instructional hours of training.

(e) [(d)] Officer requirements. An officer must complete additional training hours specific to their role as follows.

(1) Campus administrative officers must annually receive five instructional hours of training.

(2) Business managers must annually receive 15 instructional hours of training.

(3) Chief executive and central administrative officers must annually receive 15 instructional hours of training.

(f) [(e)] Excess hours earned. Twenty-five percent of instructional hours earned in excess of the requirements set forth in this section by a governing board member or officer may be carried over to meet the following year's requirement under this section.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 463-9526



DIVISION 7. CHARTER SCHOOL OPERATIONS

19 TAC §100.1207, §100.1211

STATUTORY AUTHORITY. The amendments are proposed under TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner to adopt rules regarding criteria for granting a charter and providing notification for the establishment of new charters or campuses; TEC, §12.1011, which requires the commissioner to adopt rules regarding charter authorization for high-performing entities; TEC, §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023, which considers open-enrollment charter schools a school district for purposes related to land development standards, licensing, zoning, and various purposes and services; TEC, §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025, which allows the commissioner to adopt rules permitting an open-enrollment charter school to voluntarily participate in any state program available to school districts if the school complies with all terms of the program; TEC, §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025, which outlines required components of an open-enrollment charter to conduct non-discrimination admissions and provides that a charter school may exclude students with documented criminal or serious disciplinary histories; TEC, §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023, which provides that an open-en-

rollment charter school may only revise its charter with the approval of the commissioner; TEC, §12.1141, which provides the commissioner with the authority to adopt rules concerning when and how a charter campus may be designated as a high-quality campus; TEC, §12.115, which allows the commissioner to revoke or reconstitute a charter school's governing body; and TEC, §12.123, requires the commissioner to adopt rules prescribing the training for members of the governing body of a charter school and its officers.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §12.101, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1011; §12.103, as amended by HB 1707, 88th Texas Legislature, Regular Session, 2023; §12.104, as reenacted and amended by HB 4595 and HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 33, HB 2, SB 12, and SB 571, 89th Texas Legislature, Regular Session, 2025; §12.111, as amended by HB 6, 89th Texas Legislature, Regular Session, 2025; §12.114, as amended by HB 2102, 88th Texas Legislature, Regular Session, 2023; §12.1141; §12.115; and §12.123.

§100.1207. *Student Admission.*

(a) Application deadline. For admission to a charter school, a charter holder shall:

(1) require the applicant to complete and submit a common application form prescribed by the commissioner of education, referred to as the Texas Charter School Admission Application, beginning in the 2020-2021 school year. The application must be submitted not later than a reasonable deadline the charter holder establishes.

(A) The common application form shall be posted on the Texas Education Agency (TEA) website, and the form and all associated fields shall be posted on each open-enrollment charter school's website to be used by an applicant for admission to an open-enrollment charter school campus.

(B) The common application form and the student admission and enrollment policy under subsection (d) or (e) of this section, including the policies and procedures for admission, lotteries, enrollment, student waitlists, withdrawals, reenrollment, and transfers, shall be publicly accessible and easily available on the charter school's website. A charter school must make available the common application form and may not require the use of an account, email, password, or other condition as the sole means to access the information or the common application form. A charter school may also print copies of the common application form and make them available for use during the admission process.

(C) An open-enrollment charter school may not alter the form, unless to signify specific criteria that may not apply to their campus as permitted by TEA, and may not add any additional criteria, questions, statements, advertisements, or solicitations or require any conditions for a person to access the form. An open-enrollment charter school may not sell, provide, or ask an applicant to agree to share or have the charter school share any student information provided in the application to any person or entity other than TEA;

(2) on receipt of more acceptable applications for admission under this section than available positions in the school:

(A) except as permitted by subsection (b) of this section, fill the available positions by lottery; or

(B) subject to subsection (d) of this section, fill the available positions in accordance with the open-enrollment charter school's approved student admission and enrollment policy; and

(3) create and manage a waitlist, as described in subsection (e) of this section, for applicants who are not admitted after all available positions in the charter school have been filled.

(b) Lottery exemption. The charter holder may exempt students from the lottery required by subsection (d) of this section to the extent this is consistent with the definition of a "public charter school" under the Elementary and Secondary Education Act (ESEA) as reauthorized under the Every Student Succeeds Act (ESSA), as interpreted by the United States Department of Education (USDE), including but not limited to, siblings of students already admitted to or attending the same charter school; children of a charter school's founders, teachers and staff, and children of employees in a work-site charter school (so long as the total number of students allowed under this exemption does not exceed 10% of the school's total enrollment).

(c) Newspaper publication. To the extent this is consistent with the definition of a "public charter school" under ESEA as reauthorized under ESSA, as interpreted by the USDE, a charter holder may fill applications for admission under subsection (a)(1) of this section only if it published a notice of the opportunity to apply for admission to the charter school. At a minimum, a notice published under this subsection must:

(1) state the application deadline; and

(2) be published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline. For purposes of this chapter, a newspaper of general circulation is defined as one that has more than a minimum number of subscribers among a particular geographic region, which has a diverse subscribership, and that publishes some news items of general interest to the community.

(d) Student admission and enrollment. Except as provided by this section, the governing body of the charter holder must adopt a student admission and enrollment policy that:

(1) unless as provided in subsection (f) of this section, prohibits discrimination on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend under state law;

(2) specifies any type of non-discriminatory enrollment criteria to be used at each charter school operated by the charter holder. Such non-discriminatory enrollment criteria may make the student ineligible for enrollment if the student ~~[based on a history of a criminal offense; a juvenile court adjudication, or discipline problems under Texas Education Code (TEC), Chapter 37, Subchapter A, documented as provided by local policy; and]~~:

(A) has engaged in conduct outlined in Texas Education Code (TEC), §37.006, related to placement in a disciplinary alternative education program or a juvenile justice alternative education program;

(B) has engaged in conduct outlined in TEC, §37.007, related to expulsion; or

(C) has been convicted of a criminal offense or has a juvenile court adjudication; and

(3) specifies whether students will be admitted to the charter school campus by lottery or on a first come, first served basis if the application is published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline, as described in TEC, §12.117.

(e) Waitlist. Charter holders required to create and maintain a waitlist as a result of receiving more acceptable applications for admis-

sion than available positions at the school shall manage and update the student waitlist.

(1) Each school year, the following information must be maintained at the campus level for reporting to TEA no later than the last Friday in October of each school year:

(A) the total number of students on the waitlist;

(B) the number of students on the waitlist disaggregated by grade level;

(C) the number of students enrolled;

(D) the enrollment capacity; and

(E) information necessary to identify each student, as specified in TEC, §12.1174 (Enrollment and Waiting List Report).

(2) The waitlist of each charter school campus shall be managed according to that charter holder's policy, which must include the following criteria.

(A) The names of eligible students with completed applications who apply and are not admitted shall be added to the end of the waitlist in the order in which the applications are received.

(B) As spaces become available at the charter school campus during the school year, the school must consult its campus waitlist and select a new student for enrollment in the order that students appear on the list.

(C) The charter school shall review each campus waitlist no less than every 60 days and eliminate duplicate entries and the names of students who have been admitted to the charter school.

(3) An open-enrollment charter school may not sell, provide, or ask a student to agree to share any student information on the waitlist with any person or entity other than TEA.

(f) Student admission and enrollment at charter schools specializing in performing arts. In accordance with TEC, §12.111 and §12.1171, a charter school specializing in performing arts, as defined in this subsection, may adopt a student admission and enrollment policy that complies with this subsection in lieu of compliance with subsections (a)-(d) of this section.

(1) A charter school specializing in performing arts as used in this subsection means a school whose open-enrollment charter includes an educational program that, in addition to the required academic curriculum, has an emphasis in one or more of the performing arts, which include music, theatre, and dance. A program with an emphasis in the performing arts may include the following components:

(A) a core academic curriculum that is integrated with performing arts instruction;

(B) a wider array of performing arts courses than are typically offered at public schools;

(C) frequent opportunities for students to demonstrate their artistic talents;

(D) cooperative programs with other organizations or individuals in the performing arts community; or

(E) other innovative methods for offering performing arts learning opportunities.

(2) To the extent this is consistent with the definition of a "public charter school" as defined in ESEA as reauthorized under ESSA, as interpreted by the USDE, the governing body of a charter holder that operates a charter school specializing in performing arts must require the applicant to complete and submit a common admission

application form as described in subsection (a)(1) of this section and may adopt an admission policy that requires a student to demonstrate an interest or ability in the performing arts or to audition for admission to the school.

(3) The governing body of a charter holder that operates a charter school specializing in performing arts must adopt a student admission and enrollment policy that prohibits discrimination on the basis of sex, national origin, ethnicity, religion, disability, academic or athletic ability, or the district the child would otherwise attend under state law.

(4) The governing body of a charter holder that operates a charter school specializing in performing arts must adopt a student admission and enrollment policy that specifies any type of non-discriminatory enrollment criteria to be used at the charter school. Such non-discriminatory enrollment criteria may make the student ineligible for enrollment if the student: [based on a history of a criminal offense, a juvenile court adjudication, or discipline problems under TEC, Chapter 37, Subchapter A, documented as provided by local policy.]

(A) has engaged in conduct outlined in TEC, §37.006, related to placement in a disciplinary alternative education program or a juvenile justice alternative education program;

(B) has engaged in conduct outlined in TEC, §37.007, related to expulsion; or

(C) has been convicted of a criminal offense or has a juvenile court adjudication.

(g) Maximum enrollment. Total enrollment shall not exceed the maximum number of students approved in the open-enrollment charter. A charter school may establish a primary and secondary boundary. Students who reside outside the primary geographic boundary stated in the open-enrollment charter shall not be admitted to the charter school until all eligible applicants that reside within the primary boundary and have submitted a timely application have been enrolled. Then, if the open-enrollment charter so provides for a secondary boundary, the charter holder may admit students who reside within the secondary boundary to the charter school in accordance with the terms of the open-enrollment charter.

§100.1211. *Students.*

(a) Student performance. Notwithstanding any provision in an open-enrollment charter, acceptable student performance under Texas Education Code, §12.111(a)(3), shall at a minimum require overall student performance meeting the standards for an "academically acceptable" rating as defined by §100.1001(8) of this title (relating to Definitions).

(b) Reporting child abuse or neglect. A charter holder shall adopt and disseminate to all charter school staff and volunteers a policy governing child abuse reports required by Texas Family Code, Chapter 261. The policy shall require that employees, volunteers, or agents of the charter holder and the charter school report child abuse or neglect directly to an appropriate entity listed in Texas Family Code, Chapter 261.

(c) Admission and enrollment. A charter holder for an open-enrollment charter school shall have an admission and enrollment policy as outlined in §100.1207 of this title (relating to Student Admission), including prohibiting discrimination on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend under state law.

(d) Notice of expulsion or withdrawal. A charter school shall notify the school district in which the student resides within three busi-

ness days of any action expelling or withdrawing a student from the charter school.

(e) Data reporting. A charter holder and its charter school shall report timely and accurate information required by the commissioner of education to the Texas Education Agency (TEA), except as expressly waived by the commissioner.

(f) Student records. Student records shall be secure and maintained physically within the state of Texas at all times. Charter school personnel shall respond to requests for records in a timely and appropriate manner. Charter schools shall participate in the Texas Records Exchange (TREx) system and shall follow TREx data standards.

(g) Scholastic year. A charter holder shall adopt a school year for the charter school, with fixed beginning and ending dates. [The charter school shall submit a copy of the charter school's campus calendars to the TEA division responsible for charter school administration prior to the first day of August of each year.]

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 463-9526



CHAPTER 150. COMMISSIONER'S RULES CONCERNING EDUCATOR APPRAISAL SUBCHAPTER AA. TEACHER APPRAISAL 19 TAC §150.1001

The Texas Education Agency (TEA) proposes an amendment to §150.1001, concerning teacher appraisal. The proposed amendment would establish new provisions related to pilot activities supporting the development or revision of the Texas Teacher Evaluation and Support System (T-TESS).

BACKGROUND INFORMATION AND JUSTIFICATION: Section 150.1001 establishes general provisions related to teacher appraisal system selection, implementation of T-TESS, and statutory appraisal components.

The proposed amendment to §150.1001 would add new subsection (g) authorizing the commissioner to identify school districts and open-enrollment charter schools to participate in pilot activities supporting the development or revision of the T-TESS. The proposed amendment would also allow the commissioner to establish alternative requirements or timelines for school districts and charter schools participating in commissioner-approved pilot activities and clarify that appraisal processes implemented in accordance with approved pilot requirements are considered in compliance with Chapter 150, Subchapter AA.

The proposed amendment is intended to support the ongoing development and continuous improvement of the T-TESS by providing a structured process for testing potential revisions to appraisal components, processes, or timelines in a limited number of school districts or charter schools. Adding pilot authority to the

general provisions ensures clear rule-level authorization for pilot implementation while maintaining statewide consistency and compliance with statutory appraisal requirements.

FISCAL IMPACT: Andrew Hodge, associate commissioner for system innovation, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation. The proposed amendment would establish new provisions related to pilot activities supporting the development or revision of the T-TESS.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Hodge has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to establish a new provision related to pilot activities supporting the development or revision of the T-TESS. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public

comment period on the proposal begins July 3, 2026, and ends August 3, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on July 3, 2026. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.351, which requires the commissioner of education to adopt a state-recommended appraisal process for teachers; and TEC, §21.352, which establishes requirements for school districts' selection of teacher appraisal systems.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §21.351 and §21.352.

§150.1001. General Provisions.

(a) All school districts have two choices in selecting a method to appraise teachers: a teacher appraisal system recommended by the commissioner of education or a local teacher appraisal system.

(b) The commissioner's recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS), was developed in accordance with the Texas Education Code (TEC), §21.351.

(c) The superintendent of each school district, with the approval of the school district board of trustees, may select the T-TESS. Each school district or campus wanting to select or develop an alternative teacher appraisal system must follow the TEC, §21.352, and §150.1007 of this title (relating to Alternatives to the Commissioner's Recommended Appraisal System).

(d) The commissioner may designate a regional education service center to serve as the T-TESS certification provider for the state. The designated regional education service center may collect appropriate fees under the TEC, §8.053, from school districts and open-enrollment charter schools for training and certification.

(e) Sections 150.1002 through 150.1006 of this title (relating to Assessment of Teacher Performance; Appraisals, Data Sources, and Conferences; Teacher Response and Appeals; Appraiser Qualifications; and Teacher Orientation) apply only to the T-TESS and not to local teacher appraisal systems.

(f) The statutorily required components of teacher appraisal are defined as follows.

(1) The implementation of discipline management procedures is the teacher's pedagogical practices that produce student engagement and establish the learning environment.

(2) The performance of teachers' students is how the individual teacher's students progress academically in response to the teacher's pedagogical practice as measured at the individual teacher level by one or more student growth measures.

(g) The commissioner may identify school districts and open-enrollment charter schools who choose to participate in pilot activities supporting the development or revision of the T-TESS. For pilot participants, the commissioner may establish alternative requirements or timelines related to §§150.1002, 150.1003, and 150.1005 of this title. School districts and charter schools that implement appraisal processes in accordance with commissioner-approved pilot requirements shall be considered in compliance with this subchapter.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.8

The State Board of Dental Examiners (Board) proposes amendments to 22 TAC §101.8, pertaining to persons with criminal backgrounds. The amendments, if adopted, update the Board's disciplinary guidelines concerning the imprisonment of a licensee following a felony conviction or deferred adjudication, in accordance with Senate Bill 1080.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does limit an existing regulation by narrowing the grounds for mandatory revocation of a license to comply with state law; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

The Board is requesting public comments on the proposed rule and information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rule.

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed 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.

No other statutes, articles or codes are affected by this proposal.

§101.8. Persons with Criminal Backgrounds.

(a) The purpose of this section is to establish automatic sanctions, mandatory sanctions, recommended sanctions, guidelines and criteria for the disciplinary actions to be taken by the Board against applicants and licensees with criminal backgrounds.

(b) Definitions. In this section, the following terms shall apply:

(1) "Applicant" means a person applying for a license, certificate, registration, permit, or other authorization that is issued by the Board under the Dental Practice Act.

(2) "Conviction" shall mean a conviction under federal law or the law of any state, district, or territory of the United States. A conviction shall be considered "final" upon the imposition of a sentence of imprisonment, parole, probation, community supervision, or other punishment after such conviction. Pursuant to Texas Occupations Code §53.021(e)(1), the Board shall consider placement of a defendant under deferred adjudication community supervision, or a similar deferral of adjudication of guilt under federal or state law, as a final conviction for all licensing and disciplinary purposes under the Texas Occupations Code and Board rules.

(3) "Final Disposition" shall mean the date on which the applicant or licensee completed the imposed sentence after conviction, including any period of parole or probation, or completed the conditions of deferred adjudication community supervision or similar deferral of adjudication of guilt, as shown by the certified records of the court or supervising government authority.

(4) "Health Care Professional" shall have the meaning provided in Texas Occupations Code §108.051.

(5) "License" means a license, certificate, registration, permit, or other authorization that is issued by the Board under the Dental Practice Act.

(6) "Licensee" means the holder of a license, certificate, registration, permit, or other authorization that is issued by the Board under the Dental Practice Act.

(7) "Offense Relating to the Regulation of Dentists, Dental Hygienists or Dental Assistants" means any criminal violation of the Texas Dental Practice Act; any criminal violation of a law related to

the billing and payment for dental care services; any criminal violation of a law related to the treatment and care of patients; and any criminal violation of a law related to the preservation and protection of patient records or patient protected health information.

(c) Automatic Denial or Revocation of Dental or Dental Hygiene License. Based upon Chapter 108, Subchapter B, of the Texas Occupations Code, certain convictions shall result in automatic denial of an application for a dental or dental hygiene license, or revocation of a current dental or dental hygiene license. A person who is denied or a licensee who has their license revoked under this subsection may reapply for the license, or apply for reinstatement of the revoked license, if the conviction or deferred adjudication is reversed, set aside, or vacated on appeal, or after the expiration of the period for which the person is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(1) Automatic Denial of Application. The following convictions shall result in automatic denial of an application for licensure as a dentist or dental hygienist submitted on or after September 1, 2019.

(A) Any conviction resulting in the requirement that the applicant register as a sex offender under Chapter 62, Code of Criminal Procedure.

(B) Any previous conviction of or placement on deferred adjudication community supervision for the commission of a felony offense involving the use or threat of force.

(C) Any previous conviction or placement on deferred adjudication community supervision for the commission of an offense under Texas Penal Code §§22.011, 22.02, 22.021, or 22.04, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections:

(i) committed when the applicant held a license as a health care professional in this state or another state;

(ii) committed in the course of providing services within the scope of the applicant's health care professional license; and

(iii) in which the victim of the offense was a patient of the applicant.

(2) Automatic Revocation of License. The following convictions shall result in automatic proceedings to revoke the license of a dentist or dental hygienist. The Board shall revoke a license and update the Board's records to reflect the revocation immediately on receiving notification pursuant to Texas Occupations Code §108.053(b). If the Board receives notice through another source, the Board shall pursue a revocation action through Texas Occupations Code §263.003.

(A) Any conviction resulting in the requirement that the licensee register as a sex offender under Chapter 62, Code of Criminal Procedure.

(B) Any conviction of or placement on deferred adjudication community supervision for the commission of a felony offense involving the use or threat of force.

(C) Any conviction or placement on deferred adjudication community supervision for the commission of an offense under Texas Penal Code §§22.011, 22.02, 22.021, or 22.04, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections:

(i) committed while the licensee held a license as a health care professional in this state or another state;

(ii) committed in the course of providing services within the scope of the licensee's health care professional license; and

(iii) in which the victim of the offense was a patient of the licensee.

(d) Imposition of Mandatory Sanctions for Criminal Convictions. Based upon Texas Occupations Code §263.006 and the interests of public health and safety, the Board shall impose the following mandatory sanctions on licensees for the following offenses. In the event that a sanction from subsection (c) of this section is also applicable to a licensee, the Board shall impose the automatic sanction instead of the sanction under this subsection. The Board may not reinstate or reissue a license suspended or revoked under this section unless an express determination is made that the reinstatement or reissuance of the license is in the best interests of the public and the licensee whose license was suspended or revoked. The Board must base that determination on substantial evidence contained in an investigative report.

(1) Felony Convictions. The Board shall revoke the license of a current licensee who receives a final felony conviction under federal law or the law of any state, district, or territory of the United States.

(2) Assaultive Offenses. The Board shall revoke the license of a current licensee who receives a misdemeanor final conviction under Chapter 22 of the Texas Penal Code, other than a misdemeanor punishable by fine only.

(3) Mandatory Registration as Sex Offender. The Board shall revoke the license of a current licensee who receives a final conviction requiring the licensee register as a sex offender under Chapter 62, Texas Code of Criminal Procedure.

(4) Violation of Certain Court Orders, Protective Orders, or Conditions of Bond. The Board shall revoke the license of a current licensee who receives a Class A or Class B misdemeanor final conviction under Section 25.07 or Section 25.071 of the Texas Penal Code.

(e) Imposition of Recommended Sanctions for Criminal Convictions. Based upon statutory authorization and the interests of public health and safety, the Board shall impose the following recommended sanctions for the following offenses, based on the Board's determination that these offenses relate to the practice of dentistry, and the Board's determination that allowing a licensee to practice dentistry or provide dental services under a license issued by the Board provides an opportunity for further criminal conduct. In the event that a sanction from subsections (c) or (d) of this section is also applicable to a licensee, the Board shall impose the automatic or mandatory sanction instead of the recommended sanction under this subsection. If more than one recommended sanction applies to the conviction of a licensee or applicant, the Board shall apply the highest recommended sanction applicable. The Board may only increase these recommended sanctions upon an affirmative finding that persuasive aggravating factors require elevation of the sanction for the protection of public health and safety. The Board shall reduce the following sanctions only upon an affirmative finding of persuasive mitigating factors presented by the applicant or licensee, as applicable. The Board shall articulate these aggravating or mitigating factors in any order adopting the sanctions to be imposed on the licensee.

(1) Current Licensees. The Board shall impose the following disciplinary sanctions based upon convictions which occurred after the Board issued a license.

(A) Conviction for Offense Relating to the Regulation of Dentists, Dental Hygienists or Dental Assistants. Pursuant to Texas Occupations Code §263.002(a)(10), the Board shall take disciplinary action for convictions related to the practice of dentistry. The Board has determined that violations of law relating to the practice of dentistry and dental hygiene are directly related to patient safety and care, and holding a license allows for the opportunity to engage in further

criminal activity causing harm to the public. As a result, the Board shall impose a five-year probated suspension for a final conviction for an offense relating to the regulation of dentists, dental hygienists or dental assistants.

(B) Conviction of Misdemeanor Involving Fraud. Pursuant to Texas Occupations Code §263.002(a)(2), the Board shall take disciplinary action for misdemeanor convictions involving fraud. The Board has determined that holding a license allows access to sensitive patient records and information, which requires the licensee to demonstrate the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. As a result, the Board shall impose a one-year probated suspension for a final conviction of a misdemeanor under Chapter 32 of the Texas Penal Code, or an equivalent section of federal law or the law of any state, district, or territory of the United States.

(C) Offenses under the Texas Controlled Substances Act, Texas Dangerous Drugs Act and Related Offenses. The Board has determined that holding a license allows access to controlled substances, dangerous drugs and other substances that represent the potential for abuse and drug diversion, which requires the licensee to demonstrate the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. As a result, the Board shall impose a one-year probated suspension on a current licensee who receives a Class A misdemeanor final conviction under Chapter 481, 483, or 485, Texas Health and Safety Code. The Board may impose a Reprimand for a Class B misdemeanor final conviction pursuant to subsection (e)(1)(D) of this section.

(D) Other Class A and B Misdemeanor Offenses. The Board shall not automatically impose a disciplinary sanction, but may impose a disciplinary sanction after weighing the considerations required by Texas Occupations Code Chapters 53 and 263, and as listed in subsections (g) - (i) of this section.

(2) License Applicants. The Board shall impose the following disciplinary sanctions based upon convictions that occurred prior to the submission of an application for a license.

(A) Felony Convictions. The Board has determined that holding a license allows access to confidential patient records and information, controlled substances and dangerous drugs, and patients in sensitive and compromised physical conditions, which requires the applicant to demonstrate the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. Pursuant to Texas Occupations Code §263.001(a)(5), the Board shall deny an applicant who received a final felony conviction under federal law or the law of any state, district, or territory of the United States that is still pending final disposition. The Board shall impose a five-year probated suspension on an applicant with a final conviction for a felony that is less than five years from the date of final disposition. From five to ten years after the date of final disposition, the Board shall impose a one-year probated suspension. After ten years from the date of final disposition, the Board shall take no action.

(B) Conviction for Offense Relating to the Regulation of Dentists, Dental Hygienists or Dental Assistants. The Board has determined that violations of Texas law relating to the practice of dentistry are directly related to patient safety and care, and holding a license allows for the opportunity to engage in further criminal activity causing harm to the public. Pursuant to Texas Occupations Code §263.001(a)(4) and (a)(6), the Board shall deny an applicant who received a final conviction for an offense relating to the regulation of dentists, dental hygienists or dental assistants within the twelve months

preceding the date the applicant filed an application for a license. The Board shall impose a five-year probated suspension on an applicant who received a final conviction for an offense relating to the regulation of dentists, dental hygienists or dental assistants that is still pending final disposition, but which occurred prior to the twelve months preceding the date the applicant filed an application for a license. The Board shall impose a one-year probated suspension on an applicant with a final conviction for an offense relating to the regulation of dentists, dental hygienists or dental assistants that is less than five years from the date of final disposition. After five years from the date of final disposition, the Board shall take no action.

(C) Mandatory Registration as Sex Offender. The Board has determined that holding a license allows access to controlled substances and dangerous drugs, and patients in sensitive and compromised physical conditions, including minor patients and patients with mental and physical disabilities, which requires the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. As a result, if the applicant is not subject to Texas Occupations Code §108.052, the Board shall deny an applicant who received a final conviction requiring the applicant register as a sex offender under Chapter 62, Texas Code of Criminal Procedure.

(D) Assaultive Offenses. The Board has determined that holding a license allows access to patients in sensitive and compromised physical conditions, which requires the applicant to demonstrate the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. As a result, if the applicant is not subject to Texas Occupations Code §108.052, the Board shall deny an applicant who received a misdemeanor final conviction under Chapter 22 of the Texas Penal Code, other than a misdemeanor punishable by fine only, within the twelve months preceding the date the applicant filed an application for a license. The Board shall impose a five-year probated suspension on an applicant who received a final conviction for an assaultive offense, other than a misdemeanor punishable by fine only, that is less than five years from the date of final disposition. After five years from the date of final disposition, the Board shall take no action.

(E) Violation of Certain Court Orders, Protective Orders, or Conditions of Bond. The Board has determined that holding a license allows access to confidential patient records and information, and patients in sensitive and compromised physical conditions, which requires the applicant to demonstrate the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. As a result, the Board shall deny an applicant who received a Class A or Class B misdemeanor final conviction under Section 25.07 or Section 25.071 of the Texas Penal Code, within the twelve months preceding the date the applicant filed an application for a license. The Board shall impose a five-year probated suspension on an applicant who received a final conviction under Section 25.07 or Section 25.071 of the Texas Penal Code that is less than five years from the date of final disposition. After five years from the date of final disposition, the Board shall take no action.

(F) Offenses under the Texas Controlled Substances Act, Texas Dangerous Drugs Act and Related Offenses. The Board has determined that holding a license allows access to confidential patient records and information, controlled substances, and dangerous drugs, which requires the applicant to demonstrate the ability and capacity required to perform the duties and discharge the responsibilities of a licensee acting in the best interests of the public. As a result, the Board shall impose a one-year probated suspension on an applicant who received a Class A misdemeanor final conviction under Chapter 481, 483, or 485, Texas Health and Safety Code that is less than five years

from the date of final disposition. The Board may impose a Reprimand for a Class B misdemeanor final conviction that is less than five years from the date of final disposition, pursuant to subsection (e)(2)(G) of this section. After five years from the date of final disposition, the Board shall take no action.

(G) Other Class A and B Misdemeanor Offenses. The Board shall not automatically impose a disciplinary sanction, but may impose a disciplinary sanction after weighing the considerations required by Texas Occupations Code Chapters 53 and 263, and as listed in subsections (g) - (i) of this section.

(f) Pursuant to Texas Occupations Code §53.021(a-2), the Board may revoke a license upon the imprisonment of the licensee following a felony conviction or deferred adjudication. Pursuant to Texas Occupations Code §53.021(b), the Board shall revoke a license upon the imprisonment of the licensee following a: [~~felony conviction or deferred adjudication; felony community supervision revocation; revocation of parole, or revocation of mandatory supervision.~~]

(1) felony conviction or deferred adjudication for:

(A) an offense that directly relates to the duties and responsibilities of a licensee;

(B) an offense listed in Article 42A.054, Code of Criminal Procedure; or

(C) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure;

(2) felony community supervision revocation;

(3) revocation of parole; or

(4) revocation of mandatory supervision.

(g) The Board may impose any authorized disciplinary action on an applicant or licensee because of a person's conviction of a crime, other than a Class C misdemeanor, that:

(1) serves as a ground for discipline under the Dental Practice Act or other Texas law applicable to the applicant or licensee; or

(2) the Board has determined directly relates to the duties and responsibilities of a licensee, after consideration of each of the following factors:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the applicant or licensee previously had been involved;

(D) the relationship of the crime to the ability and capacity required to perform the duties and discharge the responsibilities of the licensee; and

(E) any correlation between the elements of the crime and the duties and responsibilities of the licensee.

(h) In determining the appropriate disciplinary action to take where the Board is not mandated to take a certain disciplinary action, the Board shall consider the following factors listed in paragraphs (1) - (7) of this subsection when determining whether to impose any authorized discipline:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person before and after the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;

(6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and

(7) other evidence of the person's fitness, including letters of recommendation.

(i) The applicant or licensee has the responsibility, to the extent possible, to obtain and provide to the Board the recommendations described by subsection (h)(7) of this section.

(j) An applicant or licensee shall disclose in writing to the Board any arrest, conviction or deferred adjudication against him or her at the time of initial application and renewal. Additionally, an applicant or licensee shall provide information regarding any arrest, conviction or deferred adjudication to the Board within 30 days of a Board request. An application shall be deemed withdrawn if the applicant has failed to respond to a request for information or to a proposal for denial of eligibility or conditional eligibility within 30 days. Pursuant to Texas Government Code §2005.052, making a false statement or material misrepresentation when applying or renewing a license, refusing to provide requested information to the Board, or failing to provide all of the criminal history requested by the Board represents grounds for denial of the application or suspension or revocation of the license.

(k) Notice of Pending Denial of License. Prior to denying a license application for prior criminal convictions as permitted by Texas Occupations Code Chapter 53, the Board shall provide written notice to the person of the reason for the intended denial and allow the person not less than 30 days to submit any relevant information to the Board, as required by Texas Occupations Code §53.0231.

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

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Lauren Studdard

General Counsel

State Board of Dental Examiners

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



CHAPTER 116. DENTAL LABORATORIES

22 TAC §116.3

The State Board of Dental Examiners (Board) proposes amendments to 22 TAC §116.3, pertaining to the registration and renewal of a dental laboratory. The amendments: remove repetitive statutory language, remove repetitive language found in the Board's dental laboratory application, update the rule to reflect the Board's current licensing process, and include grammatical changes.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in

effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the removal of repetitive language and updating the rule to reflect the Board's current licensing process.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

The Board is requesting public comments on the proposed rule and information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rule.

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed 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.

No other statutes, articles or codes are affected by this proposal.

§116.3. *Registration and Renewal.*

(a) A dental laboratory shall be registered according to the provisions of Occupations Code, Subchapter D, §§266.151 - 266.154.

(b) To qualify for a dental laboratory registration, the applicant must: [submit an application including the following information:]

(1) submit a complete application; and [the name, physical address, phone number, and email address of the laboratory;]

~~[(2) the name, address, phone number, and email address of the laboratory owner;]~~

~~(2) [(3)] if the laboratory owner is an individual, then he or she must submit documentation of proof of United States citizenship, legal permanent residency in the United States, or federal work authorization. This requirement applies for initial and renewal applications. The applicant must submit one of the following:~~

~~(A) a valid, unexpired driver's license or state identification certificate issued by a state or territory of the United States that complies with the minimum document requirements and issuance standards for federal recognition under the REAL ID Act of 2005, Public Law 109-13, unless the driver's license is marked "Limited Term" or "Temporary";~~

~~(B) a valid, unexpired driver's license or state identification certificate that does not comply with REAL ID issued by one of the following states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, or Wyoming;~~

~~(C) a valid passport. Valid passport is defined as:~~

~~(i) an unexpired passport or passport card issued by the United States government; or~~

~~(ii) an unexpired passport issued by the government of another country accompanied by a current permanent resident card or unexpired immigrant visa issued by the United States Department of Homeland Security;~~

~~(D) a valid, unexpired license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;~~

~~(E) a United States Certificate of Naturalization (Form N-550 or N-570); or~~

~~(F) a United States Certificate of Citizenship (Form N-560 or N-561). [;]~~

~~[(4) the date the laboratory opened or will open for business;]~~

~~[(5) type of ownership;]~~

~~[(6) if the laboratory is a corporation, the state in which the corporation is incorporated;]~~

~~[(7) if the laboratory is a subsidiary corporation, the name of the parent company, the state in which the parent company is incorporated, and the percent of stock that the parent company owns in the subsidiary;]~~

~~[(8) the laboratory manager's name, phone number, and email address;]~~

~~[(9) if the laboratory owner or manager has ever been convicted of a misdemeanor or a felony, an explanation and court disposition documents;]~~

~~[(10) if the applicant has ever held a laboratory registration in Texas, the owner's name, manager's name, CDT of record, laboratory name, address, DBA, and lab registration number;]~~

~~[(11) if the applicant, owner, or manager has ever been the subject of a disciplinary investigation or action, including a cease and desist order, in any jurisdiction, an explanation of that investigation or action;]~~

[(12) the notarized signature of the laboratory owner or general manager;]

[(13) if a certified dental technician of record is required;]

[(A) the name, home address, telephone number, email address, and notarized signature of the laboratory's certified dental technician of record;]

[(B) a copy of the certified dental technician's current certification card with the expiration date indicated; and]

[(C) a statement as to whether the certified dental technician of record is the certified dental technician of record for any other dental laboratory in the state of Texas, and if so, the dental laboratory's Texas registration number; and]

[(14) any other information required by the Board.]

(c) Board staff shall review each application for registration or renewal of registration to determine if the applicant meets the requirements of Occupations Code, Chapter 266. The following materials must be submitted:

(1) A complete initial or renewal application [~~or renewal~~], with all required information;

(2) proof of compliance with §116.6 of this chapter;

(3) the appropriate fee; and

(4) effective January 1, 2009, for initial registrations only and once every three years for registration renewals, proof of completion of the Texas Jurisprudence Assessment for dental laboratories. The Jurisprudence Assessment must be taken by the laboratory owner or the laboratory's general manager.

(d) It shall be the duty of each laboratory owner or manager to notify the Board in writing within 60 days of:

(1) a change in ownership or management of the laboratory;

(2) a change in location of the laboratory;

(3) closure of the laboratory;

(4) a change of designated CDT, in which case the notice must be accompanied by proof of current CDT certification for the replacement CDT;

(5) a change of designated employee, if the laboratory is exempted under §116.5 of this chapter. A change of designated employee will require proof within six (6) months of the change that the designated employee meets continuing education requirements; or

(6) a change in mailing address for the owner or manager of the laboratory.

[(e) Any laboratory owner applying for a new laboratory registration who has pending fees and/or penalties due from a previous laboratory registration when such laboratory was closed for non-compliance with subsection (d) of this section must first remit to the Board any fees and penalties due on that previous registration before the new registration application will be considered by the Board.]

[(f) An initial registration certificate issued under this chapter on or after September 1, 2009 expires on the 30th day after the date the registration certificate is issued if the holder of the registration certificate fails to pay the required registration certificate fee on or before that date.]

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

Filed with the Office of the Secretary of State on June 19, 2026.

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Lauren Studdard

General Counsel

State Board of Dental Examiners

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



CHAPTER 117. FACULTY AND STUDENTS IN ACCREDITED DENTAL SCHOOLS

22 TAC §117.2

The State Board of Dental Examiners (Board) proposes amendments to 22 TAC §117.2, pertaining to dental faculty licensure. The amendments remove repetitive language that is currently found in Chapter 267, Texas Occupations Code, and make grammatical changes.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the removal of repetitive language that is found in statute.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not limit an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

The Board is requesting public comments on the proposed rule and information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rule.

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed 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.

No other statutes, articles or codes are affected by this proposal.

§117.2. Dental Faculty Licensure.

(a) The Board [Effective March 1, 2004, the SBDE] will issue a license to a dental school faculty member who provides direct patient care, upon payment of a fee in an amount set by the Board, who [meets all the following criteria:]

(1) meets the requirements in Texas Occupations Code §267.003; and

(2) [(4)] submits documentation of proof of United States citizenship, legal permanent residency in the United States, or federal work authorization. This requirement applies for initial and renewal applications. The applicant must submit one of the following:

(A) a valid, unexpired driver's license or state identification certificate issued by a state or territory of the United States that complies with the minimum document requirements and issuance standards for federal recognition under the REAL ID Act of 2005, Public Law 109-13, unless the driver's license is marked "Limited Term" or "Temporary";

(B) a valid, unexpired driver's license or state identification certificate that does not comply with REAL ID issued by one of the following states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, or Wyoming;

(C) a valid passport. Valid passport is defined as:

(i) an unexpired passport or passport card issued by the United States government; or

(ii) an unexpired passport issued by the government of another country accompanied by a current permanent resident card or unexpired immigrant visa issued by the United States Department of Homeland Security;

(D) a valid, unexpired license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(E) a United States Certificate of Naturalization (Form N-550 or N-570); or

(F) a United States Certificate of Citizenship (Form N-560 or N-561). [5]

[(2) holds a degree from a dental school.]

[(3) holds a full-time or part-time salaried faculty position at a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association;]

[(4) obtains endorsement of the application from the Dean, Department Chair, or Program Director of the employer-school;]

[(5) pays an application fee set by the Board; and]

[(6) has taken and passed the jurisprudence examination administered by the SBDE or its designated testing service.]

[(b) An applicant for a license under this chapter must file an application for the license not later than the 30th day after the date the person begins employment with the dental or dental hygiene school.]

(b) [(e)] [A license under this chapter must be renewed annually.] Upon annual renewal, a license holder must submit an employment affidavit form completed by the Dean, Department Chair, or Program Director of the employer-school.

[(d) A license issued under this chapter expires on the termination of employment with the dental or dental hygiene school.]

[(e) A license holder whose employment with a dental or dental hygiene school terminates and who is subsequently employed by the same or different dental or dental hygiene school must comply with requirements for obtaining an original license, except that the person is not required to re-take the jurisprudence exam.]

(c) [(f)] A license issued under this chapter does not authorize the license holder to engage in the practice of dentistry or dental hygiene outside the auspices of the employing dental or dental hygiene school or program.

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

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State Board of Dental Examiners

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22 TAC §117.3

The State Board of Dental Examiners (Board) proposes amendments to 22 TAC §117.3, pertaining to dental hygiene faculty licensure. The amendments remove repetitive language that is currently found in Chapter 267, Texas Occupations Code, and make grammatical changes.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the removal of repetitive language that is found in statute.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not limit an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

The Board is requesting public comments on the proposed rule and information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rule.

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed 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.

No other statutes, articles or codes are affected by this proposal.

§117.3. Dental Hygiene Faculty Licensure.

(a) ~~The Board [Effective March 1, 2004, the SBDE]~~ will issue a license to a dental hygiene school faculty member who provides direct patient care, upon payment of a fee in an amount set by the Board, who: ~~[meets all the following criteria:]~~

~~(1) meets the requirements in Texas Occupations Code §267.003; and~~

~~(2) [(4)] submits documentation of proof of United States citizenship, legal permanent residency in the United States, or federal work authorization. This requirement applies for initial and renewal applications. The applicant must submit one of the following:~~

~~(A) a valid, unexpired driver's license or state identification certificate issued by a state or territory of the United States that complies with the minimum document requirements and issuance standards for federal recognition under the REAL ID Act of 2005, Public Law 109-13, unless the driver's license is marked "Limited Term" or "Temporary";~~

~~(B) a valid, unexpired driver's license or state identification certificate that does not comply with REAL ID issued by~~

one of the following states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, or Wyoming;

~~(C) a valid passport. Valid passport is defined as:~~

~~(i) an unexpired passport or passport card issued by the United States government; or~~

~~(ii) an unexpired passport issued by the government of another country accompanied by a current permanent resident card or unexpired immigrant visa issued by the United States Department of Homeland Security;~~

~~(D) a valid, unexpired license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;~~

~~(E) a United States Certificate of Naturalization (Form N-550 or N-570); or~~

~~(F) a United States Certificate of Citizenship (Form N-560 or N-561). [;]~~

~~[(2) holds a degree from a dental hygiene school;]~~

~~[(3) holds a full-time or part-time salaried faculty position at a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association;]~~

~~[(4) obtains endorsement of the application from the Dean, Department Chair, or Program Director of the employer-school;]~~

~~[(5) pays an application fee set by the Board; and]~~

~~[(6) has taken and passed the jurisprudence examination administered by the SBDE or its designated testing service.]~~

~~[(b) An applicant for a license under this chapter must file an application for the license not later than the 30th day after the date the person begins employment with the dental or dental hygiene school.]~~

~~(b) [(e)] [A license under this chapter must be renewed annually.] Upon annual renewal, a license holder must submit an employment affidavit form completed by the Dean, Department Chair, or Program Director of the employer-school.~~

~~[(d) A license issued under this chapter expires on the termination of employment with the dental or dental hygiene school.]~~

~~[(e) A license holder whose employment with a dental or dental hygiene school terminates and who is subsequently employed by the same or different dental or dental hygiene school must comply with requirements for obtaining an original license, except that the person is not required to re-take the jurisprudence exam.]~~

~~(c) [(f)] A license issued under this chapter does not authorize the license holder to engage in the practice of dentistry or dental hygiene outside the auspices of the employing dental or dental hygiene school or program.~~

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

Filed with the Office of the Secretary of State on June 19, 2026.
TRD-202602500



PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 133. LICENSING FOR ENGINEERS SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

22 TAC §133.21, §133.27

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 133, Subchapter C, regarding professional engineer license application requirements, specifically §133.21 Application for Standard License and §133.27 Application for Temporary license for Engineers Currently Licensed Outside the United States.

BACKGROUND AND SUMMARY

The proposed rule amendments are part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements and international licensure issues.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §133.21 to remove a requirement for applicants to demonstrate proficiency in the English language via the Test of English as a Foreign Language (TOEFL). Applicants do not generally use the TOEFL. Instead, all application documents are required to be submitted in English per §133.37 (which is being moved to rule §133.30).

The proposed rules amend §133.27 to remove a requirement for applicants to demonstrate proficiency in the English language via the Test of English as a Foreign Language (TOEFL). Applicants do not generally use the TOEFL. Instead, all application documents are required to be submitted in English per §133.37 (which is being moved to rule §133.30). The amendment also removes Mexico from the list of countries approved for temporary licensure. Mexico originally was included as part of the North American Free Trade Agreement (NAFTA). However, the agency no longer has an agreement with Mexico regarding licensure in practice. Applicants from Mexico can continue to use the current standard application process.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed rules are in effect, there is no estimated in-

crease or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rules will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be clarification and accuracy of board rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not increase the number of individuals subject to the rule's applicability.
7. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The proposed rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

The proposed rules are pursuant to Texas Occupations Code §1001.302 which set out requirements for an engineering applicant to demonstrate qualifications for licensure.

§133.21. Application for Standard License.

(a) To be eligible for licensure as a professional engineer, one must submit a completed application.

(b) All persons must pass the examination on the fundamentals of engineering or be eligible for a waiver from the examination on the fundamentals of engineering before submitting an application.

~~[(c) Applicants must speak and write the English language. Proficiency in English may be evidenced by an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200 or an internet based score of at least 95, or other evidence such as significant academic or work experience in English acceptable to the executive director.]~~

(c) ~~[(d)]~~ Applicants for a license shall submit:

(1) an application in a format prescribed by the board and shall:

(A) list his or her full, legal name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and

(B) list social security number, as required under the Texas Family Code, §231.302;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) proof of educational credentials pursuant to §133.33 or §133.35 of this chapter (relating to Proof of Educational Qualifications);

(4) supplementary experience record as required under §133.41 of this chapter (relating to Supplementary Experience Record);

(5) reference statements as required under §133.51 of this chapter (relating to Reference Providers);

(6) documentation of a passing score on examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §133.61(g) of this chapter (relating to Engineering Examinations), if applicable;

(7) verification of a current license, if applicable;

(8) a completed Texas Engineering Professional Conduct and Ethics Examination as required under §133.63 of this chapter (relating to Professional Conduct and Ethics Examination);

~~[(9) TOEFL scores, if applicable;]~~

(9) ~~[(10)]~~ information regarding any judgments of convictions, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a form prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges;

(10) ~~[(11)]~~ documentation of submittal of fingerprints for criminal history record check as required by §1001.272 of the Act; and

(11) ~~[(12)]~~ if applicable, written requests for waivers of the examinations on the fundamentals and/or principles and practices of engineering, ~~[TOEFL documentation,]~~ or a commercial evaluation of non-accredited degrees and a statement supporting the request(s).

(d) ~~[(e)]~~ At the time the application is filed, an applicant may request in writing that any transcripts, reference statements, evaluations, experience records or other similar documentation previously submitted to the board be included in a current application; however, such documentation may not meet the requirements of the board at the time of the subsequent application and new or updated information may be required.

(e) ~~[(f)]~~ The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience record and reference documentation to meet the conditions of subsection (d)(3) - (7) of this section.

(f) ~~[(g)]~~ Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

(g) ~~[(h)]~~ An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of their eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(h) ~~[(i)]~~ Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chap-

ter (relating to Processing, Review, and Evaluation of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to §1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

§133.27. *Application for Temporary License for Engineers Currently Licensed Outside the United States.*

(a) Pursuant to §1001.311 of the Act, a temporary license may be issued under this section for applicants who:

(1) are citizens of the Commonwealth of Australia, Canada, or the Republic of Korea [~~or the United Mexican States~~];

(2) are seeking to perform engineering work in Texas for three years or less;

(3) are currently licensed or registered in good standing with Engineers Australia, at least one of the jurisdictions of Canada, or the Korean Professional Engineers Association [~~or the United Mexican States~~]; and

(4) [~~meet the following experience requirements~~]:

~~[(A)] [Applicant] are currently registered in Australia, Canada or the Republic of Korea and [shall] have at least seven years of creditable engineering experience, three of which must be practicing as a registered or chartered engineer with Engineers Australia, the Korean Professional Engineers Association or Engineers Canada and one of which must be working with or show familiarity with U.S. codes, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation).~~

~~[(B) Applicant currently licensed in United Mexican States shall:]~~

~~[(i) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have 12 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter; or]~~

~~[(ii) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have 16 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.]~~

(b) The applicant applying for a temporary license from Australia, Canada, or the Republic of Korea [~~or the United Mexican States~~] shall submit:

(1) an application in a format prescribed by the board;

(2) proof of educational credentials pursuant to §133.33 or §133.35 of this chapter (relating to Proof of Educational Qualifications);

(3) a supplementary experience record as required under §133.41(1) - (4) of this chapter (relating to Supplementary Experience Record) or a verified curriculum vitae and continuing professional development record;

(4) at least three reference statements as required under §133.51 and §133.53 of this chapter (relating to Reference Providers and Reference Statements);

(5) Proof of citizenship from the relevant qualifying country listed in subsection (a)(1) of this section;

~~[(5) passing score of TOEFL as described in §133.21(e) of this chapter (relating to Application for Standard License);]~~

(6) information regarding judgments of convictions, deferred judgments or pre-trial diversions, for a misdemeanor or felony provided in a form prescribed by the board, together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges;

(7) documentation of submittal of fingerprints for criminal history record check as required by §1001.272 of the Act;

(8) a statement describing any engineering practice violations, if any, together with documentation from the jurisdictional authority describing the resolution of those charges;

(9) submit a completed Texas Engineering Professional Conduct and Ethics examination;

(10) pay the application fee established by the board; and

(11) a verification of a license in good standing from one of the jurisdictions listed in subsection (a)(3) of this section.

(c) Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chapter (relating to Processing, Review, and Evaluation of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to §1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

(d) A temporary license issued under this section may only be renewed once [~~twice~~] for a total maximum duration of three years.

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

Filed with the Office of the Secretary of State on June 19, 2026.

TRD-202602510

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 440-3080



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 40. STOCK MEDICATION IN SCHOOLS AND OTHER ENTITIES

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes amendments to §§40.1 - 40.8, 40.11 - 40.18, 40.61 - 40.71, and 40.81 - 40.89; and the repeal of §§40.21 - 40.28.

BACKGROUND AND PURPOSE

The purpose of the proposal is to amend 25 Texas Administrative Code (TAC) Chapter 40, Subchapters A, B, E, and F, and repeal Subchapter C, to implement House Bill (HB) 163 and Senate Bill (SB) 1619, 89th Legislature, Regular Session, 2025.

HB 163 amended Texas Health and Safety Code §773.0145 and removed the statutory list of specific entities authorized to adopt a policy regarding the maintenance, administration, and disposal of epinephrine delivery systems and instead authorizes any entity in Texas such as schools, youth facilities and certain entities like an amusement park, restaurant, sports venues, and institutions of higher education to adopt such a policy. SB 1619 amended Texas Education Code Chapter 38 and replaced the term "epinephrine auto-injector" with "epinephrine delivery system" throughout relevant statutes.

The statutory changes require DSHS to update the rules to expand the entities allowed to implement an unassigned epinephrine delivery systems policy and to update the medication and terminology allowed in the unassigned epinephrine delivery systems policy. In addition to the changes resulting from the legislature, 25 TAC Chapter 40, Subchapters A, B, E, and F amendments align definitions across 25 TAC Chapter 40 and comply with DSHS rule standards for plain language. The proposed repeal of Subchapter C removes duplicative rules because the content in those rules have been incorporated into the proposed amendments in Subchapter B.

SECTION-BY-SECTION SUMMARY

The proposed amendments to Chapter 40 replace "epinephrine auto-injector" with "epinephrine delivery system," align terminology across subchapters, and improve overall readability. The proposed amendments include non-substantive editorial and plain-language changes and revisions to improve clarity that are not specifically listed here.

The proposal updates the title of Subchapter A, consisting of §§40.1 - 40.8, to *Epinephrine Delivery System Policies in Institutions of Higher Education*.

The proposed amendment to §40.1 replaces wording.

The proposed amendment to §40.2 replaces wording and updates the rule title to *Voluntary Unassigned Epinephrine Delivery System Policies for an Institution of Higher Education*.

The proposed amendment to §40.3 adds the acronym, TEC; reorganizes and renumbers the definitions to alphabetize the terms; replaces wording for clarity; refines the definitions for "campus," "institution of higher education," "unassigned epinephrine auto-injector," and "volunteer"; and adds a new definition for "standard operating hours" and "epinephrine delivery system."

The proposed amendment to §40.4 replaces wording for clarity.

The proposed amendment to §40.5 changes the number of doses of unassigned adult epinephrine for use in an epinephrine delivery system from one to two on each institution of higher education's campus; clarifies annual prescription and standing order requirements; adds that an institution may conduct an assessment to determine if additional unassigned epinephrine delivery systems are needed and requirements surrounding the assessment; clarifies statutes for the prescription and standing order; clarifies the designation of a coordinating campus department; and adds requirements for monthly inventory checks. The proposed amendment adds who may administer the institution's unassigned epinephrine delivery system; clarifies EMS notification; requires replacement planning; and requires trained individual presence during standard operating hours. The proposed amendment clarifies storage requirements and requires policy publication and submission to DSHS. The

proposed amendment adds how unassigned epinephrine delivery systems must be stored and clarifies the record retention schedule for the unassigned epinephrine delivery system policy under 13 TAC §6.10. The proposal also updates the rule title to *Maintenance, Administration, and Disposal of Unassigned Epinephrine Delivery Systems*.

The proposed amendment to §40.6 clarifies the frequency of training; requires hands-on training with a trainer device; replaces wording; and adds the statutory requirements for training.

The proposed amendment to §40.7 removes subsection (a) and renumbers the remaining subsections; adds the acronym, TEC; clarifies that reports to institutions must be sent to the institution's leadership; updates the DSHS website address; and updates the rule title to *Report on Administering Unassigned Epinephrine Delivery Systems*.

The proposed amendment to §40.8 adds acronyms, TEC and HSC.

The proposal updates the title of Subchapter B, consisting of §§40.11 - 40.18, to *Epinephrine Delivery System Policies in Certain Entities*.

The proposed amendment to §40.11 replaces wording for clarity.

The proposed amendment to §40.12 replaces wording for clarity and updates the rule title to *Voluntary Unassigned Epinephrine Delivery System Policies for Certain Entities*.

The proposed amendment to §40.13 adds the acronym, TEC; refines the definitions for "authorized healthcare provider," "unassigned epinephrine delivery system," and "volunteer"; replaces the term "personnel" with "entity personnel" and clarifies the definition; renumbers the definitions to alphabetize the terms; adds new term "entity" and updates statutory cross-references; and removes "venue."

The proposed amendment to §40.14 replaces wording to provide clarity for entities adopting voluntarily.

The proposed amendment to §40.15 organizes a plan for ensuring proper maintenance, administration, and disposal of unassigned epinephrine delivery systems in certain entities; changes the number of doses of unassigned adult epinephrine for use in an epinephrine delivery system from one to two at each entity's property and added that the entity may choose to stock unassigned pediatric epinephrine delivery system packs based on the population served; clarifies annual prescription and standing order requirements; clarifies factors that an entity may consider when conducting an assessment to determine if additional unassigned epinephrine delivery systems are needed; adds "administrator" as an entity coordinator and clarifies coordination and management requirements of the unassigned epinephrine delivery system. The proposed amendment adds who may administer the entity's unassigned epinephrine delivery system; clarifies EMS notification; requires replacement planning; and requires trained individual presence during all hours the entity is open to the public or to the population the entity serves. The proposed amendment clarifies infectious waste disposal; requires secure and accessible storage; and requires parent notification when serving children under 18 years of age. The proposal updates the rule title to *Maintenance, Administration, and Disposal of Unassigned Epinephrine Delivery Systems*.

The proposed amendment to §40.16 clarifies the frequency of training; replaces wording; and adds statutory requirements for training.

The proposed amendment to §40.17 adds new subsection (b) to clarify reporting requirements; clarifies that reports must be sent to the entity's leadership; updates the DSHS website address; and updates the rule title to *Report on Administering Unassigned Epinephrine Delivery Systems*.

The proposed amendment to §40.18 adds an acronym and replaces wording for clarity.

The proposed repeal of Subchapter C, Epinephrine Auto-Injector Policies in Youth Facilities, consisting of §§40.21- 40.28, deletes the rules as no longer necessary because the content of these rules has been incorporated into the proposed amendments in Subchapter B to reflect statutory expansion without removing substantive requirements.

The proposal updates the title of Subchapter E, consisting of §§40.61 - 40.71, to *Epinephrine Delivery System Policies in Schools*.

The proposed amendment to §40.61 replaces wording for clarity.

The proposed amendment to §40.62 replaces wording for clarity; adds the acronym, TEC; and updates the rule title to *Voluntary Unassigned Epinephrine Delivery System Policies for School Districts, Open-enrollment Charter Schools, and Private Schools*.

The proposed amendment to §40.63 adds the acronym, TEC; reorganizes and renumbers the definitions to alphabetize the terms; refines the definitions for "campus," "open-enrollment chart school," "school personnel," "school volunteer," and "unassigned epinephrine delivery system"; and adds new definitions for "epinephrine delivery system" and "school hours."

The proposed amendment to §40.64 replaces wording for clarity.

The proposed amendment to §40.65 organizes a plan for ensuring proper maintenance, administration, and disposal of unassigned epinephrine delivery systems in schools. The proposed amendment changes the number of doses of unassigned adult epinephrine for use in an epinephrine delivery system from one to two on each school campus and clarifies that schools must equally distribute epinephrine delivery systems across a campus. The proposed amendment clarifies designated school personnel coordinating requirements, including training, inventory checks, and factors to consider when assessing to determine the number of additional unassigned epinephrine delivery systems needed. The proposal changes trained individual presence from "all hours the campus is open for school-sponsored events" to "school hours" and adds "off-campus school event." The proposed amendment adds that schools may train all personnel and volunteers on food allergies and how to respond to an emergency. The proposal clarifies EMS and parent notification, record retention under 13 TAC §7.125, and storage and disposal requirements; and updates the rule title to *Maintenance, Administration, and Disposal of Unassigned Epinephrine Delivery Systems*.

The proposed amendment to §40.66 clarifies voluntary participation of personnel; provides protection to untrained personnel from penalty; and updates the rule title to *Assignment and Recruitment of School Personnel and School Volunteers Trained to Administer Epinephrine Delivery Systems*.

The proposed amendment to §40.67 clarifies annual training requirements; replaces wording for clarity; and adds that the school district, open-enrollment charter school, or private school

may contract with a vendor to provide training to school personnel and school volunteers.

The proposed amendment to §40.68 replaces wording to clarify reporting requirements; updates the DSHS website; and updates the rule title to *Report on Administering Epinephrine Delivery Systems*.

The proposed amendment to §40.69 clarifies parent notice requirements for students enrolled in the district or school, and updates the rule title to *Notice to Parents Regarding Unassigned Epinephrine Delivery System Policies in Schools*.

The proposed amendment to §40.70 replaces wording for clarity.

The proposed amendment to §40.71 adds an acronym and replaces wording for clarity.

The proposed amendment to §40.81 replaces wording for clarity.

The proposed amendment to §40.82 adds the acronym, TEC; reorganizes and renumbers the definitions to alphabetize the terms; refines the definitions for "campus," "open-enrollment chart school," "school personnel," and "school volunteer"; and adds new definitions for "opioid antagonist medication policy" and "school hours."

The proposed amendment to §40.83 adds wording for clarity.

The proposed amendment to §40.84 clarifies required and voluntary opioid antagonist policies; removes subsection (c); and renumbers the remaining rule text.

The proposed amendment to §40.85 clarifies the maintenance, administration, and disposal of opioid antagonist medication. The proposed amendment replaces the term "campus" with "school district, open-enrollment charter school, or private school" and changes the established number of doses of opioid antagonist medications determined by a school district, on each campus, to at least two doses of opioid antagonist medication on each school campus. The proposed amendment adds trained individual presence during school hours; who may administer an opioid antagonist medication; and designated school personnel coordination and management requirements, including training and inventory checks. The proposed amendment adds EMS notification, medication replacement planning, and record retention requirements; and clarifies antagonist medication storage and disposal.

The proposed amendment to §40.86 adds the acronym, TEC; adds notification to emergency medical services; and replaces wording to clarify annual training requirements.

The proposed amendment to §40.87 removes subsection (a) and renumbers the remaining subsections; adds the reporting requirement to the DSHS commissioner; and updates the DSHS website.

The proposed amendment to §40.88 replaces wording for clarity.

The proposed amendment to §40.89 adds an acronym and replaces wording for clarity.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS determined during the first five years the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of DSHS employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to DSHS;
- (5) the proposed rules will not create a new regulation;
- (6) the proposed rules will expand and repeal existing regulations;
- (7) the proposed rules will increase the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Christy Havel Burton also determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. Participation in adopting a policy and stocking epinephrine delivery systems is optional.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas, do not impose a cost on regulated persons, and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Manda Hall, M.D., Deputy Commissioner, Community Health Improvement Division, determined for each year of the first five years the rules are in effect, the public will benefit from safer schools and other entities authorized to administer epinephrine to a person reasonably believed to be experiencing anaphylaxis.

Christy Havel Burton also determined for the first five years the rules are in effect, persons who are required to comply with the proposed rules will not incur economic costs. Schools are not required but may choose to adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine delivery systems. If they choose to adopt and implement a policy, they may incur economic costs for medication supplies.

The cost may vary due to the following factors: (1) schools are not required to adopt a policy and stock medication and some schools may choose not to do so; (2) the recommended amount of medication to stock varies depending on the need and size of the school campus; and (3) schools may be able to obtain medications for respiratory distress at a lower cost from pharmaceutical manufacturers, non-profit organizations, or other sources.

TAKINGS IMPACT ASSESSMENT

DSHS determined the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist

in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R032" in the subject line.

SUBCHAPTER A. EPINEPHRINE DELIVERY SYSTEM [AUTO-INJECTOR] POLICIES IN INSTITUTIONS OF HIGHER EDUCATION

25 TAC §§40.1 - 40.8

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The amendments affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075 and §773.0145, and Texas Education Code Chapters 38 and 51.

§40.1. Purpose.

The purpose of this subchapter is to establish minimum standards for administering, maintaining, and disposing of epinephrine delivery systems [auto-injectors] for an institution of higher education adopting [that adopts] unassigned epinephrine delivery system [auto-injector] policies. These standards are implemented under Texas Education Code[§] Chapter 51, Subchapter Y-1 and Texas Health and Safety Code[§] Chapter 773, Subchapter A.

§40.2. Voluntary Unassigned Epinephrine Delivery System [Auto-injector] Policies for an Institution of Higher Education.

An institution of higher education [(institution)] may adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine delivery systems [auto-injectors] at each institution's campus. The adopted [If a written policy is adopted under this subchapter, the] policy must comply with Texas Education Code[§] §51.882 or Texas Health and Safety Code[§] §773.0145, and this subchapter.

§40.3. Definitions.

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

(1) Anaphylaxis--As defined in Texas Education Code (TEC)[§] §51.881.

(2) Authorized healthcare provider--A physician, as defined in TEC [Texas Education Code,] §51.881, or person who has been delegated prescriptive authority [by a physician] under Texas Occupations Code[.] Chapter 157 [as described in Texas Health and Safety Code, §773.0145].

(3) Campus--The physical grounds and buildings [An educational unit] under the management and control of an institution of higher education [and may include, in addition to the main campus, off-campus and secondary locations, such as branch campuses, teaching locations, regional centers, and where students are housed].

(4) Epinephrine delivery system--As defined in TEC §51.881.

(5) [(4)] Institution of Higher Education (institution)--As defined in TEC [Texas Education Code,] §61.003(8) and (15).

(6) [(5)] Institution personnel [Personnel]--Employees [of an institution of higher education] who are authorized and trained to administer an epinephrine delivery system [auto-injectors].

(7) Standard operating hours--At a minimum, from 30 minutes before and after regular business hours for administrative, academic, and student services offices.

(8) [(6)] Unassigned epinephrine delivery system [auto-injector]--An epinephrine delivery system [auto-injector] prescribed by an authorized healthcare provider in the name of the institution and [of higher education] issued by an authorized healthcare provider with a non-patient-specific standing delegation order for the administration of an epinephrine delivery system [auto-injector, and issued by an authorized healthcare provider].

(9) [(7)] Volunteer--A person who:

(A) is providing services for or on behalf of an institution [of higher education] on the premises of the institution's campus, at an institution [of higher education] sponsored event, or an institution [of higher education] related activity on or off institution property; [and who]

(B) does not receive compensation more than [in excess of] reimbursement for expenses; and

(C) is authorized and trained to administer an epinephrine delivery system [auto-injector].

§40.4. *Applicability.*

This subchapter applies to any institution adopting and implementing [of higher education (institution) that voluntarily chooses to adopt and implement] a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine delivery systems [auto-injectors] on each institution's campus.

§40.5. *Maintenance, Administration, and Disposal of Unassigned Epinephrine Delivery Systems [Auto-Injectors].*

(a) An institution must [of higher education (institution) shall] obtain a prescription from an authorized healthcare provider each year to stock, possess, and maintain at least two doses of [one] unassigned adult epinephrine for use in an epinephrine delivery system [auto-injector pack (two doses)] on each institution's campus [as described in Texas Education Code, §51.885 and Texas Health and Safety Code, §773.0145. The number of additional adult packs may be determined by an individual campus assessment led by an authorized health-care provider, based on available resources].

(b) An institution may conduct an assessment to determine the number of additional unassigned epinephrine delivery systems needed and [performing an assessment] may consider:

(1) consultation with campus police, office of risk management, office of food services, office of housing, office of health services, or any department the institution sees fit [involved with student well-being];

(2) campus geography, including high risk areas where food exposure or environmental trigger exposure may occur; [and]

(3) student population size; and[-]

(4) response time of emergency medical services (EMS).

(c) The authorized healthcare provider prescribing the unassigned epinephrine delivery system under subsection (a) of this section must provide a standing order for administration of an epinephrine delivery system to a person who is reasonably believed to be experiencing anaphylaxis. The prescription and standing order must comply with the Texas Education Code §51.885 and Texas Health and Safety Code §773.0145.

[(e) In development of an epinephrine auto-injector policy, an institution shall include:]

(d) [(4)] The institution must designate a [designated] campus department to coordinate and manage the unassigned epinephrine delivery system. The designated department must oversee [policy implementation that includes]:

(1) [(A)] conducting an assessment, if the unassigned epinephrine delivery system was implemented;

(2) [(B)] training [of] institution personnel and volunteers;

(3) [(C)] acquiring or purchasing, storing, and using an unassigned epinephrine delivery system [auto-injectors]; [and]

(4) [(D)] disposing of used or expired unassigned epinephrine delivery systems [auto-injectors]; and

(5) checking the inventory of unassigned epinephrine delivery systems each month for expiration and replacement.

[(2) personnel who can be trained to administer unassigned epinephrine auto-injectors;]

[(3) locations of unassigned epinephrine auto-injectors;]

[(4) procedures for notifying local emergency medical services when a person is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered; and]

[(5) a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration.]

(e) Institution personnel or volunteers may administer an unassigned epinephrine delivery system to a person who is reasonably believed to be experiencing anaphylaxis on campus, or as indicated in the unassigned epinephrine delivery system policy.

(f) Institution personnel or volunteers must immediately notify local EMS when a person is suspected of experiencing anaphylaxis and when an unassigned epinephrine delivery system is administered. If the institution personnel or volunteer is the only trained individual available to notify EMS, the trained individual must administer the unassigned epinephrine delivery system before notifying EMS.

(g) The institution must develop a plan to replace, as soon as reasonably possible, any unassigned epinephrine delivery system used or close to expiration.

(h) At least one institution personnel or volunteer who is authorized and trained to administer an unassigned epinephrine delivery system must be present on campus during standard operating hours.

(i) ~~[(d)]~~ The ~~[policy and the]~~ locations of the unassigned epinephrine delivery systems ~~[auto-injector]~~ must be publicly available~~;~~ and the unassigned epinephrine auto-injector must be stored in accordance with the manufacturer's guidelines]. The institution may develop and place a map in high-traffic areas indicating the location of the unassigned epinephrine delivery systems on campus.

(j) The unassigned epinephrine delivery system policy must be included in the institution's student handbook, campus policy for personnel, or similar publication and published on the institution's internet website.

(k) Unassigned epinephrine delivery systems must be stored in a secure, easily accessible area for an emergency, under the manufacturer's guidelines.

(l) ~~[(e)]~~ The ~~[Each public]~~ institution ~~[of higher education's policy]~~ must submit a copy of and any amendment to the policy adopted by the institution ~~[be submitted]~~ to the Department of State Health Services (DSHS). To submit a policy or amendment, visit DSHS's School Health Program website at dshs.texas.gov. ~~[in accordance with the DSHS procedure.]~~

(m) The institution must keep records relating to implementing and administering the institution's unassigned epinephrine delivery system policy under the record retention schedule for records of institutions of higher education found in 13 TAC §6.10 (relating to Texas State Records Retention Schedules).

§40.6. Training.

(a) Each institution adopting ~~[of higher education (institution) that adopts]~~ an unassigned epinephrine delivery system ~~[auto-injector written]~~ policy ~~[under this subchapter]~~ is responsible for annually training institution personnel and ~~[institution]~~ volunteers in ~~[the]~~ recognizing ~~[of]~~ anaphylaxis signs and symptoms and performing hands-on training for administration of an unassigned epinephrine delivery system ~~[auto-injector]~~.

(b) Training must meet the requirements found in Texas Education Code §51.884 and Texas Health and Safety Code §773.0145 and must ~~[shall]~~ be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention.

(c) Each institution must ~~[shall]~~ maintain training records. Each ~~[and each]~~ public institution must ~~[shall]~~ make available when requested ~~[upon request]~~ a list of the trained ~~[those]~~ institution personnel or ~~[institution]~~ volunteers ~~[trained and authorized to administer the unassigned epinephrine auto-injector on the campus]~~.

§40.7. Report on Administering Unassigned Epinephrine Delivery Systems ~~[Auto-Injectors]~~.

~~[(a)]~~ Records relating to implementing and administering the institution of higher education ~~(institution)~~ unassigned epinephrine auto-injector policy shall be retained per the record retention schedule for records of institutions of higher education found in 13 TAC §6.10.]

(a) ~~[(b)]~~ The institution must ~~[shall]~~ submit a report no later than 10 ~~[the 10th]~~ business days ~~[day]~~ after the date institution personnel or a ~~[an institution]~~ volunteer administers an unassigned epinephrine delivery system under ~~[auto-injector in accordance with]~~ the unassigned epinephrine delivery system ~~[auto-injector]~~ policy ~~[adopted under this subchapter]~~. The report must ~~[shall]~~ be submitted to ~~[the]~~ institution leadership and those identified in Texas Education Code (TEC)~~;~~ §51.883.

(b) ~~[(e)]~~ The institution must notify ~~[Notifications to]~~ the commissioner of the Department of State Health Services (DSHS) ~~[shall]~~

be submitted] on the designated electronic form available on DSHS's School Health Program website found at www.dshs.texas.gov/texas-school-health/required-reporting-forms ~~[dshs.texas.gov]~~.

(c) ~~[(d)]~~ This section does not apply to a private or independent institution of higher education, as defined in TEC ~~[Texas Education Code,]~~ §61.003(15).

§40.8. Immunity from Liability.

A person who in good faith takes, or fails to take, any action under this subchapter or Texas Education Code (TEC)~~;~~ Chapter 51, Subchapter Y-1 or Texas Health and Safety Code (HSC)~~;~~ Chapter 773, Subchapter A, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, under TEC ~~[in accordance with the Texas Education Code,]~~ §51.888 or HSC ~~[Texas Health and Safety Code,]~~ §773.0145.

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

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Department of State Health Services

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SUBCHAPTER B. EPINEPHRINE DELIVERY SYSTEM ~~[AUTO-INJECTOR]~~ POLICIES IN CERTAIN ENTITIES

25 TAC §§40.11 - 40.18

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The amendments affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075 and §773.0145, and Texas Education Code Chapters 38 and 51.

§40.11. Purpose.

The purpose of this subchapter is to establish minimum standards for administering, maintaining, and disposing of epinephrine delivery systems ~~[auto-injectors]~~ for a certain ~~[specified]~~ entity adopting ~~[that adopts]~~ an unassigned epinephrine delivery system ~~[auto-injector]~~ policy. These standards are implemented under Texas Health and Safety Code~~;~~ Chapter 773, Subchapter A.

§40.12. Voluntary Unassigned Epinephrine Delivery System ~~[Auto-injector]~~ Policies for Certain Entities.

Certain ~~[Specified]~~ entities may adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine delivery systems ~~[auto-injectors]~~ at each entity's ~~[venue's]~~ property. The adopted policy must comply with ~~[the standards outlined in]~~ Texas Health and Safety Code §773.0145 and this subchapter.

§40.13. Definitions.

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

(1) Anaphylaxis--As defined in Texas Education Code (TEC) §51.881.

(2) Authorized healthcare provider--A physician or individual with [person who has been] delegated prescriptive authority [by a physician] under Texas Occupations Code Chapter 157[, as described in Texas Health and Safety Code §773.0145].

(3) Entity--An organization, business, or institution offering a place of public gathering, including:

(A) an amusement park, as defined by Texas Penal Code §46.03;

(B) a restaurant, as defined by Texas Business and Commerce Code §17.821;

(C) a sports venue, as defined by Texas Local Government Code §504.151;

(D) a governmental entity, as defined by Texas Health and Safety Code §173.003;

(E) a child-care facility, as defined by Texas Human Resources Code §42.002; or

(F) any other private or public entity benefiting from the possession and administration of epinephrine delivery systems.

(4) [(3)] Entity personnel [Personnel]--Employees of an entity who are authorized and trained to administer epinephrine delivery systems [and volunteers of a venue].

(5) [(4)] Unassigned epinephrine delivery system [auto-injector]--An epinephrine delivery system [auto-injector] prescribed by an authorized healthcare provider in the name of the entity and [venue] issued by an authorized healthcare provider with a non-patient-specific standing order for the administration of an epinephrine delivery system [auto-injector].

[(5)] Venue--An entity offering a place of public gathering including:}]

[(A)] an amusement park, as defined by Texas Penal Code §46.035;}]

[(B)] a restaurant, as defined by Texas Business and Commerce Code §17.821; or}]

[(C)] a sports venue, as defined by Texas Local Government Code §504.151.}]

(6) Volunteer--A person who:

(A) is providing services for or on behalf of an entity [a venue] on the premises of the entity [venue,] or [providing services for or on behalf of a venue] at an offsite sponsored event or related activity; [and]

(B) does not receive compensation more than [in excess of] reimbursement for expenses; and [;]

(C) is authorized and trained to administer epinephrine delivery systems.

§40.14. Applicability.

This subchapter applies to any entity adopting and implementing [venue that voluntarily adopts and implements] a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine delivery systems [auto-injectors] at each entity [venue].

§40.15. Maintenance, Administration, and Disposal of Unassigned Epinephrine Delivery Systems [Auto-Injectors].

(a) An entity must [A venue shall] obtain a prescription and standing order from an authorized healthcare provider each year to stock, possess, and maintain at least two doses of [one] unassigned adult epinephrine for use in an epinephrine delivery system [auto-injector pack (two doses)] on each of the entity's properties. The entity may choose to stock unassigned pediatric epinephrine delivery system packs based on population the entity serves. [venue's property, as described in Texas Health and Safety Code §773.0145. The number of additional adult packs may be determined by an individual venue assessment led by an authorized health-care provider, based on available resources.]

(b) An entity may consider the following factors to assess and determine the number of additional unassigned epinephrine delivery systems needed [A venue performing such an assessment may consider]:

(1) input from administrators, [consultation with] office of risk management, office of food services, or any department involved with public well-being;

(2) entity [venue] geography, including high-risk [high risk] areas where food exposure or environmental trigger exposure may occur; [and]

(3) entity [venue] occupancy limit; and[;]

(4) response time of emergency medical services (EMS).

(c) The authorized healthcare provider prescribing the unassigned epinephrine delivery system under subsection (a) of this section must provide a standing order for administration of an epinephrine delivery system to a person who is reasonably believed to be experiencing anaphylaxis. The prescription and standing order must comply with the Texas Health and Safety Code §773.0145.

[(e)] In developing an epinephrine auto-injector policy, a venue shall designate:}]

(d) [(4)] The entity will designate a department or administrator to coordinate and manage the unassigned epinephrine delivery system. The designated department or administrator must oversee [policy implementation, which shall include]:

(1) [(A)] conducting an assessment, if the unassigned epinephrine delivery system was implemented;

(2) [(B)] training entity [venue] personnel and volunteers;

(3) [(C)] acquiring or purchasing [(or otherwise acquiring)], storing, and using unassigned epinephrine delivery systems; [auto-injectors; and]

(4) [(D)] disposing of used or expired unassigned epinephrine delivery systems [auto-injectors]; and

(5) checking the inventory of epinephrine delivery systems each month for expiration and replacement.

[(2)] personnel who can be trained to administer unassigned epinephrine auto-injectors;}]

[(3)] locations for unassigned epinephrine auto-injectors;}]

[(4)] procedures for notifying local emergency medical services when a member of the venue or volunteer suspects a person is experiencing anaphylaxis and when an epinephrine auto-injector is administered; and}]

[(5)] a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used, and to replace any

unused unassigned epinephrine auto-injector upon or prior to its expiration.]

(e) Entity personnel or volunteers may administer an unassigned epinephrine delivery system to a person who is reasonably believed to be experiencing anaphylaxis at the entity, or as indicated in the entity's unassigned epinephrine delivery system policy.

(f) The entity must immediately notify local EMS when a person is suspected of experiencing anaphylaxis and when an unassigned epinephrine delivery system is administered. If the entity personnel or volunteer is the only trained individual available to notify EMS, the trained individual must administer the unassigned epinephrine delivery system before notifying EMS.

(g) The entity must develop a plan to replace, as soon as practicable, any unassigned epinephrine delivery system used or close to expiration.

(h) Used unassigned epinephrine delivery systems must be considered infectious waste and must be disposed of accordingly.

(i) [(d)] The policy and the locations of the unassigned epinephrine delivery system [auto-injector] must be publicly available. The entity may develop and place a map in high-traffic areas indicating the location of the unassigned epinephrine delivery systems at the entity. [; and the unassigned epinephrine auto-injector must be stored in accordance with the manufacturer's guidelines.]

(j) Unassigned epinephrine delivery systems must be stored in a secure, easily accessible, and clearly labeled area for an emergency, under the manufacturer's guidelines.

(k) At least one entity personnel or volunteer who is authorized and trained to administer an unassigned epinephrine delivery system must be present during all hours the entity is open to the public or to the population the entity serves, as applicable.

(l) If the population the entity serves is children under 18 years of age, then the entity must provide written notice to a parent or guardian:

(1) stating the entity implements an unassigned epinephrine delivery system policy under this subchapter; and

(2) detailing any change or discontinuation of the unassigned epinephrine delivery system policy within 15 calendar days of the change or discontinuation.

§40.16. Training.

(a) Each entity adopting [venue that adopts] an unassigned epinephrine delivery system [auto-injector written] policy [under this subchapter] is responsible for annually training entity [venue] personnel and [venue] volunteers in [the] recognizing [of] anaphylaxis signs and symptoms and performing hands-on training for administration of an unassigned epinephrine delivery system [auto-injector].

(b) Training must meet the requirements found in Texas Health and Safety Code §773.0145 and must [shall] be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention.

(c) Each entity must [venue shall] maintain training records. Each entity must [and each venue shall] make available when requested [upon request] a list of trained entity [those venue] personnel or [venue] volunteers [trained and authorized to administer the unassigned epinephrine auto-injector on the venue's property].

§40.17. Report on Administering Unassigned Epinephrine Delivery Systems [Auto-Injectors].

(a) The entity must [venue that adopts a policy for administering unassigned epinephrine auto-injectors shall] submit a report no later than 10 [the 10th] business days [day] after the date an entity personnel or volunteer administers an unassigned epinephrine delivery system [auto-injection is administered, in accordance with the unassigned epinephrine auto-injector policy adopted under this subchapter]. The report must [shall] be submitted to entity leadership, the prescribing authorized healthcare provider, and the Department of State Health Services (DSHS).

(b) The report must include the following information:

(1) the age of the person who received the administration of the unassigned epinephrine delivery system;

(2) whether the person who received the administration of the unassigned epinephrine delivery system was an entity personnel, volunteer, a visitor, or person in the entity's care;

(3) the physical location at the entity where the unassigned epinephrine delivery system was administered;

(4) the number of doses of the unassigned epinephrine delivery system administered; and

(5) the title of the trained individual who administered the unassigned epinephrine delivery system.

(c) [(b)] The entity must notify [Notifications to] the commissioner of DSHS [shall be submitted] on the designated electronic form available on the DSHS School Health Program website, available at www.dshs.texas.gov/texas-school-health/required-reporting-forms. [dshs.texas.gov.]

§40.18. Immunity from Liability.

A person who in good faith takes, or fails to take, any action under this subchapter or Texas Health and Safety Code (HSC)[;] Chapter 773, Subchapter A, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, under HSC [in accordance with the Texas Health and Safety Code] §773.0145.

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

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SUBCHAPTER C. EPINEPHRINE AUTO-INJECTOR POLICIES IN YOUTH FACILITIES

25 TAC §§40.21 - 40.28

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The repeals affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075 and §773.0145, and Texas Education Code Chapters 38 and 51.

§40.21. *Purpose.*

§40.22. *Voluntary Unassigned Epinephrine Auto-injector Policies for Youth Facilities.*

§40.23. *Definitions.*

§40.24. *Applicability.*

§40.25. *Maintenance, Administration, and Disposal of Unassigned Epinephrine Auto-Injectors.*

§40.26. *Training.*

§40.27. *Report on Administering Unassigned Epinephrine Auto-Injectors.*

§40.28. *Immunity from Liability.*

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

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SUBCHAPTER E. EPINEPHRINE DELIVERY SYSTEM [AUTO-INJECTOR] POLICIES IN SCHOOLS

25 TAC §§40.61 - 40.71

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The amendments affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075 and §773.0145, and Texas Education Code Chapters 38 and 51.

§40.61. *Purpose.*

The purpose of this subchapter is to establish minimum standards for administering, maintaining, and disposing of epinephrine delivery systems [~~auto-injectors~~] in school districts, open-enrollment charter schools, and private schools adopting unassigned epinephrine delivery system [~~auto-injector~~] policies. These standards are implemented under Texas Education Code Chapter 38, Subchapter E.

§40.62. *Voluntary Unassigned Epinephrine Delivery System [Auto-Injector] Policies for School Districts, Open-enrollment Charter Schools, and Private Schools.*

(a) A school district, open-enrollment charter school, or private school may adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine delivery systems [~~auto-injectors~~] at each school campus.

(b) A voluntarily adopted [If a written policy is adopted under this subchapter, the] policy must comply with Texas Education Code (TEC) §38.208 and this subchapter.

(c) A school district, [er] open-enrollment charter school, or private school adopting and implementing [that chooses to adopt and implement] a written unassigned epinephrine delivery system [~~auto-injector~~] policy under TEC [Texas Education Code] Chapter 38, Subchapter E, and this subchapter, is not required to create an additional policy for care of certain students at risk for anaphylaxis under TEC [Texas Education Code] §38.0151.

§40.63. *Definitions.*

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

[(1) All hours the campus is open--At a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.]

(1) [(2)] Anaphylaxis--As defined in Texas Education Code (TEC) §38.201.

(2) [(3)] Authorized healthcare provider--A physician, as defined in TEC §38.201, or person who has been delegated prescriptive authority under Texas Occupations Code Chapter 157.

(3) [(4)] Campus--The physical grounds and buildings under the management and control [A unit] of a school district, open-enrollment charter school, or private school that: [with]

(A) has an assigned administrator;[:]

(B) has enrolled students; [who are counted for average daily attendance,]

(C) has assigned instructional staff;[:]

(D) provides instructional services to students;[:]

(E) has one or more grades in the range from early childhood education through grade 12; [or is ungraded,] and

(F) is subject to [complies with relevant] Texas laws.

(4) Epinephrine delivery system--As defined in TEC §38.201.

(5) Open-enrollment charter school--A school granted a charter under TEC Chapter 12, Subchapter D. [As defined in Texas Education Code §38.151.]

[(6) Physician--As defined in Texas Education Code §38.201.]

(6) [(7)] Private school--As defined in TEC [Texas Education Code] §38.201.

(7) School hours--Refers to all hours the school campus is open.

(8) School nurse--As defined in 19 Texas Administrative Code §153.1022.

(9) School personnel--As defined in TEC [Texas Education Code] §38.201 who is also authorized and trained to administer an epinephrine delivery system.

(10) School volunteer--As defined in TEC [Texas Education Code] §22.053 who is also authorized and trained to administer an epinephrine delivery system.

(11) Unassigned epinephrine delivery system [~~auto-injector~~]-An epinephrine delivery system [~~auto-injector~~] prescribed by an

authorized healthcare provider in the name of the school and issued by an authorized healthcare provider with a non-patient-specific standing delegation order for the administration of an epinephrine delivery system. [auto-injector, issued by a physician or person who has been delegated prescriptive authority under Texas Occupations Code Chapter 157.]

§40.64. *Applicability.*

This subchapter applies to any school district, open-enrollment charter school, or private school voluntarily adopting [choosing to adopt] and implementing [implement] a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine delivery systems [auto-injectors] on each school campus.

§40.65. *Maintenance, Administration, and Disposal of Unassigned Epinephrine Delivery Systems [Auto-Injectors].*

(a) A school district, open-enrollment charter school, or private school must [shall] obtain a prescription from an authorized healthcare provider each year, to stock, possess, and maintain at least two doses of [one] unassigned adult epinephrine delivery system [auto-injector pack (two doses)] on each school campus as described in Texas Education Code (TEC) §38.211.

(1) A school campus may choose to stock unassigned pediatric epinephrine delivery system [auto-injector] packs, based on the need of the school's population.

(2) A school district or the governing body of an open-enrollment charter school or private school may develop, as part of the policy, provisions for additional doses to be stocked and utilized at off campus school events, or in transit to or from school events.

(3) Schools must equally distribute epinephrine delivery systems across a campus so doses can be administered quickly.

(b) Each school district superintendent, open-enrollment charter school administrator, or private school administrator will designate [appropriate] school personnel to coordinate and manage the unassigned epinephrine delivery system policy implementation. The designated school personnel must oversee the: [including]

(1) training of school personnel or school volunteers; [and the]

(2) acquiring or purchasing, storing, and using the unassigned epinephrine delivery system; [acquisition or purchase, usage;]

(3) disposing [expiration, and disposal] of used or expired unassigned epinephrine delivery systems; [auto-injectors. Throughout the school calendar year, the designated school personnel must coordinate with each campus to ensure the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented.]

(4) checking the inventory of epinephrine delivery systems each month for expiration and replacement; and

(5) reviewing the following factors to assess and determine the number of additional unassigned epinephrine delivery systems needed:

(A) input from administrators, office of risk management, office of food services, office of the school nurse or student health services, or any department the school sees fit;

(B) campus geography, including high-risk areas where food exposure or environmental trigger exposure may occur;

(C) campus occupancy limit; and

(D) response time of emergency medical services (EMS).

(c) At least one school personnel or one school volunteer [who is] authorized and trained to administer an unassigned epinephrine delivery system [auto-injector] must be present on campus during school hours. [all hours the campus is open for school-sponsored activities.]

(d) Schools may train all school personnel and school volunteers on food allergies, including how to recognize signs and symptoms of an allergic reaction and anaphylaxis, and how to respond in an emergency.

(e) [(d)] School personnel or school volunteers [who are trained and authorized] may administer an unassigned epinephrine delivery system [auto-injector] to a person who is reasonably believed to be experiencing anaphylaxis on a school campus, and off-campus school event, or while in transit to or from a school event. [or as indicated in the school's unassigned epinephrine auto-injector policy.]

(f) [(e)] Schools must immediately notify local EMS [Local emergency medical services must be promptly notified by the school] when a person [an individual] is suspected of experiencing anaphylaxis and when an unassigned epinephrine delivery system [auto-injector] is administered. If the [trained] school personnel or school volunteer is the only trained individual available to notify EMS [emergency medical services], the trained individual must [should] administer the unassigned epinephrine delivery system [auto-injector] before notifying EMS. [emergency medical services.]

(g) [(f)] Schools must notify the [The] parent, legal guardian, or emergency contact after notifying local EMS [must be promptly notified by the school] when a person is suspected of experiencing anaphylaxis and when an epinephrine delivery system is administered [an unassigned epinephrine auto-injector is utilized on their child as soon as feasible during the emergency response to suspected anaphylaxis]. School records of the administration of the unassigned epinephrine delivery system [auto-injector] and suspected anaphylaxis must be provided to the parent or legal guardian when requested [of the recipient upon request].

(h) [(g)] Schools must retain records [Records] relating to implementing and administering [implementation and administration of] the school's unassigned epinephrine delivery system [auto-injector] policy under [shall be retained per] the record retention schedule for records of public school districts found in 13 TAC §7.131 (relating to Local Schedule SD: Records of Public School Districts) [Texas Administrative Code §7.125].

(i) [(h)] Unassigned epinephrine delivery systems must [auto-injectors shall] be stored in a secure, easily accessible, and clearly labeled area for an emergency, under [in accordance with] the manufacturer's guidelines. The [It is recommended the] school administrator or designated school personnel may develop and place a map [to be placed] in high-traffic [high traffic] areas indicating the location of the unassigned epinephrine delivery systems [auto-injectors] on each school campus. [It is recommended the map also indicate the locations of the automated external defibrillator.]

(j) [(i)] The school district, open-enrollment charter school, or private school must [shall] develop a plan to replace, as soon as practicable [reasonably possible], any unassigned epinephrine delivery system [auto-injector] used or close to expiration.

(k) [(j)] Used unassigned epinephrine delivery systems must [auto-injectors shall] be considered infectious waste and must [shall] be disposed of according to the school's bloodborne pathogen control policy.

(l) [(k)] Expired unassigned epinephrine delivery systems must [auto-injectors shall] be disposed of according to the Food and

Drug Administration's disposal of unused medications guidelines and the school's medication disposal policy.

(m) The authorized healthcare provider prescribing the unassigned epinephrine delivery system under subsection (a) of this section must provide a standing order for administration of an epinephrine delivery system to a person who is reasonably believed to be experiencing anaphylaxis. The prescription and standing order must comply with the TEC §38.211.

§40.66. Assignment and Recruitment of School Personnel and School Volunteers [to be] Trained to Administer Epinephrine Delivery Systems [Auto-Injectors].

(a) Each school may adopt [At each school campus adopting] an unassigned epinephrine delivery system [auto-injector] policy that requires training for school personnel or school volunteers to administer unassigned epinephrine delivery systems. [the school principal may:]

{(1) assign school personnel or school volunteers to be trained to administer unassigned epinephrine auto-injectors; or}

{(2) seek school personnel or school volunteers who volunteer to be trained to administer unassigned epinephrine auto-injectors.}

(b) Schools [In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools] may distribute to school personnel and school volunteers in the school district, open-enrollment charter school, or private school, at least once per school year, a notice including:

(1) a [description of the] request seeking school personnel and school volunteers who are [to be] trained or willing to be trained to administer an epinephrine delivery system [auto-injector] to a person [believed to be] experiencing anaphylaxis; and

(2) a description of the training [the school personnel or school volunteers will receive] in the administration of unassigned epinephrine delivery systems [with an auto-injector].

(c) Trained school personnel or school volunteers who administer the unassigned epinephrine delivery system [auto-injector] must submit a signed statement agreeing [indicating they agree] to perform the service of administering an unassigned epinephrine delivery system [auto-injector] to a person [student or individual] who may be experiencing anaphylaxis.

(d) School personnel or school volunteers who are not trained may not be subject to any penalty or disciplinary action for refusing to administer or receive training to administer epinephrine delivery systems.

§40.67. Training.

Each school district, open-enrollment charter school, or private school adopting [that adopts] an unassigned epinephrine delivery system [auto-injector written] policy [under this subchapter] is responsible for training school personnel and school volunteers in recognizing [the recognition of] anaphylaxis signs and symptoms and performing hands-on training for administration of an unassigned epinephrine delivery system [auto-injector]. Each trained [assigned] school personnel or school volunteer must [shall] receive initial training and [an] annual refresher training. Training must [shall] be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention.

(1) Training may be [provided in] a formal face-to-face training session or through an online education course.

(2) Training [required under this subchapter] must meet the requirements found in Texas Education Code §38.210 and include information on properly inspecting unassigned epinephrine delivery systems [auto-injectors] for usage and expiration.

(3) Initial [The initial] training must include hands-on training with an epinephrine delivery system [auto-injector] trainer.

(4) Annual [The annual] refresher training may [must] include a hands-on demonstration of administration skills.

(5) Training [The training] must also include information about immediately [promptly] notifying local emergency medical services.

(6) Each school campus must maintain training records. Each school campus must [and] make available when requested [upon request] a list of trained [those] school personnel or school volunteers [trained and authorized to administer the unassigned epinephrine auto-injector on the campus].

(7) The school district, open-enrollment charter school, or private school may contract with a vendor to provide training to school personnel and school volunteers.

§40.68. Report on Administering Epinephrine Delivery Systems [Auto-Injectors].

(a) The school must submit a report [A report must be submitted by the school] no later than 10 [the 10th] business days [day] after the date school personnel or a school volunteer administers an unassigned epinephrine delivery system [auto-injector in accordance with the unassigned epinephrine auto-injector policy adopted under this subchapter]. The report must [shall] be submitted to [the] individuals and entities identified in Texas Education Code §38.209, including the commissioner of the Department of State Health Services (DSHS).

(b) Institutions must notify [Notifications to] the commissioner of DSHS [shall be submitted] on the designated electronic form available on the DSHS School Health Program website found at www.dshs.texas.gov/texas-school-health/required-reporting-forms. [dshs.texas.gov.]

§40.69. Notice to Parents Regarding Unassigned Epinephrine Delivery System [Auto-Injector] Policies in Schools.

(a) If a school district, open-enrollment charter school, or private school implements an unassigned epinephrine delivery system [auto-injector] policy [under this subchapter], the district or school must [shall] provide written [or electronic] notice to a parent or legal guardian of each student enrolled in the district or school under [in accordance with] Texas Education Code §38.212.

(b) If a school district, open-enrollment charter school, or private school changes or discontinues the policy [under this subchapter], written [or electronic] notice detailing the change or discontinuation must be provided to a parent or legal guardian of each student enrolled in the district or school within 15 calendar days.

§40.70. Gifts, Grants, and Donations.

A school district, open-enrollment charter school, or private school may accept gifts, grants, donations, federal funds, and local funds to implement the unassigned epinephrine delivery system [auto-injector] policy under [in accordance with] Texas Education Code §38.213.

§40.71. Immunity from Liability.

A person who in good faith takes, or fails to take, any action under this subchapter or Texas Education Code (TEC) Chapter 38, Subchapter E₂ is immune from civil or criminal liability or disciplinary action resulting from action or a failure to act under TEC [in accordance with the Texas Education Code] §38.215.

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

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Cynthia Hernandez

General Counsel

Department of State Health Services

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For further information, please call: (512) 915-8078



SUBCHAPTER F. OPIOID ANTAGONIST MEDICATION REQUIREMENTS IN SCHOOLS

25 TAC §§40.81 - 40.89

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The amendments affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075 and §773.0145, and Texas Education Code Chapters 38 and 51.

§40.81. Purpose.

The purpose of this subchapter is to establish minimum standards for administering, maintaining, and disposing of opioid antagonist medication in school districts, open-enrollment charter schools, and private schools adopting an opioid antagonist medication policy [medicines policies]. These standards are implemented under Texas Education Code Chapter 38, Subchapter E-1.

§40.82. Definitions.

The following terms and phrases, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.[:]

~~[(1) All hours the campus is open--At a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.]:~~

~~(1) [(2)] Authorized healthcare provider--A physician, as defined in Texas Education Code (TEC) §38.221 [§38.204], or person who has been delegated prescriptive authority by a physician under Texas Occupations Code Chapter 157.~~

~~(2) [(3)] Campus--The physical grounds and buildings under the management and control [A unit] of a school district, open-enrollment charter school, or private school that: [with]~~

~~(A) has an assigned administrator;[:]~~

~~(B) has enrolled students who are counted for average daily attendance;[:]~~

~~(C) has assigned instructional staff;[:]~~

~~(D) provides instructional services to students;[:]~~

~~(E) has one or more grades in the range from early childhood education through grade 12; [or is ungraded.]; and~~

~~(F) is subject to [complies with relevant] Texas laws.~~

~~(3) [(4)] Open-enrollment charter school--A school granted a charter under TEC Chapter 12, Subchapter D [As defined in Texas Education Code §38.151].~~

~~(4) [(5)] Opioid antagonist--As defined in Texas Health and Safety Code (HSC) §483.101; any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors].~~

~~(5) Opioid antagonist medication policy--A school policy requiring the maintenance, administration, and disposal of opioid antagonist as described in TEC §38.222 and this subchapter.~~

~~(6) Opioid-related drug overdose--As defined in HSC [Texas Health and Safety Code] §483.101; a condition, evidenced by symptoms of extreme physical illness, decreased level of consciousness, constriction of the pupils, respiratory depression, or coma, that a layperson would reasonably believe to be the result of the consumption or use of an opioid].~~

~~(7) School hours--Refers to all hours the school campus is open.~~

~~(8) [(7)] Private school--As defined in TEC [Texas Education Code] §38.201.~~

~~(9) [(8)] School personnel--As defined in TEC [Texas Education Code] §38.201 who is also authorized and trained to administer an opioid antagonist.~~

~~(10) [(9)] School volunteer--As defined in TEC [Texas Education Code] §22.053 who is also authorized and trained to administer an opioid antagonist.~~

§40.83. Applicability.

This subchapter applies to any school district, open-enrollment charter school, or private school voluntarily adopting and implementing a written policy regarding the maintenance, administration, and disposal of opioid antagonist medication on a campus [or campuses].

§40.84. Required and Voluntary Opioid Antagonist Policies.

~~(a) A [Each] school district must adopt and implement an opioid antagonist medication [a] policy [regarding the maintenance, administration, and disposal of opioid antagonists] at each campus in the district serving students in grades 6 through 12. [and]~~

~~(b) A school district may [voluntarily] adopt and implement an opioid antagonist medication policy at each campus in the district [such a policy at each campus in the district, including campuses] serving students in a grade level below grade 6.~~

~~(c) [(b)] An open-enrollment charter school or private school may adopt and implement an opioid antagonist medication [a] policy [regarding the maintenance, administration, and disposal of opioid antagonists]. If an open-enrollment charter school or private school adopts an [a policy under this subchapter, the] opioid antagonist medication policy, it must comply with [the] Texas Education Code §38.222. The policy may apply:~~

~~(1) only at campuses of the school serving students in grades 6 through 12; or~~

~~(2) at each campus of the school, including campuses serving students in a grade level below grade 6.~~

~~[(e) A policy adopted under this subchapter must:]~~

~~[(1) provide that school personnel and school volunteers who are authorized and trained may administer an opioid antagonist to a person who they reasonably believe is experiencing an opioid-related drug overdose.];~~

{(2) require each school campus, subject to a policy adopted under this subchapter, have one or more school personnel members or school volunteers authorized and trained to administer an opioid antagonist present during regular school hours;}

{(3) establish the number of opioid antagonists that must be available at each campus at any given time; and}

{(4) require the supply of opioid antagonists at each school campus, subject to a policy adopted under this subchapter, be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist.}

§40.85. Maintenance, Administration, and Disposal of Opioid Antagonist Medication.

(a) Once a school district, open-enrollment charter school, or private school adopts an opioid antagonist medication policy, a campus implementing an opioid antagonist medication policy must stock opioid antagonist medication as defined by §40.84 of this subchapter (relating to Required and Voluntary Opioid Antagonist Policies).

(b) A school district, open-enrollment charter school, or private school must obtain a prescription from an authorized healthcare provider each year to stock, possess, and maintain at least two doses of opioid antagonist medication on each school campus. The number of additional doses may be determined by an individual campus review led by an authorized healthcare provider [campus must obtain a prescription from a physician or a person who has been delegated prescriptive authority to stock, possess, and maintain the established number of doses of opioid antagonists as determined by a school district, on each campus] as described in Texas Education Code (TEC) §38.225.

{(1) The campus must renew this prescription or obtain a new prescription annually.}

{(2) The number of additional doses may be determined by an individual campus review led by a physician or a person who has been delegated prescriptive authority.}

(c) At least one school personnel or one school volunteer authorized and trained to administer an opioid antagonist medication must be present on campus during school hours.

(d) School personnel or school volunteers may administer an opioid antagonist medication to a person who is reasonably believed to be experiencing an opioid-related drug overdose on a school campus or while in transit to or from a school event.

(e) Each school district superintendent, open-enrollment charter school administrator, or private school administrator will designate school personnel to coordinate and manage the opioid antagonist medication policy implementation. The designated school personnel must oversee:

- (1) training of school personnel or school volunteers;
- (2) acquiring or purchasing, storing, and using the opioid antagonist medication;
- (3) disposing of used or expired opioid antagonist medication; and
- (4) checking the inventory of opioid antagonist medication each month for expiration and replacement.

(f) [(e)] The authorized healthcare provider prescribing the [A physician or other person who has been delegated prescriptive authority under Texas Occupations Code Chapter 157 and prescribes] opioid antagonist medication under subsection (a) of this section[,] must provide [the school district, open-enrollment charter school, or private school] a standing order for administration of an opioid antagonist medication

to a person who is reasonably believed to be experiencing an opioid-related drug overdose. The prescription and standing order must comply with TEC [the Texas Education Code] §38.225.

(g) [(d)] Schools may store the [The unassigned] opioid antagonist medication [must be stored] in a secure, [location and be] easily accessible, and clearly labeled area for an emergency, under [; in accordance with] the manufacturer's guidelines [and local policy of the school district, open-enrollment charter school, or private school].

(h) Schools must notify local emergency medical services (EMS) immediately when a person is suspected of experiencing an opioid-related drug overdose and when an opioid antagonist medication is administered. If the school personnel or school volunteer is the only trained individual available to notify EMS, the trained individual must administer the opioid antagonist medication before notifying EMS.

(i) The school district, open-enrollment charter school, or private school must develop a plan to replace, as soon as practicable, any opioid antagonist medication used or close to expiration.

(j) [(e)] Used[; unassigned] opioid antagonist medications must be [antagonists are] considered infectious waste and must be disposed of according to the school's blood borne [blood-borne] pathogen control policy.

(k) [(f)] Expired[; unassigned] opioid antagonist medications [antagonists] must be disposed of according to [in accordance with] the Food and [Federal] Drug Administration's disposal of unused medications guidelines and the school's medication disposal policy [local policy of the school district, open-enrollment charter school, or private school].

(l) Schools must retain records relating to implementing and administering the school district, open-enrollment charter school, or private school's opioid antagonist medication policy under the record retention schedule for records of public school districts found in 13 TAC §7.131 (relating to Local Schedule SD: Records of Public School Districts).

§40.86. Training.

(a) Each school district, open-enrollment charter school, and private school adopting an [a written unassigned] opioid antagonist policy under Texas Education Code (TEC) §38.222[,] is responsible for training school personnel and school volunteers in the administration of an opioid antagonist medication.

(b) Training under this subchapter must:

(1) include information on:

- (A) recognizing the signs and symptoms of an opioid-related drug overdose;
- (B) responding to an opioid-related drug overdose and administering an opioid antagonist medication;
- (C) implementing emergency procedures, after administering an opioid antagonist medication;
- (D) understanding the medical purpose and misuse of opioids; [and]
- (E) properly disposing of used or expired opioid antagonists medications; and
- (F) immediately notifying local emergency medical services;

(2) occur [be provided] annually in a formal training session or through online education, including practicing the adminis-

tration of an opioid antagonist medication with an opioid antagonist trainer device; and

(3) be provided under ~~[in accordance with]~~ the policy adopted under TEC [Texas Education Code] §21.4515.

(c) Each school campus must maintain training records. ~~Each school campus [and] must make available when requested [upon request] a list of trained school personnel and school volunteers [who are trained and authorized to administer the unassigned opioid antagonist medication on the campus].~~

§40.87. Report on Administering Unassigned Opioid Antagonist Medication.

~~[(a) Records relating to implementing and administering the school district, open-enrollment charter school, or private school's unassigned opioid antagonist medication policy must be retained per the campus record retention schedule.]~~

(a) ~~[(b)]~~ The school ~~[campus]~~ must submit a ~~[the]~~ report no later than 10 [the 10th] business days [day] after the date ~~[a] school personnel [member] or a school volunteer administers an opioid antagonist medication [in accordance with the unassigned opioid antagonist medication policy adopted under this subchapter].~~ The report must ~~[shall]~~ be submitted to the individuals and entities identified in Texas Education Code §38.223, including the commissioner of the Department of State Health Services (DSHS).~~[:]~~

~~[(1) the school district, the charter holder if the school is an open-enrollment charter school, or the governing body of the school if the school is a private school;]~~

~~[(2) the physician or other person who prescribed the opioid antagonist; and]~~

~~[(3) the commissioner of the Department of State Health Services (DSHS).]~~

(b) ~~[(e)]~~ Schools must notify ~~[Notifications to]~~ the commissioner of DSHS ~~[must be submitted]~~ on the designated electronic form available on DSHS School Health Program website found at www.dshs.texas.gov/texas-school-health/required-reporting-forms ~~[dshs.texas.gov].~~

§40.88. Gifts, Grants, and Donations.

A school district, open-enrollment charter school, or private school may accept gifts, grants, donations, federal funds, and local funds to implement the opioid antagonist medication policy [this subchapter].

§40.89. Immunity from Liability.

A person who in good faith takes, or fails to take, any action under this subchapter, or Texas Education Code (TEC) Chapter 38, Subchapter E-1, is immune from civil or criminal liability or disciplinary action resulting from action or a failure to act under TEC [in accordance with Texas Education Code] §38.227.

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

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Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 915-8078

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PART 4. ANATOMICAL BOARD OF THE STATE OF TEXAS

CHAPTER 471. OFFICERS

25 TAC §§471.1 - 471.4

The Texas Funeral Service Commission (Commission), as the successor agency to the regulatory functions formerly performed by the Anatomical Board of the State of Texas, proposes the repeal of Title 25, Part 4, Chapter 471, comprised of §§471.1 - 471.4. The Commission is concurrently proposing to repeal every section of Part 4 (the rules of the Anatomical Board of the State of Texas).

BACKGROUND AND PURPOSE

Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission, created the State Anatomical Advisory Committee, and ended the separate regulatory role of the Anatomical Board of the State of Texas. Following that transfer, the regulatory framework is administered by the Commission under Chapter 691, Health and Safety Code, and Chapter 651, Occupations Code.

The rules in Title 25, Part 4 govern only the internal governance and operations of the former Anatomical Board, including the election, terms, and duties of the chair, vice chair, and secretary-treasurer (Chapter 471). Because the Anatomical Board no longer functions as a regulatory body and its functions have been transferred to the Commission, these provisions are obsolete. The Commission proposes to repeal Chapter 471 in its entirety to remove obsolete rules from the Texas Administrative Code.

SECTION-BY-SECTION SUMMARY

The proposed repeal removes the following sections, each of which addresses the internal operation of the former Anatomical Board and is obsolete following the transfer of regulatory authority to the Commission:

Chapter 471 Officers. Repeals §471.1 (Chair of the Board), §471.2 (Vice Chairman of the Board), §471.3 (Secretary-Treasurer of the Board), and §471.4 (Eligibility for Re-Election).

FISCAL NOTE

Maria Haynes, Executive Director of the Texas Funeral Service Commission (Commission), has determined that for the first five-year period the proposed repeal is in effect, there will be no foreseeable fiscal implications for state government or for units of local government as a result of administering or enforcing the repeal.

PUBLIC BENEFIT AND COST NOTE

Ms. Haynes has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repeal will be a more accurate and current Texas Administrative Code that reflects the regulatory framework established by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, and the removal of obsolete provisions that reference a board and offices that no longer

exist, which promotes clarity for regulated persons and the public. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed, because the repeal removes existing provisions and imposes no new requirements.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities, because the repeal removes obsolete or duplicative provisions and imposes no new costs or requirements. Accordingly, neither an economic impact statement nor a regulatory flexibility analysis is required under Texas Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

The proposed repeal will not affect a local economy, so the Commission is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

COSTS TO REGULATED PERSONS

The proposed repeal does not impose a cost on regulated persons and, therefore, is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

The Commission has determined that for the first five-year period the proposed repeal is in effect, the following statements apply, pursuant to Texas Government Code §2001.0221 and 34 Texas Administrative Code §11.1:

- (1) the proposed repeal does not create or eliminate a government program; the regulatory functions associated with these rules were transferred to the Commission, and the separate regulatory role of the Anatomical Board of the State of Texas was ended, by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, not by this proposal;
- (2) implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the Commission;
- (4) the proposed repeal does not require an increase or decrease in fees paid to the Commission;
- (5) the proposed repeal does not create a new regulation;
- (6) the proposed repeal repeals existing regulations (Chapters 471);
- (7) the proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed repeal does not positively or negatively affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require compensation to private real property owners under the Texas Constitution or the Private Real Property Rights Preservation

Act, Texas Government Code Chapter 2007, and does not affect a regulation in a manner that would constitute a taking. Therefore, a takings impact assessment is not required.

MAJOR ENVIRONMENTAL RULE

The proposed repeal is not a major environmental rule as defined by Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Written comments on the proposed repeal may be submitted to Comments on the proposed rule and responses to the request for information may be submitted by email to legal@tfsc.texas.gov; or by mail to Maria Haynes, Executive Director, Texas Funeral Service Commission, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The repeal is proposed under Texas Occupations Code §651.152, which requires the Commission to adopt rules, establish procedures, and prescribe forms necessary to administer and enforce Chapter 651; Texas Occupations Code §651.005, which requires the Commission to regulate willed body programs, non-transplant anatomical donation organizations, and anatomical facilities as provided by Chapter 691, Health and Safety Code, and in accordance with the powers and duties granted by Chapter 651; and Texas Health and Safety Code §691.034(g), which requires the Commission to adopt rules and procedures necessary to administer the regulation and registration of persons and institutions using bodies and anatomical specimens. The repeal is further proposed to implement Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, which transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission and ended the separate regulatory role of the Anatomical Board of the State of Texas.

CROSS-REFERENCE TO STATUTE. The proposed repeal implements Texas Health and Safety Code Chapter 691 and Texas Occupations Code Chapter 651.

- §471.1. *Chair of the Board.*
- §471.2. *Vice Chairman of the Board.*
- §471.3. *Secretary-Treasurer of the Board.*
- §471.4. *Eligibility for Re-Election.*

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

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TRD-202602551

Maria Haynes

Interim Executive Director

Anatomical Board of the State of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-2488



CHAPTER 473. EXECUTIVE COMMITTEE

25 TAC §473.1

The Texas Funeral Service Commission (Commission), as the successor agency to the regulatory functions formerly performed by the Anatomical Board of the State of Texas, proposes the repeal of Title 25, Part 4, Chapter 473, comprised of §473.1. The Commission is concurrently proposing to repeal every section of Part 4 (the rules of the Anatomical Board of the State of Texas).

BACKGROUND AND PURPOSE

Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission, created the State Anatomical Advisory Committee, and ended the separate regulatory role of the Anatomical Board of the State of Texas. Following that transfer, the regulatory framework is administered by the Commission under Chapter 691, Health and Safety Code, and Chapter 651, Occupations Code.

The rules in Title 25, Part 4 govern only the internal governance and operations of the former Anatomical Board, including the composition and authority of the executive committee (Chapter 473). Because the Anatomical Board no longer functions as a regulatory body and its functions have been transferred to the Commission, these provisions are obsolete. The Commission proposes to repeal Chapter 473 in its entirety to remove obsolete rules from the Texas Administrative Code.

SECTION-BY-SECTION SUMMARY

The proposed repeal removes the following sections, each of which addresses the internal operation of the former Anatomical Board and is obsolete following the transfer of regulatory authority to the Commission:

Chapter 473 Executive Committee. Repeals §473.1 (Executive Committee).

FISCAL NOTE

Maria Haynes, Executive Director of the Texas Funeral Service Commission (Commission), has determined that for the first five-year period the proposed repeal is in effect, there will be no foreseeable fiscal implications for state government or for units of local government as a result of administering or enforcing the repeal.

PUBLIC BENEFIT AND COST NOTE

Ms. Haynes has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repeal will be a more accurate and current Texas Administrative Code that reflects the regulatory framework established by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, and the removal of obsolete provisions that reference a board and offices that no longer exist, which promotes clarity for regulated persons and the public. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed, because the repeal removes existing provisions and imposes no new requirements.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities, because the repeal re-

moves obsolete or duplicative provisions and imposes no new costs or requirements. Accordingly, neither an economic impact statement nor a regulatory flexibility analysis is required under Texas Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

The proposed repeal will not affect a local economy, so the Commission is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

COSTS TO REGULATED PERSONS

The proposed repeal does not impose a cost on regulated persons and, therefore, is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

The Commission has determined that for the first five-year period the proposed repeal is in effect, the following statements apply, pursuant to Texas Government Code §2001.0221 and 34 Texas Administrative Code §11.1:

- (1) the proposed repeal does not create or eliminate a government program; the regulatory functions associated with these rules were transferred to the Commission, and the separate regulatory role of the Anatomical Board of the State of Texas was ended, by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, not by this proposal;
- (2) implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the Commission;
- (4) the proposed repeal does not require an increase or decrease in fees paid to the Commission;
- (5) the proposed repeal does not create a new regulation;
- (6) the proposed repeal repeals existing regulations (Chapter 473);
- (7) the proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed repeal does not positively or negatively affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require compensation to private real property owners under the Texas Constitution or the Private Real Property Rights Preservation Act, Texas Government Code Chapter 2007, and does not affect a regulation in a manner that would constitute a taking. Therefore, a takings impact assessment is not required.

MAJOR ENVIRONMENTAL RULE

The proposed repeal is not a major environmental rule as defined by Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Written comments on the proposed repeal may be submitted to Comments on the proposed rule and responses to the request for information may be submitted by email to

legal@tfsc.texas.gov; or by mail to Maria Haynes, Executive Director, Texas Funeral Service Commission, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The repeal is proposed under Texas Occupations Code §651.152, which requires the Commission to adopt rules, establish procedures, and prescribe forms necessary to administer and enforce Chapter 651; Texas Occupations Code §651.005, which requires the Commission to regulate willed body programs, non-transplant anatomical donation organizations, and anatomical facilities as provided by Chapter 691, Health and Safety Code, and in accordance with the powers and duties granted by Chapter 651; and Texas Health and Safety Code §691.034(g), which requires the Commission to adopt rules and procedures necessary to administer the regulation and registration of persons and institutions using bodies and anatomical specimens. The repeal is further proposed to implement Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, which transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission and ended the separate regulatory role of the Anatomical Board of the State of Texas.

CROSS-REFERENCE TO STATUTE. The proposed repeal implements Texas Health and Safety Code Chapter 691 and Texas Occupations Code Chapter 651.

§473.1. *Executive Committee.*

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

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

TRD-202602552

Maria Haynes

Interim Executive Director

Anatomical Board of the State of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-2488



CHAPTER 475. MEETINGS

25 TAC §§475.1 - 475.5

The Texas Funeral Service Commission (Commission), as the successor agency to the regulatory functions formerly performed by the Anatomical Board of the State of Texas, proposes the repeal of Title 25, Part 4, Chapter 475, comprised of §§475.1 - 475.5. The Commission is concurrently proposing to repeal every section of Part 4 (the rules of the Anatomical Board of the State of Texas).

BACKGROUND AND PURPOSE

Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission, created the State Anatomical Advisory Committee, and ended the separate regulatory role of the Anatomical Board of the State of Texas. Following that transfer, the regulatory framework is administered by the Commission

under Chapter 691, Health and Safety Code, and Chapter 651, Occupations Code.

The rules in Title 25, Part 4 govern only the internal governance and operations of the former Anatomical Board, including regular and special meetings, meetings of the executive committee, meeting requirements and quorum, and reimbursement for travel to meetings (Chapter 475). Because the Anatomical Board no longer functions as a regulatory body and its functions have been transferred to the Commission, these provisions are obsolete. The Commission proposes to repeal Chapter 475 in its entirety to remove obsolete rules from the Texas Administrative Code.

SECTION-BY-SECTION SUMMARY

The proposed repeal removes the following sections, each of which addresses the internal operation of the former Anatomical Board and is obsolete following the transfer of regulatory authority to the Commission:

Chapter 475 Meetings. Repeals §475.1 (Regular Meetings), §475.2 (Special Meetings), §475.3 (Meetings of the Executive Committee), §475.4 (Meeting Requirements and Quorum), and §475.5 (Reimbursement for Travel to Meetings).

FISCAL NOTE

Maria Haynes, Executive Director of the Texas Funeral Service Commission (Commission), has determined that for the first five-year period the proposed repeal is in effect, there will be no foreseeable fiscal implications for state government or for units of local government as a result of administering or enforcing the repeal.

PUBLIC BENEFIT AND COST NOTE

Ms. Haynes has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repeal will be a more accurate and current Texas Administrative Code that reflects the regulatory framework established by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, and the removal of obsolete provisions that reference a board and offices that no longer exist, which promotes clarity for regulated persons and the public. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed, because the repeal removes existing provisions and imposes no new requirements.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities, because the repeal removes obsolete or duplicative provisions and imposes no new costs or requirements. Accordingly, neither an economic impact statement nor a regulatory flexibility analysis is required under Texas Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

The proposed repeal will not affect a local economy, so the Commission is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

COSTS TO REGULATED PERSONS

The proposed repeal does not impose a cost on regulated persons and, therefore, is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

The Commission has determined that for the first five-year period the proposed repeal is in effect, the following statements apply, pursuant to Texas Government Code §2001.0221 and 34 Texas Administrative Code §11.1:

(1) the proposed repeal does not create or eliminate a government program; the regulatory functions associated with these rules were transferred to the Commission, and the separate regulatory role of the Anatomical Board of the State of Texas was ended, by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, not by this proposal;

(2) implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the Commission;

(4) the proposed repeal does not require an increase or decrease in fees paid to the Commission;

(5) the proposed repeal does not create a new regulation;

(6) the proposed repeal repeals existing regulations (Chapter 475);

(7) the proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed repeal does not positively or negatively affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require compensation to private real property owners under the Texas Constitution or the Private Real Property Rights Preservation Act, Texas Government Code Chapter 2007, and does not affect a regulation in a manner that would constitute a taking. Therefore, a takings impact assessment is not required.

MAJOR ENVIRONMENTAL RULE

The proposed repeal is not a major environmental rule as defined by Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Written comments on the proposed repeal may be submitted to Comments on the proposed rule and responses to the request for information may be submitted by email to legal@tfsc.texas.gov; or by mail to Maria Haynes, Executive Director, Texas Funeral Service Commission, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The repeal is proposed under Texas Occupations Code §651.152, which requires the Commission to adopt rules, establish procedures, and prescribe forms necessary to administer

and enforce Chapter 651; Texas Occupations Code §651.005, which requires the Commission to regulate willed body programs, non-transplant anatomical donation organizations, and anatomical facilities as provided by Chapter 691, Health and Safety Code, and in accordance with the powers and duties granted by Chapter 651; and Texas Health and Safety Code §691.034(g), which requires the Commission to adopt rules and procedures necessary to administer the regulation and registration of persons and institutions using bodies and anatomical specimens. The repeal is further proposed to implement Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, which transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission and ended the separate regulatory role of the Anatomical Board of the State of Texas.

CROSS-REFERENCE TO STATUTE. The proposed repeal implements Texas Health and Safety Code Chapter 691 and Texas Occupations Code Chapter 651.

§475.1. *Regular Meetings.*

§475.2. *Special Meetings.*

§475.3. *Meetings of the Executive Committee.*

§475.4. *Meeting Requirements and Quorum.*

§475.5. *Reimbursement for Travel to Meetings.*

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

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

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Maria Haynes

Interim Executive Director

Anatomical Board of the State of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-2488



CHAPTER 483. HEARING PROCEDURES

25 TAC §483.1

The Texas Funeral Service Commission (Commission), as the successor agency to the regulatory functions formerly performed by the Anatomical Board of the State of Texas, proposes the repeal of Title 25, Part 4, Chapter 483, comprised of §483.1. The Commission is concurrently proposing to repeal every section of Part 4 (the rules of the Anatomical Board of the State of Texas).

BACKGROUND AND PURPOSE

Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission, created the State Anatomical Advisory Committee, and ended the separate regulatory role of the Anatomical Board of the State of Texas. Following that transfer, the regulatory framework is administered by the Commission under Chapter 691, Health and Safety Code, and Chapter 651, Occupations Code.

The rules in Title 25, Part 4 govern only the internal governance and operations of the former Anatomical Board, including hearing procedures (Chapter 483). Because the Anatomical Board no longer functions as a regulatory body and its functions have been transferred to the Commission, these provisions are obsolete. The Commission proposes to repeal Chapter 483 in its entirety to remove obsolete rules from the Texas Administrative Code.

SECTION-BY-SECTION SUMMARY

The proposed repeal removes the following sections, each of which addresses the internal operation of the former Anatomical Board and is obsolete following the transfer of regulatory authority to the Commission:

Chapter 483 Hearing Procedures. Repeals §483.1 (Hearing Procedures), which provided for hearings before the former board under Health and Safety Code §691.034; hearings are now governed by Health and Safety Code §691.034(d).

FISCAL NOTE

Maria Haynes, Executive Director of the Texas Funeral Service Commission (Commission), has determined that for the first five-year period the proposed repeal is in effect, there will be no foreseeable fiscal implications for state government or for units of local government as a result of administering or enforcing the repeal.

PUBLIC BENEFIT AND COST NOTE

Ms. Haynes has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repeal will be a more accurate and current Texas Administrative Code that reflects the regulatory framework established by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, and the removal of obsolete provisions that reference a board and offices that no longer exist, which promotes clarity for regulated persons and the public. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed, because the repeal removes existing provisions and imposes no new requirements.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities, because the repeal removes obsolete or duplicative provisions and imposes no new costs or requirements. Accordingly, neither an economic impact statement nor a regulatory flexibility analysis is required under Texas Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

The proposed repeal will not affect a local economy, so the Commission is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

COSTS TO REGULATED PERSONS

The proposed repeal does not impose a cost on regulated persons and, therefore, is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

The Commission has determined that for the first five-year period the proposed repeal is in effect, the following statements apply, pursuant to Texas Government Code §2001.0221 and 34 Texas Administrative Code §11.1:

- (1) the proposed repeal does not create or eliminate a government program; the regulatory functions associated with these rules were transferred to the Commission, and the separate regulatory role of the Anatomical Board of the State of Texas was ended, by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, not by this proposal;
- (2) implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the Commission;
- (4) the proposed repeal does not require an increase or decrease in fees paid to the Commission;
- (5) the proposed repeal does not create a new regulation;
- (6) the proposed repeal repeals existing regulations (Chapter 483);
- (7) the proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed repeal does not positively or negatively affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require compensation to private real property owners under the Texas Constitution or the Private Real Property Rights Preservation Act, Texas Government Code Chapter 2007, and does not affect a regulation in a manner that would constitute a taking. Therefore, a takings impact assessment is not required.

MAJOR ENVIRONMENTAL RULE

The proposed repeal is not a major environmental rule as defined by Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Written comments on the proposed repeal may be submitted to Comments on the proposed rule and responses to the request for information may be submitted by email to legal@tfsc.texas.gov; or by mail to Maria Haynes, Executive Director, Texas Funeral Service Commission, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The repeal is proposed under Texas Occupations Code §651.152, which requires the Commission to adopt rules, establish procedures, and prescribe forms necessary to administer and enforce Chapter 651; Texas Occupations Code §651.005, which requires the Commission to regulate willful body programs, non-transplant anatomical donation organizations, and anatomical facilities as provided by Chapter 691, Health and Safety Code, and in accordance with the powers and duties granted by Chapter 651; and Texas Health and Safety Code §691.034(g), which requires the Commission to adopt rules and

procedures necessary to administer the regulation and registration of persons and institutions using bodies and anatomical specimens. The repeal is further proposed to implement Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, which transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission and ended the separate regulatory role of the Anatomical Board of the State of Texas.

CROSS-REFERENCE TO STATUTE. The proposed repeal implements Texas Health and Safety Code Chapter 691 and Texas Occupations Code Chapter 651.

§483.1. Hearing Procedures.

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

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

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Maria Haynes

Interim Executive Director

Anatomical Board of the State of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-2488



CHAPTER 485. AUDIT PROCEDURES

25 TAC §485.1

The Texas Funeral Service Commission (Commission), as the successor agency to the regulatory functions formerly performed by the Anatomical Board of the State of Texas, proposes the repeal of Title 25, Part 4, Chapter 485, comprised of §485.1. The Commission is concurrently proposing to repeal every section of Part 4 (the rules of the Anatomical Board of the State of Texas).

BACKGROUND AND PURPOSE

Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission, created the State Anatomical Advisory Committee, and ended the separate regulatory role of the Anatomical Board of the State of Texas. Following that transfer, the regulatory framework is administered by the Commission under Chapter 691, Health and Safety Code, and Chapter 651, Occupations Code.

The rules in Title 25, Part 4 govern only the internal governance and operations of the former Anatomical Board, including audit procedures for member institutions (Chapter 485). Because the Anatomical Board no longer functions as a regulatory body and its functions have been transferred to the Commission, these provisions are obsolete. The Commission proposes to repeal Chapter 485 in its entirety to remove obsolete rules from the Texas Administrative Code.

SECTION-BY-SECTION SUMMARY

The proposed repeal removes the following sections, each of which addresses the internal operation of the former Anatomical Board and is obsolete following the transfer of regulatory authority to the Commission:

Chapter 485 Audit Procedures. Repeals §485.1 (Audit Procedures), which is superseded by the Commission's inspection and verification authority under Health and Safety Code §691.034.

FISCAL NOTE

Maria Haynes, Executive Director of the Texas Funeral Service Commission (Commission), has determined that for the first five-year period the proposed repeal is in effect, there will be no foreseeable fiscal implications for state government or for units of local government as a result of administering or enforcing the repeal.

PUBLIC BENEFIT AND COST NOTE

Ms. Haynes has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repeal will be a more accurate and current Texas Administrative Code that reflects the regulatory framework established by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, and the removal of obsolete provisions that reference a board and offices that no longer exist, which promotes clarity for regulated persons and the public. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed, because the repeal removes existing provisions and imposes no new requirements.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities, because the repeal removes obsolete or duplicative provisions and imposes no new costs or requirements. Accordingly, neither an economic impact statement nor a regulatory flexibility analysis is required under Texas Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

The proposed repeal will not affect a local economy, so the Commission is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

COSTS TO REGULATED PERSONS

The proposed repeal does not impose a cost on regulated persons and, therefore, is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

The Commission has determined that for the first five-year period the proposed repeal is in effect, the following statements apply, pursuant to Texas Government Code §2001.0221 and 34 Texas Administrative Code §11.1:

(1) the proposed repeal does not create or eliminate a government program; the regulatory functions associated with these rules were transferred to the Commission, and the separate regulatory role of the Anatomical Board of the State of Texas was ended, by Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, not by this proposal;

(2) implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions;

- (3) implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the Commission;
- (4) the proposed repeal does not require an increase or decrease in fees paid to the Commission;
- (5) the proposed repeal does not create a new regulation;
- (6) the proposed repeal repeals existing regulations (Chapters 485);
- (7) the proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed repeal does not positively or negatively affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require compensation to private real property owners under the Texas Constitution or the Private Real Property Rights Preservation Act, Texas Government Code Chapter 2007, and does not affect a regulation in a manner that would constitute a taking. Therefore, a takings impact assessment is not required.

MAJOR ENVIRONMENTAL RULE

The proposed repeal is not a major environmental rule as defined by Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Written comments on the proposed repeal may be submitted to Comments on the proposed rule and responses to the request for information may be submitted by email to legal@tfsc.texas.gov; or by mail to Maria Haynes, Executive Director, Texas Funeral Service Commission, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The repeal is proposed under Texas Occupations Code §651.152, which requires the Commission to adopt rules, establish procedures, and prescribe forms necessary to administer and enforce Chapter 651; Texas Occupations Code §651.005, which requires the Commission to regulate willed body programs, non-transplant anatomical donation organizations, and anatomical facilities as provided by Chapter 691, Health and Safety Code, and in accordance with the powers and duties granted by Chapter 651; and Texas Health and Safety Code §691.034(g), which requires the Commission to adopt rules and procedures necessary to administer the regulation and registration of persons and institutions using bodies and anatomical specimens. The repeal is further proposed to implement Senate Bill 2040, 88th Legislature, Regular Session (2023) (Act of May 28, 2023, 88th Leg., R.S., ch. 961), effective September 1, 2023, which transferred the regulation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities to the Commission and ended the separate regulatory role of the Anatomical Board of the State of Texas.

CROSS-REFERENCE TO STATUTE. The proposed repeal implements Texas Health and Safety Code Chapter 691 and Texas Occupations Code Chapter 651.

§485.1. *Audit Procedures.*

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

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

TRD-202602555

Maria Haynes

Interim Executive Director

Anatomical Board of the State of Texas

Earliest possible date of adoption: August 2, 2026

For further information, please call: (512) 936-2488



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 20. STATEWIDE PROCUREMENT AND SUPPORT SERVICES

SUBCHAPTER B. PUBLIC PROCUREMENT AUTHORITY AND ORGANIZATION

DIVISION 1. PRIMARY AND DELEGATED PROCUREMENT AUTHORITY

34 TAC §20.82

The Comptroller of Public Accounts proposes amendments to §20.82, concerning delegated purchases.

No legislation was enacted within the last four years that provides the statutory authority for the amendments.

Under amendments to subsection (a)(1), the comptroller delegates to state agencies the one-time purchases of goods, including goods for resale, the estimated cost of which does not exceed \$100,000. The comptroller is raising the delegation threshold from \$50,000 to \$100,000 to account for changes in the cost of goods.

The comptroller adds new subsection (b)(7) which will prohibit state agencies from dividing purchases into smaller increments to avoid complying with the thresholds set out in this section. This is consistent with Government Code, §2155.132(g) which states that "{a} large purchase may not be divided into small lot purchases to meet the dollar limits prescribed by this section."

Finally, under amendments to subsection (d)(1)(A) and to demonstrate a good faith effort to include historically underutilized businesses (HUBs) in contracting, a state agency must solicit at least one informal bid from a HUB on all purchases of goods and services exceeding \$10,000 and not exceeding \$25,000. Currently, state agencies must solicit at least two bids from HUBs for such purchases.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amendments are in effect, the amended rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject

to the rule's applicability; and will not positively or adversely affect this state's economy. This proposal amends an existing rule.

Ms. Melnyk also has determined that the proposed amended rule would have no fiscal impact on the state government, units of local government, or individuals. The proposed amendments would benefit the public by updating the procurement threshold to reflect current market conditions for goods and services, reducing administrative burden on both state agencies and vendors by streamlining the approval process for routine purchases. The prohibition on dividing purchases into smaller lots would promote transparency, consistency, and fair competition in state contracting, ensuring compliance with the Government Code. There would be no anticipated significant economic cost to the public. The proposed amendments would have no significant fiscal impact on rural communities. The pool of businesses participating in the procurement process could decline, as state agencies would no longer be obligated to solicit an informal bid from more than one historically underutilized business (HUB) for each qualifying purchase. Costs to HUBs for monitoring state contracting opportunities could increase as notices and invitations to bid delivered to small businesses may be reduced, and the share of state contracts won by those businesses could decrease to an unknown extent; the fiscal implications for small businesses cannot be determined.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to Gerard MacCrossan, P.O. Box 13528, Austin, Texas 78711 or to the email address: Gerard.MacCrossan@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

A public hearing will be held to receive comments on the proposal. There is no physical location for this meeting. The meeting will be held at 10:00 a.m., Central Time, on Tuesday, July 14, 2026. To access the online public meeting by web browser, please enter the following URL into your browser: <https://txcpa.webex.com/txcpa/j.php?MTID=m096e87cc70f4a2b36bcd2ac864feb9d4>. To join the meeting by computer or cell phone using the Webex app, use the access code 2488 466 6831 and password SP-Drules. Persons interested in providing comments at the public hearing may contact Mr. Gerard MacCrossan, Comptroller of Public Accounts, at Gerard.MacCrossan@cpa.texas.gov or by calling (512) 463-4468 by July 13, 2026.

The comptroller proposes these amendments under Government Code, §§2155.0012 and 2156.0012, which authorize the comptroller by rule to efficiently and effectively administer state purchasing of goods and services.

These amendments implement Government Code, §2155.132.

§20.82. *Delegated Purchases.*

(a) General delegation. The purchase of the following goods and services is delegated to state agencies:

- (1) one-time purchases of goods, including goods for resale, the estimated cost of which does not exceed \$100,000 [~~\$50,000~~];
- (2) emergency purchases;
- (3) purchases of perishable goods;

(4) purchases of services, including services for resale, the estimated cost of which does not exceed \$100,000;

- (5) purchases of publications directly from the publisher;
- (6) fuel, oil, and grease purchases;
- (7) distributor purchases; and
- (8) professional memberships.

(b) Provisions generally applicable to delegated purchases.

(1) Competitive bidding is not required for purchases of \$10,000 or less.

(2) All required solicitations of informal bids must be directed to vendors which normally offer for sale the goods and services being purchased.

(3) Items purchased under delegated authority may not include items available under a term or cooperative contract (unless purchased in quantities less than minimum ordering quantities of the contract) or any item required by law to be purchased from a particular source.

(4) The state agency must solicit formal bids from all eligible vendors on the centralized master bidders list (CMBL) when making purchases in excess of \$25,000.

(5) The state agency must maintain documentation justifying a proprietary purchase in excess of \$10,000. A solicitation for a proprietary purchase must indicate that it is proprietary and products or services other than those specified will not be considered.

(6) An agency's cost estimate must be developed in good faith using a method that is reasonable under the circumstances.

(7) An agency may not divide purchases of similar or like goods or services to avoid complying with the thresholds in this section.

(c) Withdrawal of delegated purchase authority. The comptroller will monitor compliance with established procedures for delegated purchases and may withdraw delegated purchase authority in whole or part from a state agency for continued violations after giving adequate warning. The comptroller will report to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board the findings that a state agency has not followed the comptroller's rules or the laws related to the delegated purchases.

(d) Provisions applicable to particular delegated purchases.

(1) Goods and services purchases. Purchases of goods and services may be made in accordance with the following provisions.

(A) State agencies must solicit at least three informal bids, including at least one bid [~~two bids~~] from historically underutilized businesses (HUBs), on all purchases of goods and services exceeding \$10,000 and not exceeding \$25,000. State agencies must, to the extent possible, solicit bids from vendors on the CMBL and vendors in the HUB Directory. If a state agency is unable to locate one HUB [~~two HUBs~~], it must make a note in the contract file.

(B) For delegated purchases of goods and services estimated to cost more than \$25,000, state agencies shall post a solicitation or notice of solicitation on the ESBID and, at a minimum, solicit formal bids from all eligible vendors within the NIGP classes and items designated for the procurement that are active on the CMBL. See §20.207 of this title (relating to Competitive Sealed Bidding), and §20.208 of this title (relating to Competitive Sealed Proposals).

(2) Emergency purchases. State agencies shall make emergency purchases in accordance with the following provisions.

(A) At least three informal bids should be obtained whenever possible.

(B) For an emergency purchase of goods or services exceeding \$25,000, a state agency must retain a full written explanation of the emergency along with other documentation required by the comptroller in the contract file.

(C) A state agency may contact the comptroller for advice and assistance in the handling of emergency purchases.

(3) Perishable goods. Purchases of perishable goods must be obtained through competitive bids, and appropriate documentation must be retained in the contract file.

(4) Publications. A state agency may purchase publications directly from the publisher when such publications are not available through statewide contract or through competitive bidding. Direct publication orders shall be made by following guidelines established by the comptroller. Examples of direct publications include, but are not limited to:

- (A) foreign publications;
- (B) out-of-print or rare publications;
- (C) back issues of magazines, journals, and newspapers;
- (D) publications of professional societies;
- (E) prepared films, tapes, and discs (audio, visual, or both);
- (F) computer software;
- (G) collections of any of the foregoing items, and microfilm or microfiche copies of any of the foregoing items; and
- (H) Library of Congress cards.

(5) Fuel, oil, and grease. A state agency may make fuel, oil, and grease purchases at service stations or in bulk. Fuel, oil, and grease purchases shall be made by following guidelines suggested by the comptroller. Non-competitive and emergency purchase procedures apply to purchases at service stations.

(6) Distributor purchases. A state agency may make distributor purchases by following guidelines established by the comptroller. A state agency may not purchase any of the following on a distributor purchase basis: consumable items; labor of any kind (see "service"); "will fit" parts (non-OEM); parts for stock; contract items; electrical parts for electric motors; electrical switch panel boards; electrical accessories.

(7) Professional memberships. A state agency may purchase professional memberships as described in Government Code, §2113.104 directly from a professional organization when such memberships are not available through competitive bidding, the administrative head of the agency, or that person's designee, has approved the purchase, the purchase will serve a public purpose, and the agency will receive adequate consideration in exchange for the purchase.

(e) Specific delegations.

(1) The authority to grant specific delegations resides with the director. Upon request of a state agency, the director shall determine whether to delegate a procurement to a state agency or to carry out the procurement.

(2) A state agency seeking a specific delegation shall submit its proposed specifications for goods and services and evaluation

criteria to the division using a procedure specified by the division. Alternately, a state agency may request for the division to develop specifications and evaluation criteria.

(3) At a minimum, state agencies granted specific delegations shall meet the following criteria:

(A) procurement audit standards set forth in §20.510 of this title (relating to Auditing of Purchase Related Documentation);

(B) minimum training and certification standards established in §20.133 of this title (relating to Training and Certification Program); and

(C) approved processes and procedures for the specific type of delegation being requested. All processes and procedures are subject to the prior review, revision and approval of the director.

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

Filed with the Office of the Secretary of State on June 18, 2026.

TRD-202602495

Don Neal

General Counsel, Operations and Support Legal Services

Comptroller of Public Accounts

Earliest possible date of adoption: August 2, 2026

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.21

The Texas Board of Criminal Justice (board) proposes amendments to §159.21, concerning Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly. The proposed amendments revise the title for clarity; remove the Memorandum of Understanding as an attachment to the rule; and make other formatting and grammatical updates.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice (TDCJ), has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments and information such as applicable data, research, or analysis related to the cost, benefit, or effect of the proposed amendments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments and informational submissions from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §492.001, which establishes the board's authority over the department; §492.013, which authorizes the board to adopt rules; Texas Health and Safety Code §§614.013-.016, which mandates a memorandum of understanding be established for the continuity of care for offenders with mental impairments, elderly offenders, offenders with physical disabilities, terminal illnesses, or significant illnesses, and for certain offenders by law enforcement and jails.

Cross Reference to Statutes: None.

§159.21. Continuity of Care and Services [Service] Program for Offenders who are Elderly, have a Mental Impairment or Physical Disability, or have Significant or Terminal Illness [Persons with Mental

Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly].

(a) The Texas Department of Criminal Justice (TDCJ), through the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), adopts a ~~the following~~ memorandum of understanding (MOU) with the Texas Commission on Law Enforcement (TCOLE), the Texas Commission on Jail Standards (TCJS), and the Texas Department of Public Safety of the State of Texas (DPS) concerning a continuity of care and services [service] program for offenders who are elderly, have a mental impairment or physical disability, or have significant or terminal illness [persons with mental impairments, physical disabilities, terminal or significant illnesses, or who are elderly].
[Figure: 37 TAC §159.21(a)]

(b) The MOU is required by the Texas Health and Safety Code, §614.016.

(c) Copies of the MOU are filed in the Texas Correctional Office on Offenders with Medical or Mental Impairments, 4616 W. Howard Lane, Suite 200, Austin, Texas 78728 and may be reviewed during regular business hours.

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

Filed with the Office of the Secretary of State on June 19, 2026.

TRD-202602506

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: August 2, 2026

For further information, please call: (936) 437-6700

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