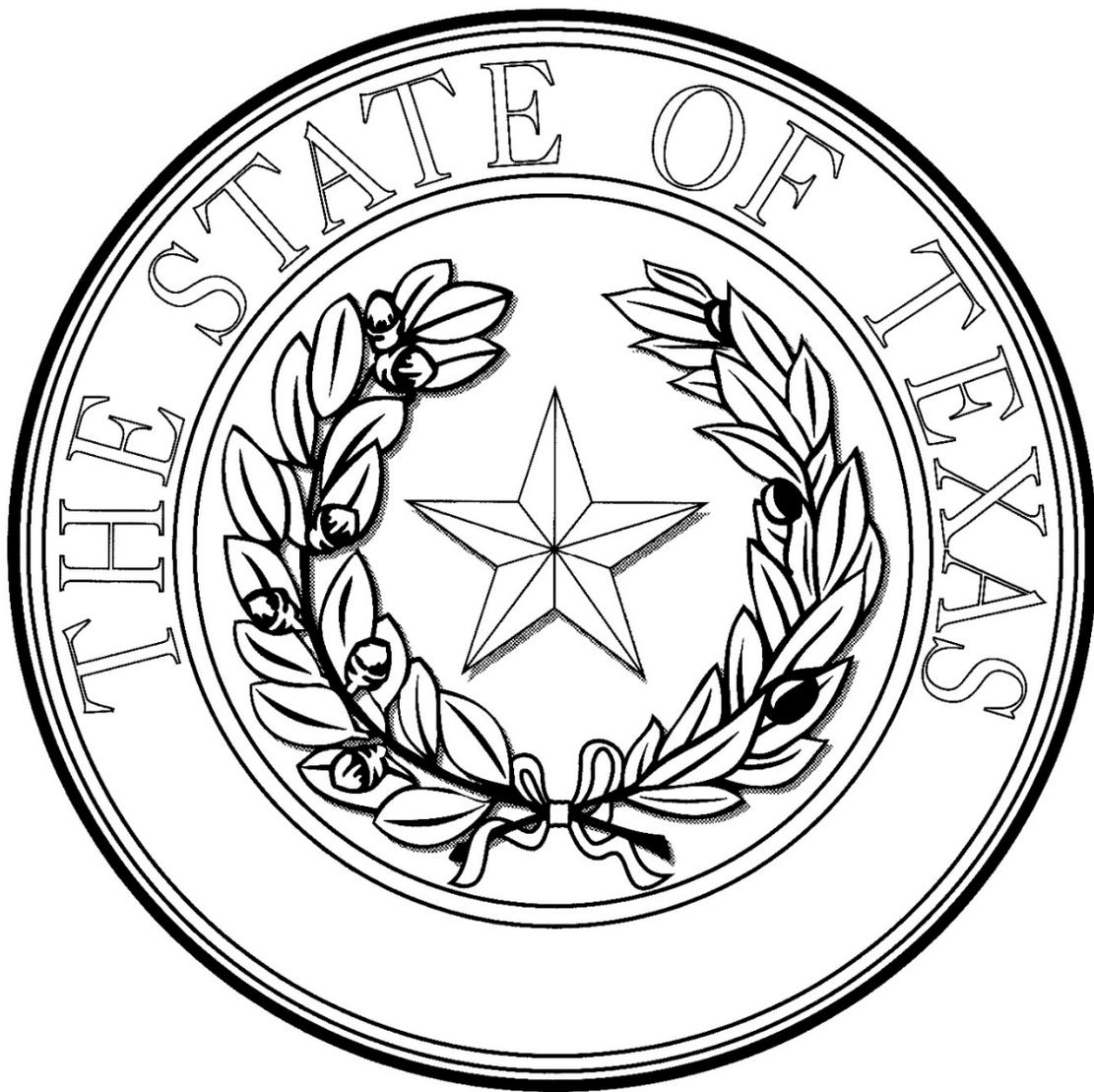

TEXAS REGISTER

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THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for June 19, 2025

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Lee Ann Breading of Denton, Texas (Judge Breading is being reappointed).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Elizabeth L. "Libby" Hamilton of Converse, Texas (Ms. Hamilton is being reappointed).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Joan Huffman of Houston, Texas (Senator Huffman is being reappointed).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Emmitt R. Jackson, Jr. of Argyle, Texas (Chief Jackson is being reappointed).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Alexis J. Nungary of Houston, Texas (replacing Abigail C. "Abby" Brookshire of Arlington, whose term expired).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Brandi L. Reed of Amarillo, Texas (Ms. Reed is being reappointed).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, John Smithee of Amarillo, Texas (replacing Representative Andrew Murr of Junction, whose term expired).

Appointed to the Crime Victims' Institute Advisory Council for a term to expire January 31, 2027, Erleigh N. Wiley of Kemp, Texas (Ms. Wiley is being reappointed).

Appointments for July 1, 2025

Appointed to the Department of Information Resources for a term to expire February 1, 2031, Glenn A. Hegar, Jr. of Katy, Texas (replacing Keith R. Halman of Wolfforth, who resigned).

Greg Abbott, Governor

TRD-202502185



Proclamation 41-4187

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the resignation of Honorable Kelly Hancock, and its acceptance, have caused a vacancy to exist in Texas Senate District No. 9, which is wholly contained within Tarrant County; and

WHEREAS, Article III, Section 13 of the Texas Constitution and Section 203.002 of the Texas Election Code, require that a special election be ordered upon such a vacancy, and Section 3.003(a)(3) and (b) of the Texas Election Code requires the special election to be ordered by proclamation of the governor; and

WHEREAS, Section 203.004(a) of the Texas Election Code provides that the special election generally must be held on the first uniform date occurring on or after the 36th day after the date that the election is ordered; and

WHEREAS, pursuant to Section 41.001(a)(3) of the Texas Election Code, the first uniform election date occurring on or after the 36th day after the date that the special election is ordered is Tuesday, November 4, 2025;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby order a special election to be held in Texas Senate District No. 9 on Tuesday, November 4, 2025, for the purpose of electing a state senator to serve out the unexpired term of the Honorable Kelly Hancock.

Candidates who wish to have their names placed on the special election ballot must file their applications with the Secretary of State no later than 5:00 p.m. on Wednesday, September 3, 2025, in accordance with Section 201.054(a)(1) of the Texas Election Code.

Early voting by personal appearance shall begin on Monday, October 20, 2025, and end on Friday, October 31, 2025, in accordance with Section 85.001(a) and (c) of the Texas Election Code.

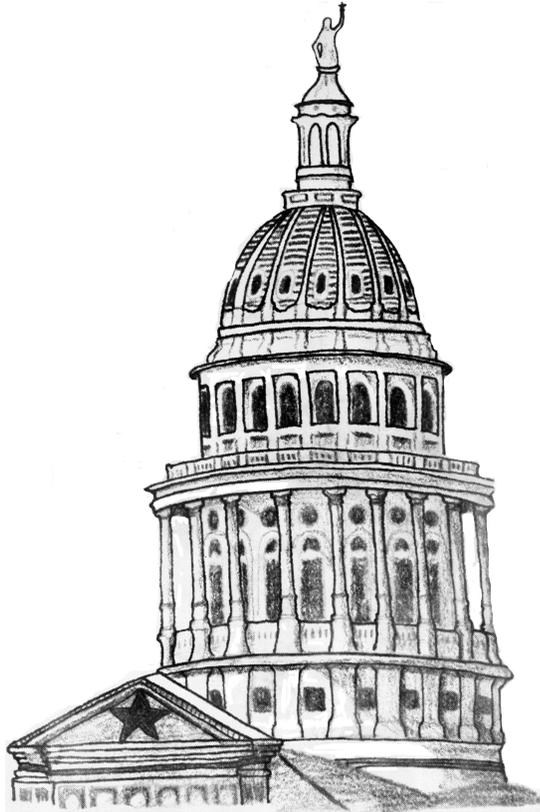
A copy of this order shall be mailed immediately to the Tarrant County Judge, who presides over the county within which Texas Senate District No. 9 is wholly contained, and all appropriate writs shall be issued, and all proper proceedings shall be followed to the end that said election may be held to fill the vacancy in Texas Senate District No. 9 and its result proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of June, 2025.

Greg Abbott, Governor

TRD-202502154





THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following: Requests for Opinions, Opinions, and Open Records Decisions.

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0601-KP

Requestor:

The Honorable Edgar J. Garrett, Jr.

Delta County Attorney

Post Office Box 462

Cooper, Texas 75432

Re: Whether the Texas Commission on Environmental Quality has enforcement authority over waterway discharge by the U.S. Army Corps of Engineers (RQ-0601-KP)

Briefs requested by July 10, 2025

RQ-0602-KP

Requestor:

The Honorable Ashley Cain Land

Chambers County Attorney

Post Office Box 1200

Anahuac, Texas 77514

Re: Whether "advanced recycling facilities" engage in "recycling" under Texas law

(RQ-0602-KP)

Briefs requested by July 14, 2025

RQ-0603-KP

Requestor:

The Honorable Renee Ann Mueller

Washington County Attorney

100 East Main, Suite 200

Brenham, Texas 77833

Re: Transportation Code requirements for a "junked vehicle" to constitute a public nuisance (RQ-0603-KP)

Briefs requested by July 22, 2025

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202502191

Justin Gordon

General Counsel

Office of the Attorney General

Filed: July 1, 2025



Opinions

Opinion No. KP-0490

Ms. Kimberly M. Buchanan, CPA

Tarrant County Auditor

100 East Weatherford, Room 506

Fort Worth, Texas 76196-0103

Re: Authority of the Texas Supreme Court to require district and county clerks to integrate their case management systems with the proprietary re:SearchTX database (RQ-0556-KP)

S U M M A R Y

The Texas Supreme Court has authority under Government Code section 74.024 to order county and district clerks to integrate their case management systems with re:SearchTX, the Court's approved electronic filing system. The Court's order is also within the scope of the judicial power to implement rules for efficient and uniform administration of the various courts; thus, it does not violate the separation of powers between the judicial and legislative branches.

Opinion No. KP-0491

The Honorable Janna Lindig

Bandera County Attorney

Post Office Box 656

Bandera, Texas 78003

Re: Authority of a county commissioners court to enact an order penalizing a dog owner for a public nuisance due to the dog's excessive barking (RQ-0557-KP)

S U M M A R Y

A county commissioners court does not possess authority to enact an order penalizing a dog owner for a "public nuisance" due to the dog's excessive barking where, as here, no statute confers such authority to the commissioners court.

Opinion No. KP-0492

Ms. Jacky Cockerham
Aransas County Auditor
2840 Highway 35 North
Rockport, Texas 78382

Re: Authority of a county commissioners court to create a new legal-support position and transfer funding or positions away from the county attorney's office (RQ-0561-KP)

S U M M A R Y

A commissioners court has authority to delegate to any appropriate county official a function that is not a core duty of another county official. To the extent the duties of the contract and procurement specialist position are not core duties of the Aransas County Attorney's Office, the position and its associated funding may be transferred from the County Attorney to another appropriate county office. The specific office to which this position and funding may be reassigned is a determination for the Commissioners Court in the first instance, as long as other conflicts are not created with the transfer of duties.

A commissioners court has authority to hire legal counsel to assist with county responsibilities so long as the statutory duties of other county officials are not thereby usurped. To the extent it does not usurp or interfere with the statutory duties of other county officials, including the County Attorney, the Aransas Commissioners Court is authorized to create a new attorney position concerning the affairs of Aransas County. To the extent it does not usurp or interfere with the County Attorney's core duties, the Commissioners Court has, in some circumstances, authority through the exercise of its budgetary power to defund an existing civil attorney position to finance the new attorney position.

Opinion No. KP-0493

Ms. Alicia R. Whipple
Fannin County Auditor
101 East Sam Rayburn Drive, Suite 301
Bonham, Texas 75418

Re: Whether commissary funds under Local Government Code § 351.0415 can be used to hire a full-time employee at a privately operated jail (RQ-0564-KP)

S U M M A R Y

Local Government Code section 351.0415 authorizes the sheriff or the sheriff's designee to use commissary proceeds only for the enumerated statutory purposes. To the extent the county commissioners' court would be using the commissary proceeds for the salary of a particular county employee who will staff a county jail operated by a private vendor, such an expenditure would not be permissible under section 351.0415. Assuming the sheriff or sheriff's designee would use the commissary proceeds, the question of whether those proceeds may be used for the salary of that particular county employee pursuant to the enumerated statutory purposes detailed in subsections 351.0415(c)(1) and (c)(5) requires the resolution of fact questions that are beyond the scope of this opinion.

Opinion No. KP-0494

The Honorable Giovanni Capriglione
Chair, House Committee on Delivery of Government Efficiency
Texas House of Representatives

Post Office Box 2910
Austin, Texas 78768-2910

Re: Scope of third-party obligations resulting from child support liens under Family Code chapter 157 (RQ-0567-KP)

S U M M A R Y

Based on the plain text of Family Code subsection 157.318(a), child support liens on accounts with financial institutions have no uniform ending date but continue until all current support and arrearages (including interests, costs, and fees) are paid or the lien is otherwise released pursuant to Chapter 157 of the Family Code.

Family Code subsection 157.317(a-1) addresses property to which a child support lien attaches. The plain text of that subsection reveals that a lien attaches to all property of the obligor in the possession or control of a financial institution from the date the child support lien notice is delivered to the financial institution, which includes property acquired after deliver of the notice.

Compliance with a child support levy may, but does not necessarily, lead to the release of a lien.

Opinion No. KP-0495

Mr. Steven Daughety
Cherokee County Auditor
135 South Main, 3rd Floor
Rusk, Texas 75785

Re: Authorities and obligations regarding phone-card sales at a county jail (RQ-0570-KP)

S U M M A R Y

Revenue from phone cards sales derived from the exercise of inmate telephone privileges provided under the Texas Commission on Jail Standards' rule concerning inmate telephone plans must be deposited in the county's general fund. Revenue derived from the purchase of phone cards as a jail commissary item, bearing no correlation to the provision of inmate telephone privileges, are commissary funds under the exclusive control of the sheriff. It follows that phone card revenue must be deposited in the general fund where the ordering, fulfillment, and fund allocation of phone cards are separate from the commissary operation. The separate treatment of inmate commissary and telephone privileges could result in a situation where some telephone service or item is offered under both privileges.

The Cherokee County Commissioners Court may reinstate the PIN debit system, through its contracting and jail authority, so long as the chosen method complies with the requirements in the Commission's rule concerning inmate telephone privileges.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202502192
Justin Gordon
General Counsel
Office of the Attorney General
Filed: July 1, 2025



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 355. REIMBURSEMENT RATES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to Texas Administrative Code Title 1, Chapter 355, Subchapter A, §355.102 and §355.105; Subchapter C, §355.318; Subchapter D, §355.456; Subchapter E, §§355.503, 355.505, 355.507, 355.509, and 355.513; Subchapter F, §355.723; Subchapter G, §355.5902 and §355.6907; Subchapter H, §355.7051; Subchapter M, §355.9090; new rules in Subchapter C, §355.305; and Subchapter H, §355.7052; and the repeals in Subchapter A, §355.112; Subchapter C, §§355.304; 355.306 - 355.308; and 355.320; Subchapter D, §355.457; and Subchapter F, §355.722.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement the 2026-27 General Appropriations Act (GAA), Senate Bill (S.B.) 1, 89th Legislature, Regular Session, 2025 (Article II, Health and Human Services Commission, Rider 23 and Rider 25, respectively) and Senate Bill 457 (S.B. 457), 89th Legislature, Regular Session, 2025. The proposal amends and repeals existing rules and creates new rules that address the following topics.

1. The proposal revises the personal attendant wage, creates a new rate methodology for the attendant cost component, and repeals the Attendant Compensation Rate Enhancement Program.

The 2026-27 General Appropriations Act (GAA), Senate Bill (S.B.) 1, 89th Legislature, Regular Session, 2025 (Article II, Health and Human Services Commission, Rider 23) (Rider 23) provides appropriations for HHSC to increase the wage for personal attendants assumed in the adopted rates for attendant and attendant-like services to \$13.00 per hour and to increase the associated payroll costs, taxes, and benefits percentage to 14 percent for community services and 15 percent for residential services. Rider 23 also discontinues the Attendant Compensation Rate enhancement program.

The proposal amends §355.105, General Reporting and Documentation Requirements, Methods, and Procedures, to update the language so that cost reports must be completed every state fiscal year and removes the mention of the Internal Revenue Service fiscal year in cost reporting. The proposal specifies how related party attendant staff costs will be limited in the rate methodology for programs with attendant services. The proposal repeals §355.457, Cost Finding Methodology, because the amendment of §355.105 makes this rule obsolete. The

proposal repeals §355.722, Reporting Costs by Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Providers, because the amendment of §355.105 makes this rule obsolete.

The proposal repeals §355.112, Attendant Compensation Rate Enhancement, to implement a requirement of Rider 23. The proposal creates new rule §355.7052, Reimbursement Methodology for Determining Attendant Cost Component, to establish the rate methodology for the attendant cost rate component, which currently exists in §355.112.

The proposal amends §355.456, Reimbursement Methodology; §355.503, Reimbursement Methodology for Long-Term Services and Supports State Plan and Home and Community-Based Services Waiver Program Services Delivered through the STAR+PLUS Managed Care Program; §355.505, Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program; §355.507, Reimbursement Methodology for Long-Term Services and Supports State Plan and Medically Dependent Children Waiver Program Services Delivered through the STAR Kids and STAR Health Managed Care Programs; §355.509, Reimbursement Methodology for Residential Care; §355.513, Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program; §355.723, Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs; §355.5902, Reimbursement Methodology for Primary Home Care; and §355.6907, Reimbursement Methodology for Day Activity and Health Services; to replace references to §355.112, which is being repealed by this proposal, with proposed new rule §355.7052. The proposal amends §355.9090, Reimbursement Methodology for Community First Choice, to add a reference to proposed new §355.7052. The proposal amends §355.7051, concerning Base Wage for Personal Attendant, to update the rule title to reflect that this rule will expire on August 31, 2025.

2. The proposal revises the rate methodology for Nursing facilities (NFs), implements a new annual patient expense ratio, repeals the Direct Care Staff Enhancement program and direct care spending requirements.

General Appropriations Act (GAA), Senate Bill 1, 89th Legislature, Regular Session, 2025 (Article II, Health and Human Services Commission, Rider 25) (Rider 25) and Senate Bill 457, 89th Legislature, Regular Session, 2025 (S.B. 457) provide additional appropriations to fund dietary and administrative costs for nursing facilities. The proposal modifies reimbursement methodology to support the implementation of Rider 25 and S.B. 457.

The proposal repeals §355.304, Direct Care Staff Spending Requirement on or after September 1, 2023, to implement S.B. 457. The proposal adds new §355.305, Annual Patient Care Expense Ratio for Nursing Facilities, to implement the requirement of S.B.

457. The proposal repeals §355.306, Cost Finding Methodology before September 1, 2025, and §355.307, Reimbursement Setting Methodology before September 1, 2025, because the amendment of §355.318 makes these rules obsolete.

The proposal amends §355.318, Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025, to implement S.B. 457. The proposal repeals §355.308, concerning Direct Care Staff Rate Component before September 1, 2025, and §355.320, Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025, to implement S.B. 457. This bill discontinues the Nursing Care Staff Rate Enhancement Program for Nursing Facilities.

3. The proposal revises cost report training requirements.

The proposal amends §355.102, General Principles of Allowable and Unallowable Costs, to update the language for the cost report training requirements.

SECTION-BY-SECTION SUMMARY

Editorial revisions are made throughout the rules to update formatting, organization, punctuation, and references.

The proposed amendment to §355.102(d) clarifies training requirements for cost report submission. Cost report preparers must complete a required state-sponsored training for each program in which a cost report is required. The training applies to any required reports for that program during the following cost report collection period. The proposed amendment also enables HHSC to require that a contracted provider's primary entity or financial contacts complete state-sponsored training to certify and submit a cost report. The training would apply to the submission of any other reports in the following calendar year. The proposed amendment also deletes references to accountability reports.

The proposed amendment to §355.105(b) requires that contracted providers' cost reporting period aligns with the state fiscal year. The proposed amendment also deletes references to the Attendant Compensation Rate Enhancement program and the Direct Care Staff Enhancement program. The proposed amendment to §355.105(i) limits related party attendant staff costs to calculate the methodological attendant cost rate component for programs with attendant services.

The proposal repeals §355.112 because the Attendant Compensation Rate Enhancement Program is being discontinued effective September 1, 2025. The proposal repeals §355.304, §355.306, §355.307, §355.308, and §355.320 because these requirements no longer apply to reimbursement of nursing facilities effective September 1, 2025.

The proposed new §355.305(a) introduces the new annual patient expense ratio for nursing facilities effective September 1, 2025. Subsection (b) defines terms used in the rule. Subsection (c) requires that nursing facilities must submit annual cost reports to HHSC. Subsections (d) and (e) establish how HHSC will calculate the annual expense ratio and determine recoupments for nursing facility providers who fail to meet spending requirements. Subsection (f) establishes criteria to exclude nursing facility providers from recoupment for failing to meet spending requirements under subsection (e). Subsection (g) establishes how HHSC will notify nursing facility providers regarding the annual patient expense ratio. Subsection (h) confirms that this section does not apply to state-owned facilities.

The proposed amendment to §355.318(d) clarifies how HHSC defines the nursing, Brief Interview for Mental Status (BIMS),

and non-therapy ancillary rate components. The proposal also replaces the non-case-mix rate component with new rate components for dietary costs, operations costs, administration costs, and fixed capital assets costs. The amendment to subsection (e) establishes how HHSC calculates the new dietary, operations, administration, and fixed capital assets rate components. The amendment to subsection (g) replaces the reference to the non-case-mix component with the administration rate component. A reference to the new §355.321, which is also proposed in this issue, Reimbursement Methodology for Intellectual and Developmental Disabilities Nursing Facilities Special Reimbursement Class, is added to subsection (h). New subsection (k) establishes how the Medicaid Swing Bed Program for Rural Hospitals will be reimbursed under this section.

The proposed amendment to §355.456(d) replaces references to §355.112 with proposed new §355.7052 and deletes references to §355.320 and replaces it with §355.318. The proposed amendment deletes current subsection (d)(6) related to the High Medical Needs Add-on reimbursement rate before September 1, 2025.

The proposed repeal of §355.457 deletes the rule as it is no longer necessary because the rule is superseded by the amendment of §355.105.

The proposed amendment to §355.503(c) replaces references to §355.112 with proposed new §355.7052 and replaces references to §355.509(c)(2)(E)(iii) with reference to §355.509(c)(2).

The proposed amendment to §355.505(b) replaces references to the "Department of Aging and Disability Services (DADS)" with "the Texas Health and Human Services Commission (HHSC)" and replaces references to §355.112 with proposed new §355.7052 in subsection (c) and deletes information about the attendant compensation rate enhancement in §355.505(b)(2)(A).

The proposed amendment to §355.507(c) replaces references to §355.112 with new §355.7052.

The proposed amendment to §355.509(c) replaces references to §355.112 with proposed new §355.7052. The proposed amendment to subsection (d) replaces a reference to "DADS" with "HHSC."

The proposed amendment to §355.513(c) replaces references to §355.112 with proposed new §355.7052.

The title of Subchapter F, Reimbursement Methodology for Programs Serving Persons with Mental Illness or Intellectual or Developmental Disability, is changed to "Reimbursement Methodology for Programs Serving Persons with an Intellectual or Developmental Disability."

The proposed repeal of §355.722 deletes the rule as it is no longer necessary because the rule is superseded by the amendment of §355.105.

The proposed amendment to §355.723(c) replaces references to §355.112 with proposed new §355.7052 and deletes a reference to §355.722 and replaces it with §355.102.

The proposed amendment to §355.5902(c) replaces references to §355.112 with proposed new §355.7052.

The proposed amendment to §355.6907(a) and subsection (h) replaces a reference to "Department of Aging and Disability Services (DADS)" with "Texas Health and Human Services Commis-

sion (HHSC)." The amendment of subsection (f) replaces references to §355.112 with proposed new §355.7052.

The title of Subchapter H, "Base Wage Requirements for Personal Attendant" is changed to "Attendant Cost Determination."

The proposed amendment to §355.7051 retitles the rule to "Base Wage for a Personal Attendant before September 1, 2025" to establish that the rule applies before September 1, 2025.

Proposed new §355.7052(a) introduces the rate methodology for the attendant cost component. Subsection (b) defines terms used in the rule. Subsection (c) establishes the attendant cost center. Subsection (d) lists the programs and services that apply to this section. Subsection (e) establishes how HHSC will calculate the attendant cost component for the applicable programs and services. Subsection (f) establishes how HHSC will calculate the attendant cost component for services delivered through the Consumer Directed Services (CDS) option. Subsection (g) specifies that the attendant cost component is limited to available appropriations.

The proposed amendment to §355.9090(b) revises how the Community First Choice- State Plan Attendant and Habilitation rate is calculated by defining an attendant rate component and an administration and operations rate component.

FISCAL NOTE

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

The effect on state government for each year of the first five years the proposed repeals, amendments, and new rules are in effect is an estimated cost of \$575,361,762 in General Revenue (GR) (\$1,447,861,789 All Funds (AF)) in fiscal year (FY) 2026; \$604,733,115 GR (\$1,521,684,159 AF) in FY 2027; \$618,177,712 GR (\$1,555,428,422 AF) in FY 2028; \$633,296,065 GR (\$1,599,476,655 AF) in FY 2029; and \$651,545,393 GR (\$1,645,496,096 AF) in FY 2030. This fiscal note represents only costs associated with direct care rate components, including attendant compensation and other direct care cost areas.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the repeals, amendments, and new rules will be in effect:

- (1) the proposed repeals, amendments, and new rules will create or eliminate a government program;
- (2) implementation of the proposed repeals, amendments, and new rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed repeals, amendments, and new rules will not result in an assumed change in future legislative appropriations;
- (4) the proposed repeals, amendments, and new rules will not affect fees paid to HHSC;
- (5) the proposed repeals, amendments, and new rules will create a new regulation;

(6) the proposed repeals, amendments, and new rules will expand, limit and repeal existing regulations;

(7) the proposed repeals, amendments, and new rules will not change the number of individuals subject to the rules; and

(8) HHSC has insufficient information to determine the proposal's effect on the state's economy.

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

Trey Wood has also determined that there could be adverse economic effects on small businesses, micro-businesses, or rural communities. The repeals, amendments, and new rules may impose additional costs on small businesses, micro-businesses, or rural communities. However, these costs may be offset by the rate increases provided. HHSC lacks sufficient information to provide an estimate of the economic impact.

LOCAL EMPLOYMENT IMPACT

The proposed repeals, amendments, and new 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 implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the repeals, amendments, and new rules are in effect, the public benefit will be the reduced administrative burden on providers participating in the Attendant Compensation Rate Enhancement Program and a stabilized attendant and direct care workforce for community care providers and nursing facilities.

Trey Wood has also determined that for the first five years the repeals, amendments, and new rules are in effect, there may be anticipated economic costs to persons who are required to comply with the proposed repeals, amendments, and new rules. Rate increases are anticipated to offset any economic costs to comply with the repeals, amendments, and new rules.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her 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 HEARING

A public hearing to receive comments on the proposal will be held via GoTo Webinar on July 25, 2025, from 9:00 a.m. to 12:00 p.m Central Daylight Time. The hearing will be conducted as an online event only. Details will be posted on the HHS Meetings and Events website at <https://www.hhs.texas.gov/about/meetings-events>.

Please contact the HHSC Provider Finance Department Long-Term Services and Supports at PFD-LTSS@hhs.texas.gov or (737) 867-7817, if you have questions.

PUBLIC COMMENT

Written comments on the proposal 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 21 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 25R039" in the subject line.

SUBCHAPTER A. COST DETERMINATION PROCESS

1 TAC §355.102, §355.105

STATUTORY AUTHORITY

The amendments are 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendments affect Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.102. *General Principles of Allowable and Unallowable Costs.*

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

(d) Cost and accountability report training. It is the responsibility of the provider to ensure that each cost or accountability report preparer has completed the required state-sponsored training. Preparers may be employees of the provider or persons who have been contracted by the provider for the purpose of cost [or accountability] report preparation. Preparers must complete training for each program for which a cost [or accountability] report is submitted, as applicable. Contracted preparer's fees to complete training are considered allowable expenses for cost reporting purposes. Preparers that participate in training may be assessed a convenience fee, which will be determined by HHSC. Convenience fees assessed for training are allowable costs. Applicable federal and state accessibility standards apply to training. Reporting [Beginning with the 2018 cost reports and 2019 accountability reports, reporting] schedules per program are determined by HHSC and are published on the HHSC website.

(1) Training schedules.

~~[(A) For programs with odd-year and even-year cost reports. Preparers must complete state-sponsored cost report training every other year in order to be eligible to complete both that odd-year cost report and the following even-year cost report. If a new preparer wishes to complete an even-year cost report and has not completed the~~

~~previous odd-year cost report training, the preparer must complete an even-year cost report training.]~~

~~[(B) For programs with odd-year and even-year accountability reports. Preparers must complete state-sponsored accountability report training every other year in order to be eligible to complete both that odd-year accountability report and the following even-year accountability report. If a new preparer wishes to complete an even-year accountability report and has not completed the previous odd-year accountability report training, the preparer must complete an even-year accountability report training.]~~

~~[(C) For all [other] programs. Preparers must complete the state-sponsored training each year a cost report is requested by HHSC and for each program for which a cost [or accountability] report is submitted. Preparers who complete the required state-sponsored training during the year in which a cost report is submitted for a program will not have to complete the training for that program to prepare any other reports required by HHSC during the following calendar year. At HHSC's discretion, HHSC may require a provider's primary entity contact and financial contact of a contracted provider to complete a state-sponsored training to certify and submit a cost or other report required by HHSC. A provider's primary entity contract and financial contact who completes a state-sponsored training to certify and submit a cost report for a program will not have to complete the training for that program during the next calendar year to submit other reports for that program required by HHSC. [Beginning with the 2018 cost reports, new preparers must complete cost report training every other year for each program cost or accountability report being prepared in order to be eligible to complete both that year's cost report and the following year's accountability report, if applicable. If a new preparer wishes to complete an accountability report and has not completed the previous year's cost report training, the preparer must complete an accountability report training for that program for that year.]~~

(2) Failure to complete the required cost or accountability report training.

(A) For nursing facilities, failure to file a completed cost or accountability report signed by preparers who have completed the required cost report training may result in vendor hold as specified in §355.403 of this title (relating to Vendor Hold).

(B) For School Health and Related Services (SHARS) providers, failure to complete the required cost report training may result in an administrative contract violation as specified in §355.8443 of this title (relating to Reimbursement Methodology for School Health and Related Services (SHARS)).

(C) For all other programs, failure to file a completed cost or accountability report signed by preparers who have completed the required cost report training constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this title (relating to Administrative Contract Violations).

(e) - (k) (No change.)

§355.105. *General Reporting and Documentation Requirements, Methods, and Procedures.*

(a) (No change.)

(b) Cost report requirements. Unless specifically stated in program rules or excused as described in paragraph (4)(D) of this subsection, each provider must submit financial and statistical information on cost report forms provided by HHSC, on facsimiles that are formatted according to HHSC specifications and are pre-approved by HHSC staff, or electronically in HHSC-prescribed format in programs where

these systems are operational. The cost reports must be submitted to HHSC in a manner prescribed by HHSC. The cost reports must be prepared to reflect the activities of the provider while delivering contracted services during the fiscal year specified by the cost report. Cost reports or other special surveys or reports may be required for other periods at the discretion of HHSC. Each provider is responsible for accurately completing any cost report or other special survey or report submitted to HHSC.

(1) Accounting methods. All financial and statistical information submitted on cost reports must be based upon the accrual method of accounting, except where otherwise specified in §355.102 and §355.103 of this subchapter (relating to General Principles of Allowable and Unallowable Costs and Specifications for Allowable and Unallowable Costs) and in the case of governmental entities operating on a cash or modified accrual basis. For cost-reporting purposes, accrued expenses must be incurred during the cost-reporting period and must be paid within 180 days after the end of that cost-reporting period. In situations where a contracted provider, any of its controlling entities, its parent company/sole member, or its related-party management company has filed for bankruptcy protection, the contracted provider may request an exception to the 180-day requirement for payment of accrued allowable expenses by submitting a written request to the HHSC Provider Finance Department. The written request must be submitted within 60 days of the date of the bankruptcy filing or at least 60 days prior to the due date of the cost report for which the exception is being requested, whichever is later. The contracted provider will then be requested by the HHSC Provider Finance Department to provide certain documentation, which must be provided by the specified due date. Such exceptions due to bankruptcy may be granted for reasonable, necessary, and documented accrued allowable expenses that were not paid within the 180-day requirement. Accrued revenues must be for services performed during the cost-reporting period and do not have to be received within 180 days after the end of that cost reporting period in order to be reported as revenues for cost-reporting purposes. Except as otherwise specified by the cost determination process rules of this chapter, cost report instructions, or policy clarifications, cost reports should be prepared consistent with generally accepted accounting principles (GAAP), which are those principles approved by the American Institute of Certified Public Accountants (AICPA). Internal Revenue Service (IRS) laws and regulations do not necessarily apply in the preparation of the cost report. In cases where cost-reporting rules differ from GAAP, IRS, or other authorities, HHSC rules take precedence for provider cost-reporting purposes.

(2) Recordkeeping and adequate documentation. There is a distinction between noncompliance in recordkeeping, which equates with unauditability of a cost report and constitutes an administrative contract violation or, for the Nursing Facility program, may result in vendor hold, and a provider's inability to provide adequate documentation, which results in disallowance of relevant costs. Each is discussed in the following paragraphs.

(A) Recordkeeping. Providers must ensure that records are accurate and sufficiently detailed to support the legal, financial, and other statistical information contained in the cost report. Providers must maintain all work papers and any other records that support the information submitted on the cost report relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules. HHSC may require supporting documentation other than that contained in the cost report to substantiate reported information.

(i) For contracted providers subject to 26 TAC Chapter 52 (relating to Contracting for Community Services) [40 TAC Chapter 49], each provider must maintain records according to the requirements stated in 26 TAC §52.113 [40 TAC §49.307] (relating

to Record Retention and Disposition) and according to the HHSC's prescribed chart of accounts, when available.

(ii) If a contractor is terminating business operations, the contractor must ensure that:

(I) records are stored and accessible; and

(II) someone is responsible for adequately maintaining the records.

(iii) For nursing facilities, failure to maintain all work papers and any other records that support the information submitted on the cost report relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules may result in vendor hold as specified in §355.403 of this chapter (relating to Vendor Hold).

(iv) For all other programs, failure to maintain all work papers and any other records that support the information submitted on the cost report relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this subchapter (relating to Administrative Contract Violations).

(B) Adequate documentation. The relationship between reported costs and contracted services must be clearly and adequately documented to be allowable. Adequate documentation consists of all materials necessary to demonstrate the relationship of personnel, supplies, and services to the provision of contracted client care or the relationship of the central office to the individual service delivery entity level. These materials may include but are not limited to, accounting records, invoices, organizational charts, functional job descriptions, other written statements, and direct interviews with staff, as deemed necessary by HHSC auditors to perform required tests of reasonableness, necessity, and allowability.

(i) The minimum allowable statistical duration for a time study upon which to base salary allocations is four weeks per year, with one week being randomly selected from each quarter so as to assure that the time study is representative of the various cycles of business operations. One week is defined as only those days the contracted provider is in operation for seven continuous days. The time study can be performed for one continuous week during a quarter, or it can be performed over five or seven individual days, whichever is applicable, throughout a quarter. The time study must be a 100% time study, accounting for 100% of the time paid to the employee, including vacation and sick leave.

(ii) To support the existence of a loan, the provider must have available a signed copy of the loan contract, which contains the pertinent terms of the loan, such as amount, rate of interest, method of payment, due date, and collateral. The documentation must include an explanation for the purpose of the loan, and an audit trail must be provided showing the use of the loan proceeds. Evidence of systematic interest and principal payments must be available and supported by the payback schedule in the note or amortization schedule supporting the note. Documentation must also include substantiation of any costs associated with the securing of the loan, such as broker's fees, due diligence fees, lender's fees, attorney's fees, etc. To document allowable interest costs associated with related party loans, the provider is required to maintain documentation verifying the prime interest rate in accordance with §355.103(b)(11)(C) of this subchapter for a similar type of loan as of the effective date of the related party loan.

(iii) For ground transportation equipment, a mileage log is not required if the equipment is used solely (100%) for the provision of contracted client services in accordance with program require-

ments in delivering one type of contracted care. However, the contracted provider must have a written policy that states that the ground transportation equipment is restricted to that use, and that policy must be followed. For ground transportation equipment that is used for several purposes (including for personal use) or multiple programs or across various business components, mileage logs must be maintained. Personal use includes, among other things, driving to and from a personal residence. At a minimum, mileage logs must include for each individual trip the date, the time of day (beginning and ending), driver, persons in the vehicle, trip mileage (beginning, ending, and total), purpose of the trip, and the allocation centers (the departments, programs, and/or business entities to which the trip costs should be allocated). Flight logs must include dates, mileage, passenger lists, and destinations, along with any other information demonstrating the purpose of the trips so that a relationship to contracted client care in Texas can be determined. For the purpose of comparison to the cost of commercial alternatives, documentation of the cost of operating and maintaining a private aircraft includes allowable expenses relating to the lease or depreciation of the aircraft; aircraft fuel and maintenance expenses; aircraft insurance, taxes, and interest; pilot expenses; hangar and other related expenses; mileage, vehicle rental or other ground transportation expense; and airport parking fees. Documentation demonstrating the allowable cost of commercial alternatives includes commercial airfare ticket costs at the lowest fare offered (including all discounts) and associated expenses, including mileage, vehicle rental or other ground transportation expenses; airport parking fees; and any hotel or per diem due to necessary layovers (no scheduled flights at the time of return trip).

(iv) To substantiate the allowable cost of leasing a luxury vehicle as defined in §355.103(b)(10)(C)(i) of this subchapter, the provider must obtain at the time of the lease a separate quotation establishing the monthly lease costs for the base amount allowable for cost-reporting purposes as specified in §355.103(b)(10)(C)(i) of this subchapter. Without adequate documentation to verify the allowable lease costs of the luxury vehicle, the reported costs shall be disallowed.

(v) For adequate documentation purposes, a written description of each cost allocation method must be maintained that includes, at a minimum, a clear and understandable explanation of the numerator and denominator of the allocation ratio described in words and in numbers, as well as a written explanation of how and to which specific business components the remaining percentage of costs were allocated.

(vi) To substantiate the allowable cost for staff training as defined in §355.103(b)(15)(A) of this subchapter, the provider must maintain a description of the training verifying that the training pertained to contracted client care-related services or quality assurance. At a minimum, a program brochure describing the seminar or a conference program with a description of the workshop must be maintained. The documentation must provide a description clearly demonstrating that the seminar or workshop provided training for contracted client care-related services or quality assurance.

(vii) Documentation regarding the allocation of costs related to noncontracted services, as specified in §355.102(j)(2) of this subchapter, must be maintained by the provider. At a minimum, the provider must maintain written records verifying the number of units of noncontracted services provided during the provider's fiscal year, along with adequate documentation supporting the direct and allocated costs associated with those noncontracted services.

(viii) Adequate documentation to substantiate legal, accounting, and auditing fees must include, at a minimum, the amount of time spent on the activity, a written description of the activity performed which clearly explains to which business component the cost

should be allocated, the person performing the activity, and the hourly billing amount of the person performing the activity. Other legal, accounting, and auditing costs, such as photocopy costs, telephone costs, court costs, mailing costs, expert witness costs, travel costs, and court reporter costs, must be itemized and clearly denote to which business component the cost should be allocated.

(ix) Providers who self-insure for all or part of their employee-related insurance costs, such as health insurance and workers' compensation costs, must use one of the two following methods for determining and documenting the provider's allowable costs under the cost ceilings and any carry forward as described in §355.103(b)(13)(E) of this subchapter.

(I) Providers may obtain and maintain each fiscal year's documentation to establish what their premium costs would have been had they purchased commercial insurance for total coverage. The documentation should include, at a minimum, bids from two commercial carriers. Bids must be obtained no less frequently than every three years.

(II) If providers choose not to obtain and maintain commercial bids as described in subclause (I) of this clause, providers may claim as an allowable cost the health insurance actual paid claims incurred on behalf of the employees that do not exceed 10% of the payroll for employees eligible for receipt of this benefit. In addition, providers may claim as an allowable cost the workers' compensation actual paid claims incurred on behalf of the employees, an amount in each cost report period that is not to exceed 10% of the payroll for employees eligible for receipt of this benefit.

(III) Providers who self-insure must also maintain documentation that supports the amount of claims paid each year and any allowable costs to be carried forward to future cost-reporting periods.

(x) Providers who self-insure for all or part of their coverage for nonemployee-related insurance, such as malpractice insurance, comprehensive general liability, and property insurance, must maintain documentation for each cost-reporting period to establish what their premium costs would have been had they purchased commercial insurance for total coverage. The documentation should include, at a minimum, bids from two commercial carriers. Bids must be obtained no less frequently than every three years. Providers who self-insure must also maintain documentation that supports the amount of claims paid each year and any allowable costs to be carried forward to future cost-reporting periods. Governmental providers must document the existence of their claims management and risk management programs.

(xi) Regarding compensation of owners and related parties, providers must maintain the following documentation, at a minimum, for each owner or related party: a detailed written description of actual duties, functions, and responsibilities; documentation substantiating that the services performed are not duplicative of services performed by other employees; time sheets or other documentation verifying the hours and days worked; the amount of total compensation paid for these duties, with a breakdown detailing regular salary, overtime, bonuses, benefits, and other payments; documentation of regular, periodic payments and/or accruals of the compensation, documentation that the compensation is subject to payroll or self-employment taxes; and a detailed allocation worksheet indicating how the total compensation was allocated across business components receiving the benefit of these duties.

(I) Regarding bonuses paid to owners and related parties, the provider must maintain clearly defined bonus policies in its written agreements with employees or in its overall employment policy.

At a minimum, the bonus policy must include the basis for distributing the bonuses, including qualifications for receiving the bonus and how the amount of each bonus is calculated. Other documentation must specify who received bonuses, whether the persons receiving bonuses are owners, related parties, or arm's-length employees, and the bonus amount received by each individual.

(II) Regarding benefits provided to owners and related parties, the provider must maintain clearly defined benefit policies in its written agreements with employees or in its overall employment policy. At a minimum, the documentation must include the basis for eligibility for each type of benefit available, who is eligible to receive each type of benefit, who actually receives each type of benefit, whether the persons receiving each type of benefit are owners, related parties, or arm's-length employees, and the amount of each benefit received by each individual.

(xii) Regarding all forms of compensation, providers must maintain documentation for each employee which clearly identifies each compensation component, including regular pay, overtime pay, incentive pay, mileage reimbursements, bonuses, sick leave, vacation, other paid leave, deferred compensation, retirement contributions, provider-paid instructional courses, health insurance, disability insurance, life insurance, and any other form of compensation. Types of documentation would include insurance policies; provider benefit policies; records showing paid leave accrued and taken; documentation to support hours (regular and overtime) worked and wages paid; and mileage logs or other documentation to support mileage reimbursements and travel allowances. For accrued benefits, the documentation must clearly identify the period of the accrual. For example, if an employee accrues two weeks of vacation during 20x1 and receives the corresponding vacation pay during 20x3, that employee's compensation documentation for 20x3 should clearly indicate that the vacation pay received had been accrued during 20x1.

(I) For staff required to maintain continuous daily time sheets as per §355.102(j) of this subchapter and subclause (II) of this clause, the daily timesheet must document, for each day, the staff member's start time, stop time, total hours worked, and the actual time worked (in increments of 30 minutes or less) providing direct services for the provider, the actual time worked performing other functions, and paid time off. The employee must sign each timesheet. The employee's supervisor must sign the timesheets each payroll period or at least monthly. Work schedules are unacceptable documentation for staff whose duties include multiple direct service types, both direct and indirect service component types, and both direct hands-on support and first-level supervision of direct care workers.

(II) For the Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID), Home and Community-based Services (HCS), and Texas Home Living (TxHmL) programs, staff required to maintain continuous daily timesheets include staff whose duties include multiple direct service types, both direct and indirect service component types and/or both direct hands-on support and first-level supervision of direct care workers.

(xiii) Management fees paid to related parties must be documented as to the actual costs of the related party for materials, supplies, and services provided to the individual provider and upon which the management fees were based. If the cost to the related party includes owner compensation or compensation to related parties, documentation guidelines for those costs are specified in clause (xi) of this subparagraph. Documentation must be maintained that indicates stated objectives, periodic assessment of those objectives, and evaluation of the progress toward those objectives.

(xiv) For central office and/or home office costs, documentation must be maintained that indicates the organization of the business entity, including position, titles, functions, and compensation. For multi-state organizations, documentation must be maintained that clearly defines the relationship of costs associated with any level of management above the individual Texas contracted entity allocated to the individual Texas contracted entity.

(xv) Documentation regarding depreciable assets includes, at a minimum, historical cost, date of purchase, depreciable basis, estimated useful life, accumulated depreciation, and the calculation of gains and losses upon disposal.

(xvi) Providers must maintain documentation clearly itemizing their employee relations expenditures. For employee entertainment expenses, documentation must show the names of all persons participating, along with a classification of the person attending, such as employee, nonemployee, owner, family of employee, client, or vendor.

(xvii) Adequate documentation substantiating the offsetting of grants and contracts from federal, state, or local governments prior to reporting either the net expenses or net revenue must be maintained by the provider. As specified in §355.103(b)(18) of this subchapter, such offsetting is required prior to reporting on the cost report. The provider must maintain written documentation as to the purpose for which the restricted revenue was received and the offsetting of the restricted revenue against the allowable and unallowable costs for which the restricted revenue was used.

(xviii) During the course of an audit or an audit desk review, the provider must furnish any reasonable documentation requested by HHSC auditors within ten working days of the request or a later date as specified by the auditors. If the provider does not present the requested material within the specified time, the audit or audit desk review is closed, and HHSC automatically disallows the costs in question.

(xix) Any expense that cannot be adequately documented or substantiated is disallowed. HHSC is not responsible for the contracted provider's failure to adequately document and substantiate reported costs.

(xx) Any cost report that is determined to be unauditible through a field audit or that cannot have its costs verified through a desk review will not be used in the reimbursement determination process.

(3) Cost report and methodology certification. Providers must certify the accuracy of cost reports submitted to HHSC in the format specified by HHSC. Providers may be liable for civil and/or criminal penalties if the cost report is not completed according to HHSC requirements or is determined to contain misrepresented or falsified information. Cost report preparers must certify that they read the cost determination process rules, the reimbursement methodology rules, the cost report cover letter, and cost report instructions, and that they understand that the cost report must be prepared in accordance with the cost determination process rules, the reimbursement methodology rules and cost report instructions. Not all persons who contributed to the completion of the cost report must sign the certification page. However, the certification page must be signed by a responsible party with direct knowledge of the preparation of the cost report. A person with supervisory authority over the preparation of the cost report who reviewed the completed cost report may sign a certification page in addition to the actual preparer.

(4) Requirements for cost report completion.

(A) A completed cost report must:

(i) be completed according to the cost determination rules of this chapter, program-specific allowable and unallowable rules, cost report instructions, and policy clarifications;

(ii) contain a signed, notarized, original certification page or an electronic equivalent where such equivalents are specifically allowed under HHSC policies and procedures;

(iii) be legible with entries in sufficiently dark print to be photocopied;

(iv) contain all pages and schedules;

(v) be submitted on the proper cost report form;

(vi) be completed using the correct cost reporting period; and

(vii) contain a copy of the state-issued cost report training certificate except for cost reports submitted through the State of Texas Automated Information and Reporting System (STAIRS).

(B) Providers are required to report amounts on the appropriate line items of the cost report pursuant to guidelines established in the methodology rules, cost report instructions, or policy clarifications. Refer to program-specific reimbursement methodology rules, cost report instructions, or policy clarifications for guidelines used to determine the placement of amounts on cost report line items.

(i) For nursing facilities, placement on the cost report of an amount, which was determined to be inaccurately placed, may result in vendor hold as specified in §355.403 of this chapter [(relating to Vendor Hold)].

(ii) For School Health and Related Services (SHARS), placement on the cost report of an amount, which was determined to be inaccurately placed, may result in an administrative contract violation as specified in §355.8443 of this chapter (relating to Reimbursement Methodology for School Health and Related Services (SHARS)).

(iii) For all other programs, placement on the cost report of an amount, which was determined to be inaccurately placed, constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this subchapter.

(C) A completed cost report must be filed by the cost report due date.

(i) For nursing facilities, failure to file a completed cost report by the cost report due date may result in vendor hold as specified in §355.403 of this chapter.

(ii) For SHARS, failure to file a completed cost report by the cost report due date constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.8443 of this chapter.

(iii) For all other programs, failure to file a completed cost report by the cost report due date constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this subchapter.

(D) HHSC may excuse providers from the requirement to submit a cost report: A provider that is not enrolled in Attendant Compensation Rate Enhancement as described in §355.112 of this subchapter (relating to Attendant Compensation Rate Enhancement) for a specific program or the Nursing Facility Direct Care Staff Rate en-

hancement as described in §355.308 of this chapter (relating to Direct Care Staff Rate Component) during the reporting period for the cost report in question, is excused from the requirement to submit a cost report for such program] if the provider meets one or more of the following conditions.[]

(i) For all programs, if the provider performed no billable services during the provider's cost-reporting period.

(ii) For all programs, if the cost-reporting period would be less than or equal to 30 calendar days or one entire calendar month.

(iii) For all programs, if circumstances beyond the provider's control, such as the loss of records due to natural disasters or removal of records from the provider's custody by a regulatory agency, make cost-report completion impossible.

(iv) For all programs, if all of the contracts that the provider is required to include in the cost report have been terminated before the cost-report due date.

(v) For the Nursing Facility, ICF/IID, STAR+PLUS Home and Community-Based Services Assisted Living Facilities, [Assisted Living/Residential Care (AL/RC)], and Residential Care (RC) programs, if the total number of days that the provider performed service for recipients during the cost-reporting period is less than the total number of calendar days included in the cost-reporting period.

(vi) For the Day Activity and Health Services (DAHS) program, if the provider's total units of service provided to recipients during the cost-reporting period is less than the total number of calendar days included in the cost-reporting period times 1.5.

(vii) For the Home-Delivered Meals program, if a provider agency served an average of fewer than 500 meals a month for the designated cost report period.

(viii) On or after September 1, 2023, for the Department of Family and Protective Services (DFPS) 24-Hour Residential Child-Care program, if:

(I) the provider has no current contract(s) within the state for 24-Hour Residential Child-Care program;

(II) the total number of DFPS-placed days and Single Source Continuum Contractor (SSCC)-placed days was 10 percent or less of the total days of service provided during the cost-reporting period;

(III) for facilities that provide Emergency Care Services only, the occupancy rate was less than 30 percent during the cost-reporting period; or

(IV) for all other facility types except child-placing agencies and those providing Emergency Care Services, the occupancy rate was less than 50 percent during the cost-reporting period.

(5) Cost report year. For cost reports collected after September 1, 2025, a [A] provider's cost report year must coincide with [the provider's fiscal year as used by the provider for reports to the Internal Revenue Service (IRS) or with] the state of Texas' fiscal year, which begins September 1 and ends August 31, unless the specific rate methodology or program rules specify a different reporting period. [except for SSCC providers in the DFPS 24-Hour Residential Child Care program whose cost report year must coincide with the state fiscal year.]

[(A) Providers whose cost report year coincides with their IRS fiscal year are responsible for reporting to HHSC Provider Finance Department any change in their IRS fiscal year and subse-

quent cost report year by submitting written notification of the change to HHSC Provider Finance Department along with supportive IRS documentation. HHSC Provider Finance Department must be notified of the provider's change in IRS fiscal year no later than 30 days following the provider's receipt of approval of the change from the IRS.}]

{(B) Providers who chose to change their cost report year from their IRS fiscal year to the state fiscal year or from the state fiscal year to their IRS fiscal year must submit a written request to HHSC Provider Finance Department by August 1 of state fiscal year in question.}]

(6) Failure to report allowable costs. HHSC is not responsible for the contracted provider's failure to report allowable costs; however, any omitted costs identified during the desk review or audit process will be included in the cost report or brought to the attention of the provider to correct by submitting an amended cost report.

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

(i) Limits on related-party compensation. HHSC may place upper limits or caps on related-party compensation as follows.[:]

(1) For related-party administrators and directors, the upper limit for compensation is equal to the 90th percentile in the array of all non-related-party annualized compensation as reported by all contracted providers within a program. In addition, the hourly compensation for related-party administrators and directors is limited to the annualized upper limit for related-party administrators and directors divided by 2,080.

(2) For related-party assistant administrators and assistant directors, the upper limit for compensation is equal to the 90th percentile in the array of all non-related party annualized compensation as reported by all contracted providers within a program. In addition, the hourly compensation for related-party assistant administrators and assistant directors is limited to the annualized upper limit for related-party assistant administrators and assistant directors divided by 2,080.

(3) For owners, partners, and stockholders (when the owner, partner, or stockholder is performing contract level administrative functions but is not the administrator, director, assistant administrator or assistant director), the upper limits for compensation are equal to the upper limits for related-party administrators and directors.

(4) For all other staff types.[:]

(A) For all related party attendant staff in programs specified in §355.7052 of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component), the upper limit for compensation is equal to the 90th percentile in the array of all non-related-party attendant staff annualized compensation as reported by all contracted providers within a program. In addition, the hourly compensation for related-party attendant staff is limited to the annualized upper limit for related-party administrators and directors divided by 2,080. [For the Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions, Home and Community-based Services and Texas Home Living programs, related-party limitations are specified in §355.457 of this title (relating to Cost Finding Methodology); and §355.722 of this title (relating to Reporting Costs by Home and Community-based Services (HCS) and Texas Home Living (TxHML) Providers).]

(B) For all other programs, related-party compensation is limited to reasonable and necessary costs as described in §355.102 of this title.

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
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Texas Health and Human Services Commission

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For further information, please call: (512) 867-7817



1 TAC §355.112

STATUTORY AUTHORITY

The repeal 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The repeal affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.112. Attendant Compensation Rate Enhancement.

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. REIMBURSEMENT METHODOLOGY FOR NURSING FACILITIES

1 TAC §§355.304, 355.306 - 355.308, 355.320

STATUTORY AUTHORITY

The repeals are 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas;

and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The repeals affect Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.304. *Direct Care Staff Spending Requirement on or after September 1, 2023.*

§355.306. *Cost Finding Methodology before September 1, 2025.*

§355.307. *Reimbursement Setting Methodology before September 1, 2025.*

§355.308. *Direct Care Staff Rate Component before September 1, 2025.*

§355.320. *Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025.*

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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1 TAC §355.305, §355.318

STATUTORY AUTHORITY

The new rule and amendment are 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendments affect Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.305. *Annual Patient Care Expense Ratio for Nursing Facilities.*

(a) Introduction. The Texas Health and Human Services Commission (HHSC) establishes the annual patient care expense ratio for nursing facilities (NF) on or after September 1, 2025.

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

(1) Annual patient expense ratio--The ratio of patient care expenses as defined in paragraph (2) of this subsection to the NF's patient care revenue as defined in paragraph (3) of this subsection for a rate year as defined in paragraph (4) of this subsection.

(2) Patient care expenses--

(A) Include allowable expenses incurred by an NF in a rate year for the following cost areas:

(i) compensation and benefits for direct care staff and direct care contracted labor for the following staff:

(I) licensed registered nurse;

(II) licensed vocational nurse;

(III) medication aide;

(IV) restorative aide;

(V) nurse aide who provides nursing-related care to residents occupying medical assistance beds;

(VI) licensed social worker;

(VII) social services assistant;

(VIII) additional staff associated with providing care to facility residents with a severe cognitive impairment;

(IX) nonprofessional administrative staff, including medical records staff and accounting or bookkeeping staff;

(X) central supply staff and ancillary facility staff;

(XI) laundry staff;

(XII) housekeeping staff; and

(XIII) food service staff; and

(ii) central supply costs and ancillary costs for facility services and supplies, including:

(I) diagnostic laboratory and radiology costs;

(II) durable medical equipment costs, including costs to purchase, rent, or lease the equipment;

(III) costs for oxygen used to provide oxygen treatment;

(IV) prescription and nonprescription drug costs;

(V) therapy consultant costs; and

(iii) costs for dietary and nutrition services, including costs for food services and related supplies, and nutritionist services; and

(B) exclude the following:

(i) administrative or operational costs, other than administrative or operational costs described in subparagraph (A) of this paragraph; and

(ii) fixed capital assets costs.

(3) Patient care revenue--In a rate year, the medical assistance revenue paid to an NF where the revenue is associated with the following rate components as described in §355.318 of this subchapter (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025):

(A) nursing rate component;

- (B) non-therapy ancillary (NTA) rate component;
- (C) brief interview for mental status (BIMS) rate component;
- (D) dietary rate component; and
- (E) operations rate component.

(4) Rate year--The rate year begins on the first day of September and ends on the last day of August of the following year and aligns with the NF's annual cost reporting period.

(c) Reporting requirements. An NF must submit an annual cost report in accordance with §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs) and §355.103 of this chapter (relating to Specifications for Allowable and Unallowable Costs). HHSC will examine the cost report in accordance with §355.106 of this chapter (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports).

(d) Determining the annual patient expense ratio and spending requirement. HHSC will calculate an NF's annual patient expense ratio to ensure the NF's patient expense ratio is at least 80 percent.

(e) Recoupment. An NF that fails to meet the annual patient expense ratio is subject to a spending requirement and recoupment calculated as follows.

(1) HHSC will calculate a spending requirement for the rate year by multiplying the patient care revenues as defined in subsection (b)(3) of this section by 0.80.

(2) HHSC will calculate a total patient care expense amount by summing the allowable patient care expenses as defined in subsection (b)(2) of this section accrued during the rate year.

(3) The estimated recoupment will be calculated by subtracting paragraph (2) of this subsection from paragraph (1) of this subsection. HHSC or its designee will recoup the difference from an NF whose patient care expenses are less than its spending requirement.

(f) Recoupment exclusions. HHSC may not recoup a medical assistance reimbursement amount under this section if the NF meets one of the following conditions during the rate year.

(1) The NF held at least a four-star rating under the Centers for Medicare and Medicaid Services (CMS) five-star quality rating system for nursing facilities in three or more of the following categories:

- (A) overall;
- (B) health inspections;
- (C) staffing; and
- (D) long-stay quality measures.

(2) The NF:

(A) maintained an average daily occupancy rate of 75 percent or less; and

(B) spent at least 70 percent of the patient care revenue as defined in subsection (b)(3) of this section on patient care expenses as defined in subsection (b)(2)(A) of this section.

(3) The NF incurred expenses related to a disaster for which the governor issued a disaster declaration under Texas Government Code Chapter 418.

(g) Notification of recoupment based on annual cost reports. HHSC will notify an NF that failed to meet the annual patient care expense ratio of the associated spending requirement and recoupment

as specified under §355.107 (relating to Notification of Exclusions and Adjustments).

(h) State-owned facilities. This section does not apply to state-owned facilities.

§355.318. Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025.

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

(d) PDPM LTC rate components. Total per diem PDPM LTC rates consist of the following four rate components. Costs used in HHSC's determination of the following rate components are subject to the cost-finding methodology as specified in subsection (g) of this section.

(1) Nursing rate component. This rate component includes compensation costs for employee and contract labor Registered Nurses (RNs), including Directors of Nursing (DONs) and Assistant Directors of Nursing (ADONs); Licensed Vocational Nurses (LVNs), including DONs and ADONs; medication aides; restorative aides; nurse aides performing nursing-related duties for Medicaid contracted beds; and certified social worker and social service assistant wages; and other direct care non-professional staff wages, including medical records staff compensation and benefits].

(A) Compensation to be included for these employee staff types is the allowable compensation defined in §355.103(b)(1) of this chapter (relating to Specifications for Allowable and Unallowable Costs) that is reported as either wages (including payroll taxes and workers' compensation) or employee benefits. Benefits required by §355.103(b)(1)(A)(iii) of this chapter to be reported as costs applicable to specific cost report line items are not to be included in this cost center.

(B) Nursing staff who also have administrative duties not related to nursing must properly direct charge their compensation to each type of function performed based on daily time sheets maintained throughout the entire reporting period.

(C) Nurse aides must meet the qualifications specified under 26 TAC §556.3 (relating to NATCEP [Nurse Aide Training and Competency Evaluation Program (NATCEP)] Requirements) to be included in this rate component. Nurse aides include certified nurse aides and nurse aides in training.

(D) Contract labor refers to personnel for whom the contracted provider is not responsible for the payment of payroll taxes (such as federal payroll tax, Medicare, and federal and state unemployment insurance) and who perform tasks routinely performed by employees. Allowable contract labor costs are defined in §355.103(b)(3) of this chapter.

(E) For facilities providing care to children with tracheostomies requiring daily care, [as described in §355.307(b)(3)(G) of this chapter (relating to Reimbursement Setting Methodology before September 1, 2025),] staff required by 26 TAC §554.901(15)(C)(iii) (relating to Quality of Care) performing nursing-related duties for Medicaid contracted beds are included in the nursing rate component.

(F) For facilities providing care for qualifying ventilator-dependent residents, [as described in §355.307(b)(3)(E) of this chapter,] Registered Respiratory Therapists and Certified Respiratory Therapy Technicians are included in the nursing rate component.

(G) Nursing facility administrators and assistant administrators are not included in the nursing rate component.

(H) Staff members performing more than one function in a facility without a differential in pay between functions are cate-

gorized at the highest level of licensure or certification they possess. If this highest level of licensure or certification is not that of an RN, LVN, medication aide, restorative aide, or certified nurse aide, the staff member is not to be included in the nursing rate component but rather in the rate component where staff members with that licensure or certification status are typically reported.

(I) Paid feeding assistants are not included in the nursing rate component. Paid feeding assistants are intended to supplement certified nurse aides, not to be a substitute for certified or licensed nursing staff.

(2) NTA rate component. This rate component includes costs of providing care to residents with certain comorbidities or the use of certain extensive services. This rate component includes central supply costs, including central supply staff compensation and benefits, and other direct care non-professional staff wages, including medical records staff compensation and benefits; ancillary costs, including ancillary staff compensation and benefits; diagnostic laboratory and radiology costs; durable medical equipment purchase, rent, or lease costs; oxygen costs; drugs and pharmaceuticals; therapy consultant costs; and other ancillary supplies and services purchased by a nursing facility.

(3) BIMS rate component. This rate component includes additional staff costs associated with providing care to residents with severe cognitive impairment defined as residents with a BIMS score between 0 and 7 or a determination of severe or moderate impairment based on the calculation of the PDPM cognitive level for residents without a BIMS score on the MDS.

(4) Dietary rate component. The dietary component includes compensation, payroll taxes, benefits, and worker's compensation claims for the following staff types: food service supervisory and professional staff, other food service staff, and dietician/nutritionist staff. This rate component also includes the following non-staff costs: dietary supplies and contracted dietary services costs.

~~[(4) Non-Case-Mix rate component. The Non-Case-Mix rate component includes the following cost areas:]~~

~~[(A) Dietary costs, including food service and nutritionist staff expenses and supplies.]~~

~~[(B) The administration and operations cost includes compensation and benefits for the following staff: laundry and housekeeping staff, maintenance and transportation staff, administrator and assistant, other administrative personnel, activity director and assistant, and central office staff. Administration and operations also include operations supply costs; building repair and maintenance costs; laundry and housekeeping supply costs; transportation and vehicle depreciation costs; utilities, telecommunications, and technology costs; contracted management costs; insurance costs, excluding liability insurance reimbursed under §355.312 of this subchapter (relating to Reimbursement Setting Methodology—Liability Insurance Costs).]~~

~~[(C) The fixed capital asset costs, including the cost categories listed below:]~~

~~[(i) building and building equipment depreciation and lease expense;]~~

~~[(ii) mortgage interest;]~~

~~[(iii) land improvement depreciation; and]~~

~~[(iv) leasehold improvement amortization.]~~

(5) Operations rate component. The operations component includes the following expenses: compensation, payroll taxes, benefits, and worker's compensation claims for activity director, activity services assistants, laundry and housekeeping staff, and other facil-

ity and operations staff, including transportation and maintenance staff expenses. This rate component also includes the following non-staff costs; including, non-durable equipment and supplies, transportation costs, operations supplies, and other contracted services.

(6) Administration rate component. The administration rate component includes the following expenses: compensation, payroll taxes, benefits, and worker's compensation claims for executive administrator, assistant administrator, administrative assistants, owner, other administrative staff, and central office staff. This rate component also reflects the following non-staff costs: utilities; telecommunications; other interest; insurance, excluding liability insurance expenses reimbursed under §355.312 of this subchapter (relating to Reimbursement Setting Methodology—Liability Insurance Costs); staff training and seminars; staff travel costs including personal mileage reimbursement; management contract fees; contracted administrative, professional, consulting and training services; licenses and permits; other taxes excluding non-administrative staff payroll taxes; advertising, allowable dues and membership; and other allowable costs not included in the other rate components.

(7) Fixed capital asset rate component. This rate component includes building and building equipment depreciation and lease expense, mortgage interest, land improvement depreciation, and leasehold improvement amortization.

(e) Reimbursement determination. HHSC calculates methodological PDPM LTC rates for each rate component as defined below.

(1) Calculation of the nursing rate component. HHSC determines a per diem cost for the nursing component by calculating a median of the allowable nursing costs defined in subsection (d)(1) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter (relating to Determination of Inflation Indices) and multiplied by 1.07.

(2) Calculation of the NTA rate component. HHSC determines a per diem cost for the NTA component by calculating a median of allowable NTA costs as defined in subsection (d)(2) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.

(3) Calculation of CMI-adjusted rate components. HHSC adjusts the nursing component and the NTA component by the most recent corresponding CMI established for PDPM Medicare available for the rate year, as determined by the Medicare Skilled Nursing Facility (SNF) Prospective Payment System (PPS). The CMI-adjusted rate components are calculated as follows.

(A) Calculation of the total nursing rate component. HHSC will calculate CMI-adjusted nursing rate components for each nursing case-mix classifier by multiplying the result from paragraph (1) of this subsection by a CMI specific to each nursing case-mix classifier. There is one CMI per each nursing case-mix classifier.

(B) Calculation of the total NTA rate component. HHSC will calculate CMI-adjusted NTA rate components for each NTA case-mix classifier by multiplying the result from paragraph (2) of this subsection by a CMI specific to each NTA case-mix classifier. There is one CMI per each NTA case-mix classifier.

(4) Calculation of the BIMS rate component. This rate component is calculated at 5 percent of the nursing rate component es-

established for a nursing case-mix classifier associated with the highest CMI.

(5) Calculation of the dietary rate component. HHSC calculates a median of allowable dietary costs defined in subsection (d)(4) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.

(5) Calculation of the non-case mix rate component. HHSC determines a per diem cost for the non-case mix rate component by the following-]

[(A) HHSC calculates a median of allowable dietary costs defined in subsection (d)(4)(A) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.]

[(B) HHSC calculates a median of the allowable administration and operations costs defined in subsection (d)(4)(B) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.]

[(C) HHSC calculates a median of allowable fixed capital costs defined in subsection (d)(4)(C) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.]

[(D) HHSC sums the results from subparagraphs (A) - (C) of this paragraph for the total non-case mix rate component.]

(6) Calculation of the operations rate component. HHSC calculates a median of the allowable operations costs defined in subsection (d)(5) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.

(7) Calculation of the administration rate component. HHSC calculates a median of the allowable administration costs defined in subsection (d)(6) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.

(8) Calculation of the fixed capital assets rate component. HHSC calculates a median of allowable fixed capital costs defined in subsection (d)(7) of this section from the most recently examined cost report database, weighted by the total nursing facility units of service from the same cost report database, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter and multiplied by 1.07.

(9) [(6)] Total per diem rate determination. For each of the PDPM LTC groups and default groups, the recommended total per diem rate is determined as the sum of the following seven [~~four~~] rate components:

(A) Nursing rate component;

(B) NTA rate component;

(C) BIMS rate component; ~~[and]~~

(D) Dietary rate component;

~~[(D) Non-Case Mix rate component.]~~

(E) Operations rate component;

(F) Administration rate component; and

(G) Fixed capital asset rate component.

(10) [(7)] HIV/AIDS Add-on. According to the Texas Health and Safety Code (THSC) §81.103, it is prohibited to input selected International Classification of Diseases, Tenth Revision (ICD-10) diagnosis codes for human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) in the MDS assessment data. PDPM LTC methodology establishes a special per diem add-on intended to reimburse nursing facilities for enhanced nursing and NTA costs associated with providing care to a resident with an HIV/AIDS diagnosis. The total HIV/AIDS add-on is a sum of the amounts discussed as follows.

(A) The nursing rate component per PDPM LTC group assigned to a qualifying resident will receive an 18 percent add-on amount.

(B) The NTA rate component amount will receive an add-on amount, which is calculated as the difference between the resident's NTA rate component amount based on their assigned NTA case-mix classifier and the NTA rate component amount associated with the NTA case-mix classifier with the highest CMI.

(f) (No change.)

(g) Cost finding methodology.

(1) Cost reports. A nursing facility provider must file a cost report unless:

(A) the provider meets one or more of the conditions in §355.105(b)(4)(D) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures); or

(B) the cost report would represent costs accrued during a time period immediately preceding a period of decertification if the decertification period was greater than either 30 calendar days or one entire calendar month.

(2) Communication. When material pertinent to proposed reimbursements is made available to the public, the material will include the number of cost reports eliminated from reimbursement determination for one of the reasons stated in paragraph (1) of this subsection.

(3) Exclusion of and adjustments to certain reported expenses. Providers are responsible for eliminating unallowable expenses from the cost report. HHSC reserves the right to exclude any unallowable costs from the cost report and to exclude entire cost reports from the reimbursement determination database if there is reason to doubt the accuracy or allowability of a significant part of the information reported.

(A) Cost reports included in the database used for reimbursement determination.

(i) Individual cost reports will not be included in the database used for reimbursement determination if:

(I) there is reasonable doubt as to the accuracy or allowability of a significant part of the information reported; or

(II) an HHSC examiner determines that reported costs are not verifiable.

(ii) If all cost reports submitted for a specific facility are disqualified through the application of subparagraph (A)(i)(I) or (II) of this paragraph, the facility will not be represented in the reimbursement database for the cost report year in question.

(B) Occupancy adjustments. HHSC adjusts the facility and administration costs of providers with occupancy rates below a target occupancy rate. HHSC adjusts the target occupancy rate to the lower of:

(i) 85 percent; or

(ii) the overall average occupancy rate for contracted beds in facilities included in the rate base during the cost reporting periods included in the base.

(4) Cost projections. HHSC projects certain expenses in the reimbursement base to normalize or standardize the reporting period and to account for cost inflation between reporting periods and the period to which the prospective reimbursement applies as specified in §355.108 of this chapter.

(5) In addition to the requirements of §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs) and §355.103 of this chapter (relating to Specifications for Allowable and Unallowable costs), the following apply to costs for nursing facilities.

(A) Medical costs. The costs for medical services and items delineated in 26 TAC §554.2601 (relating to Vendor Payment (Items and Services Included)) are allowable. These costs must also comply with the general definition of allowable costs as stated in §355.102 of this chapter.

(B) Chaplaincy or pastoral services. Expenses for chaplaincy or pastoral services are allowable costs.

(C) Voucherable costs. Any expenses directly reimbursable to the provider through a voucher payment and any expenses in excess of the limit for a voucher payment system are unallowable costs.

(D) Preferred items. Costs for preferred items that are billed to the recipient, responsible party, or the recipient's family are not allowable costs.

(E) Preadmission Screening and Annual Resident Review (PASARR) expenses. Any expenses related to the direct delivery of specialized services and treatment required by PASARR for residents are unallowable costs.

(F) Advanced Clinical Practitioner (ACP) or Licensed Professional Counselor (LPC) services. Expenses for services provided by an ACP or LPC are unallowable costs.

(G) Limits on contracted management fees. To ensure that the results of HHSC's cost analyses accurately reflect the costs that an economical and efficient provider must incur, HHSC may place upper limits on contracted management fees and expenses included in the administration ~~non-case mix~~ rate component. HHSC sets upper limits at the 90th percentile of all costs per unit of service as reported by all contracted facilities using the cost report database immediately preceding the database used to establish reimbursements in subsection (e) of this section.

(h) Special Reimbursement Class. HHSC may define special reimbursement classes, including experimental reimbursement classes

of service to be used in research and demonstration projects on new reimbursement methods and reimbursement classes of service, to address the cost differences of a select group of recipients. Special classes may be implemented on a statewide basis, may be limited to a specific region of the state, or may be limited to a selected group of providers. Reimbursement for the Pediatric Care Facility Class is calculated as specified in §355.316 of this chapter (relating to Reimbursement Methodology for Pediatric Care Facilities) and §355.321 of this chapter (relating to Reimbursement Methodology for Intellectual and Developmental Disabilities Nursing Facilities Special Reimbursement Class).

(i) - (j) (No change.)

(k) Medicaid Swing Bed Program for Rural Hospitals. When a rural hospital participating in the Medicaid swing bed program furnishes nursing care to a Medicaid recipient under 26 TAC §554.2326 (relating to Medicaid Swing Bed Program for Rural Hospitals), HHSC or its designee pays the hospital using the same procedures, the same case-mix methodology, and the same PDPM LTC rates that HHSC authorizes for reimbursing nursing facilities 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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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 867-7817



1 TAC §355.321

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §355.321, concerning Reimbursement Methodology for Intellectual and Developmental Disabilities Nursing Facility Special Reimbursement Class.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement the 2026-27 General Appropriations Act (GAA), Senate Bill 1, 89th Legislature, Regular Session, 2025 (Article II, Health and Human Services Commission, Rider 31) (Rider 31). Rider 31 provides appropriations for HHSC to implement a new payment methodology for a new special reimbursement class to achieve improved care for long-term stay nursing facilities (NF) serving residents with intellectual and developmental disabilities (IDD).

SECTION-BY-SECTION SUMMARY

Proposed new §355.321(a) introduces the new special reimbursement class for nursing facilities serving individuals with intellectual and developmental disabilities. Subsection (b) defines terms used in the rule. Subsection (c) establishes how HHSC will calculate payment rates for facilities under this section. Subsection (d) establishes the criteria under which facilities qualify for membership in the special reimbursement class. Subsection (e) establishes the criteria under which facilities could be disqualified from membership in the special reimbursement class.

FISCAL NOTE

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

The effect on state government for each year of the first five years the proposed rule is in effect is an estimated cost of \$779,805 in General Revenue (GR) (\$1,949,513 All Funds (AF)) in fiscal year (FY) 2026, \$810,997 GR (\$2,027,493 AF) in FY 2027, \$862,075 GR (\$2,146,067 AF) in FY 2028, \$900,905 GR (\$2,252,263 AF) in FY 2029, and \$943,858 GR (\$2,359,645 AF) in FY 2030.

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 or limit or repeal existing regulations;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) HHSC has insufficient information to determine the proposed rule's effect on 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 effects on small businesses, micro-businesses, or rural communities.

The proposed rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

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 the rule because the rule does not impose a cost on regulated persons and the rule is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rule is in effect, the public benefit will be the implementation of Rider 31 which creates an NF serving residents with IDD.

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

rate increases are anticipated to offset any economic costs to comply with the rule.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her 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 HEARING

A public hearing to receive comments on the proposal will be held via GoTo Webinar on July 25, 2025, from 9:00 a.m. to 12:00 p.m. Central Daylight Time. The hearing will be conducted as an online event only. Details will be posted on the HHS Meetings and Events website at <https://www.hhs.texas.gov/about/meetings-events>.

Please contact the HHSC Provider Finance Department Long-Term Services and Supports at PF-DLTSS@hhs.texas.gov or (737) 867-7817 if you have questions.

PUBLIC COMMENT

Written comments on the proposal 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 21 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 post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R040" in the subject line.

STATUTORY AUTHORITY

The new rule 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32.

The new rule affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.321. Reimbursement Methodology for Intellectual and Developmental Disabilities Nursing Facility Special Reimbursement Class.

(a) Intellectual and Developmental Disabilities (IDD) Facility Class. The purpose of this special class is to recognize, through the adoption of a special payment rate, the cost differences that exist in a nursing facility (NF) that predominately serves individuals with an IDD diagnosis.

(b) Definitions. The following terms, when used in this section, have the following meanings unless otherwise stated.

(1) Intellectual and Developmental Disabilities (IDD)--A range of conditions that can affect a person's ability to learn, communicate, and function independently. These disabilities typically originate before the age of 18 and can continue throughout a person's life.

(2) IDD NF--An IDD NF is an entire facility that has maintained an average daily census in which 90 percent of residents have a Preadmission Screening and Resident Review (PASRR) positive screen for IDD for the six-month period prior to its entry into the IDD care facility class based on the entire licensed facility. To remain an IDD NF, the IDD NF in its entirety must maintain an average daily census in which 90 percent of residents have a PASRR positive screen for IDD.

(c) Payment rate determination. Payment rates will be determined in the following manner.

(1) Cost reports for IDD nursing facilities are governed by the requirements specified in Subchapter A of this chapter (relating to Cost Determination Process).

(2) The payment rate methodology for this class of service equals the nursing and non-therapy ancillary components contained in the federal per diem rate for rural Medicare skilled NFs for the most recent federal fiscal year as published in the *Federal Register*, adjusted by applying the highest case-mix index (CMI). Payment rates are based on available funds and are limited to legislative appropriations.

(3) The payment rate described in paragraph (2) of this subsection will be paid for all Medicaid residents of a qualifying IDD NF.

(d) Qualification for membership. A NF that wishes to be a member of the special reimbursement class must submit a letter to HHSC Provider Finance Department via an email to PFD-LTSS@hhs.texas.gov with a request to be considered for membership. HHSC will verify the NF meets the definition of IDD NF as defined in subsection (b)(2). HHSC will respond in writing to the facility within 30 days of receiving its request for membership. HHSC will review the status of any members within the special reimbursement class on an annual basis to verify that all members meet requirements defined in subsection (b)(2) of this section.

(e) Disqualification for membership. If HHSC determines that an NF no longer qualifies as a member of such class according to subsection (b) of this section, HHSC will notify the facility in writing. A facility that is disqualified as a member of the special reimbursement class, can request to reenter the class by sending a letter to HHSC as specified in subsection (d) of this section after no less than 365 days from its notification of disqualification in the class.

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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SUBCHAPTER D. REIMBURSEMENT METHODOLOGY FOR INTERMEDIATE CARE

FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR RELATED CONDITIONS (ICF/IID)

1 TAC §355.456

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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendment affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.456. *Reimbursement Methodology.*

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

(d) Reimbursement rate determination for non-state operated facilities. The Texas Health and Human Services Commission (HHSC) will adopt the reimbursement rates for non-state operated facilities in accordance with §355.101 of this title (relating to Introduction) and this subchapter.

(1) Covered services. Reimbursement rates combine residential and day program services, i.e., payment for the full 24 hours of daily service.

(2) Level of need (LON) differentiation. Reimbursement rates are differentiated based on the level of need (LON) of the individual receiving the service. The levels of need are intermittent, limited, extensive, pervasive, and pervasive plus.

(3) Cost components determination. The recommended modeled rates are based on cost components deemed appropriate for economically and efficiently operated services. The determination of these components is based on cost reports submitted by Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID) providers.

(4) Direct service workers cost area. This cost area includes direct service workers' salaries and wages, benefits, and mileage reimbursement expenses. The reimbursement rate for this cost area is calculated as specified in §355.7052 [~~§355.112~~] of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component) [~~title (relating to Attendant Compensation Rate Enhancement)~~].

(5) Direct care trainers and job coaches cost area. This cost area includes direct care trainers' and job coaches' salaries and wages, benefits, and mileage reimbursement expenses. The reimbursement rate for this cost area is calculated as specified in §355.7052 [~~§355.112~~] of this chapter [title].

~~[(6) High Medical Needs Add-on reimbursement rate before September 1, 2025. There is an available add-on reimbursement~~

rate, in addition to the daily reimbursement rate, for certain individuals.]

[(A) The add-on is based on the Resource Utilization Group (RUG-III) 34 group classification system as described in §355.307 of this title (relating to Reimbursement Setting Methodology before September 1, 2025).]

[(B) There are three add-on groupings based on certain RUG-III 34 classification groups and the assessed Activities of Daily Living (ADL) score:]

[(i) Group 1 includes Extensive Services 3 (SE3); Extensive Services 2 (SE2); and Rehabilitation with ADL score of 17-18 (RAD).]

[(ii) Group 2 includes Rehabilitation with ADL score of 14-16 (RAC), Rehabilitation with ADL score of 10-13 (RAB); Extensive Services 1 (SE1); Special Care with ADL score of 17-18 (SSC); Special Care with ADL score of 15-16 (SSB); and Special Care with ADL score of 4-14 (SSA).]

[(iii) Group 3 includes Rehabilitation with ADL score of 4-9 (RAA), Clinically Complex with Depression and ADL score of 17-18 (CC2), Clinically Complex with ADL score of 17-18 (CC1), Clinically Complex with Depression and ADL score of 12-16 (CB2), Clinically Complex and ADL score of 12-16 (CB1), Clinically Complex with Depression and ADL score of 4-11 (CA2), and Clinically Complex and ADL score of 4-11 (CA1).]

[(C) An individual must meet the following criteria to be eligible to receive the add-on rate:]

[(i) be assigned a RUG-III 34 classification in Group 1, Group 2, or Group 3;]

[(ii) be a resident of a large state-operated facility for at least six months immediately prior to referral or a resident of a Medicaid-certified nursing facility immediately prior to referral; and]

[(iii) for residents of a large state-operated facility only, have a LON which includes a medical LON increase as described in 26 TAC §261.241 (relating to Level of Need Criteria); but not be assessed a LON of pervasive plus.]

[(D) The add-on for each Group is determined based on data and costs from the most recent nursing facility cost reports accepted by HHSC.]

[(i) For each Group, compute the median direct care staff per diem base rate component for all facilities as specified in §355.308 of this title (relating to Direct Care Staff Rate Component before September 1, 2025); and]

[(ii) Subtract the average nursing portion of the current recommended modeled rates as specified in subsection (d)(3) of this section.]

(6) [(7)] High Medical Needs Add-on reimbursement rate on or after September 1, 2025. This add-on methodology will be implemented pending implementation of the Patient Driven Payment Model (PDPM) for Long-Term Care (LTC), as specified in §355.318 of this chapter (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025).

(A) The add-on is based on the PDPM LTC classification system as described in §355.318 of this chapter.

(B) There are three add-on groupings based on PDPM LTC classification and nursing case-mix classifiers, associated with the assessed nursing score.

(i) Group 1 includes nursing case-mix classifier "E" relating to the Extensive Services category.

(ii) Group 2 includes nursing case-mix classifiers "H" and "L" relating to the Special Care High and Special Care Low categories.

(iii) Group 3 includes nursing case-mix "C" relating to the Clinically Complex category.

(C) An individual must meet the following criteria to be eligible to receive the add-on rate:

(i) be assigned a PDPM LTC nursing case-mix classifier in Group 1, Group 2, or Group 3;

(ii) be a resident of a large state-operated facility for at least six months immediately prior to referral or a resident of a Medicaid-certified nursing facility immediately prior to referral; and

(iii) for residents of a large state-operated facility only, have a LON which includes a medical LON increase as described in 26 TAC §261.241 (relating to Level of Need Criteria), but not be assessed a LON of pervasive plus.

(D) The add-on for each Group is determined based on data and costs from the most recent nursing facility cost reports accepted by HHSC.

(i) Calculate the average number of nursing hours per daily unit of service by dividing total nursing hours by total days of service.

(ii) Calculate the average licensed vocational nurse (LVN) cost per day by multiplying estimated LVN hourly wages by the average number of nursing hours per daily unit of service.

(iii) For each Group, compute the median per diem amount of the nursing care base case-mix adjusted rate component for all facilities as specified in §355.318 of this chapter (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025) [§355.320 of this chapter (relating to Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025)]; and

(iv) Subtract the average nursing daily cost as specified in clause (ii) of this subparagraph from the median per diem amount of the nursing care rate component as specified in clause (iii) of this subparagraph current recommended modeled rates as specified in subsection (d)(3) of this section.

(e) - (i) (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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Karen Ray
Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 867-7817

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1 TAC §355.457

STATUTORY AUTHORITY

The repeal 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The repeal affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.457. *Cost Finding Methodology.*

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

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SUBCHAPTER E. COMMUNITY CARE FOR AGED AND DISABLED

1 TAC §§355.503, 355.505, 355.507, 355.509, 355.513

STATUTORY AUTHORITY

The amendments are 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendments affect Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.503. *Reimbursement Methodology for Long-Term Services and Supports State Plan and Home and Community-Based Services Waiver Program Services Delivered through the STAR+PLUS Managed Care Program.*

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

(c) STAR+PLUS HCBS Waiver reimbursement determination. Recommended reimbursements are determined in the following manner.

(1) Unit of service reimbursement. Reimbursement for non-CFC PAS and in-home respite care services, and cost per unit of service for nursing services provided by a registered nurse (RN), nursing services provided by a licensed vocational nurse (LVN), physical therapy, occupational therapy, speech/language therapy, supported employment, employment assistance, and day activity and health services (DAHS) is determined in the following manner.

(A) Total allowable costs for each provider are determined by analyzing the allowable historical costs reported on the cost report.

(B) Each provider's total reported allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost-reporting period to the prospective reimbursement period as described in §355.108 of this title (relating to Determination of Inflation Indices). The prospective reimbursement period is the period of time that the reimbursement is expected to be in effect.

(C) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or Social Security, Medicare Contributions, Workers' Compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(D) Allowable administrative and facility costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's units of service to the amount of total waiver units of service.

(E) For in-home and out-of-home nursing services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech/language therapy, supported employment, employment assistance, and in-home respite care services, an allowable cost per unit of service is calculated for each contracted provider cost report for each service. The allowable cost per unit of service for each contracted provider cost report is multiplied by 1.044. This adjusted allowable cost per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this subchapter (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(F) For non-CFC PAS, two cost areas are created.

(i) The attendant cost area includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.7052 [§355.412] of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [title (relating to Attendant Compensation Rate Enhancement).]

(ii) The administration and facility cost area includes field supervisors' salaries and wages, benefits, and mileage reimbursement expenses; building, building equipment, and operation and maintenance costs; administration costs; and other service costs. An allowable cost per unit of service is determined for each contracted provider cost report for the administration and facility cost area. The allowable cost per unit of service for each contracted provider cost report are arrayed. The units of service for each contracted provider

cost report in the array are summed until the median unit of service is reached. The corresponding expense to the median unit of service is determined and multiplied by 1.044.

(iii) The attendant cost area and the administration and facility cost area are summed to determine the PAS cost per unit of service.

(G) CFC PAS and habilitation services are calculated as specified in §355.9090 of this title (relating to Reimbursement Methodology for Community First Choice).

(2) Per day reimbursement.

(A) The reimbursement for Adult Foster Care (AFC) and out-of-home respite care in an AFC home is determined as a per day reimbursement using a method based on modeled projected expenses, which are developed using data from surveys, cost report data from other similar programs, consultation with other service providers or professionals experienced in delivering contracted services, and other sources. The room and board payments for AFC Services are not covered in these reimbursements and will be paid to providers from the client's Supplemental Security Income (SSI), less a personal needs allowance.

(B) The reimbursement for assisted living (AL) services is determined as a per day reimbursement in accordance with §355.509(c)(2) [~~§355.509(a) - (e)(2)(E)(iii)~~] of this subchapter (relating to Reimbursement Methodology for Residential Care).

(i) The per day reimbursement for attendant care for each of the levels of care is determined based on client need for attendant care.

(ii) A total reimbursement amount is calculated and the proposed reimbursement is equal to the total reimbursement less the client's room and board payments.

(iii) The room and board payment is paid to the provider by the client from the client's SSI, less a personal needs allowance.

(iv) The reimbursement for out-of-home respite in an AL facility is determined using the same methodology as the reimbursement for AL except that the out-of-home respite rates:

(I) are set at the rate for providers who choose not to participate in the attendant compensation rate enhancement; and

(II) include room and board costs equal to the client's SSI, less a personal needs allowance.

(C) The reimbursement for out-of-home respite care provided in a Nursing Facility is based on the amount determined for the Nursing Facility case mix class into which the participant is classified.

(D) The reimbursement for Personal Care 3 is composed of two rate components, one for the direct care cost center and one for the non-direct care cost center.

(i) Direct care costs. The rate component for the direct care cost center is determined by modeling the cost of the minimum required staffing for the Personal Care 3 setting, as specified by HHSC, and using staff costs and other statistics from the most recently audited cost reports from providers delivering similar care.

(ii) Non-direct care costs. The rate component for the non-direct care cost center is equal to the non-attendant portion of the non-apartment assisted living rate per day for non-participants in the Attendant Compensation Rate Enhancement. Providers receiving the Personal Care 3 rate are not eligible to participate in the Attendant

Compensation Rate Enhancement and receive direct care add-ons to the Personal Care 3 rates.

(3) ERS. The reimbursement for ERS is determined as a monthly reimbursement ceiling, based on the ceiling amount determined in accordance with §355.510 of this subchapter (relating to Reimbursement Methodology for Emergency Response Services (ERS)).

(4) Requisition fees. Requisition fees are reimbursements paid to home and community support services contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, and minor home modifications for participants. Reimbursement for requisition fees for adaptive aids, medical supplies, dental services, and minor home modifications will vary based on the actual cost of the adaptive aids, medical supplies, dental services, and minor home modifications. Reimbursements are determined using a method based on modeled projected expenses, which are developed by using data from surveys, cost report data from similar programs, consultation with other service providers and/or professionals experienced in delivering contracted services, and/or other sources.

(5) Pre-enrollment expense fee. Reimbursement for pre-enrollment assessment is determined using a method based on modeled projected expenses that are developed by using data from surveys, cost report data from other similar programs, consultation with other service providers and/or professionals experienced in delivering contracted services, and other sources.

(6) Home-Delivered Meals. The reimbursement for Home-Delivered Meals is determined on a per meal basis, based on the ceiling amount determined in accordance with §355.511 of this subchapter (relating to Reimbursement Methodology for Home-Delivered Meals).

(7) Exceptions to the reimbursement determination methodology. HHSC may adjust reimbursement if new legislation, regulations, or economic factors affect costs, according to §355.109 of this title (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs).

(d) - (g) (No change.)

§355.505. Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program.

(a) (No change.)

(b) Reporting of cost.

(1) Reporting guidelines. Providers must follow the cost reporting guidelines as specified in §355.105 of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(2) Number of cost reports to be submitted. All legal entities must submit a cost report unless the number of days between the date the legal entity's first Texas Health and Human Services Commission (HHSC) [Department of Aging and Disability Services (DADS)] client received services and the legal entity's fiscal year end is 30 days or fewer.

~~[(A) Contracted providers participating in the attendant compensation rate enhancement.]~~

~~[(i) At the same level of enhancement. If all the contracts under the legal entity participate in the enhancement at the same level of enhancement, the contracted provider must submit one cost report for the legal entity.]~~

~~[(ii) At different levels of enhancement. If all the contracts under the legal entity participate in the enhancement but they~~

participate at more than one enhancement level, the contracted provider must submit one cost report for each level of enhancement.]

{(B) Contracted providers not participating in the attendant compensation rate enhancement. If all the contracts under the legal entity do not participate in the enhancement, the contracted provider must submit one cost report for the legal entity.]

{(C) Contractors participating and not participating in attendant compensation rate enhancement.]

{(i) At the same level of enhancement. If some of the contracts under the legal entity do not participate in the enhancement and the rest of the contracts under the legal entity participate at the same level of enhancement, the contracted provider must submit:]

{(i) one cost report for the contracts that do not participate; and]

{(ii) one cost report for the contracts that do participate.]

{(ii) At different levels of enhancement. If some of the contracts under the legal entity do not participate in the enhancement and the rest of the contracts under the legal entity participate in the enhancement but they participate at more than one enhancement level, the contracted provider must submit:]

{(i) one cost report for the contracts that do not participate; and]

{(ii) one cost report for each level of enhancement.]

(3) Excused from submission of cost reports. If required by HHSC, a contracted provider must submit a cost report unless the provider meets one or more of the conditions in §355.105(b)(4)(D) of this chapter.

(c) Waiver reimbursement determination methodology.

(1) Unit of service reimbursement or reimbursement ceiling by unit of service. Reimbursement or reimbursement ceilings for related-conditions waiver services, habilitation, nursing services provided by a registered nurse (RN), nursing services provided by a licensed vocational nurse (LVN), physical therapy, occupational therapy, speech and language pathology, behavioral support, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, supported employment, day activity and health services, and in-home and out-of-home respite care services will be determined on a fee-for-service basis. These services are provided under §1915(c) of the Social Security Act Medicaid waiver for persons with related conditions.

(2) Monthly reimbursement. The reimbursement for case management waiver service will be determined as a monthly reimbursement. This service is provided under the §1915(c) of the Social Security Act Medicaid waiver for persons with related conditions.

(3) Reporting and verification of allowable cost.

(A) Providers are responsible for reporting only allowable costs on the cost report, except where cost report instructions indicate that other costs are to be reported in specific lines or sections. Only allowable cost information is used to determine recommended reimbursements. HHSC excludes from reimbursement determination any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers; the purpose is to ensure that the database reflects costs and other information that are necessary for the provision of services and are consistent with federal and state regulations.

(B) Individual cost reports may not be included in the database used for reimbursement determination if:

(i) there is reasonable doubt as to the accuracy or allowability of a significant part of the information reported; or

(ii) an auditor determines that reported costs are not verifiable.

(4) Reimbursement determination. Recommended unit of service reimbursements and reimbursement ceilings by unit of service are determined in the following manner.[:]

(A) Unit of service reimbursement for habilitation, and cost per unit of service for in-home and out-of-home nursing services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, behavioral support services, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, supported employment, and in-home and out-of-home respite care are determined in the following manner.

(i) The total allowable cost for each contracted provider cost report will be determined by analyzing the allowable historical costs reported on the cost report and other pertinent cost survey information.

(ii) The total allowable cost is reduced by the amount of the administrative expense fee and requisition fee revenues accrued for the reporting period.

(iii) Each provider's total allowable cost, excluding depreciation and mortgage interest, is projected from the historical cost reporting period to the prospective reimbursement period as described in §355.108 of this chapter (relating to Determination of Inflation Indices).

(iv) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or social security, Medicare contributions, Workers' compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(v) Allowable administrative and facility costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's units of service to the amount of total waiver units of service.

(vi) Each provider's projected total allowable cost is divided by the number of units of service to determine the projected cost per unit of service.

(vii) For in-home and out-of-home nursing services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, in-home respite care, behavioral support services, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, and supported employment, the projected cost per unit of service, for each provider is multiplied by 1.044. This adjusted allowable cost per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this subchapter (relating

to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(viii) For habilitation services two cost areas are created.^[?]

(I) The attendant cost area includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.7052 [~~§355.112~~] of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [~~(relating to Attendant Compensation Rate Enhancement)~~].

(II) Another attendant cost area is created which includes the other habilitation services costs not included in subclause (I) of this clause as determined in clauses (i) - (v) of this subparagraph to create another ~~[an other]~~ attendant cost area. An allowable cost per unit of service is calculated for the other habilitation cost area. The allowable costs per unit of service for each contracted provider cost report are arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated. The median cost per unit of service is multiplied by 1.044.

(III) The attendant cost area and the other attendant cost area are summed to determine the habilitation attendant cost per unit of service.

(ix) For out-of-home respite care, the allowable costs per unit of service are calculated as determined in clauses (i) - (vi) of this subparagraph. The allowable costs per unit of service for each contracted provider cost report are multiplied by 1.044. The costs per unit of service are then arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated.

(B) The monthly reimbursement for case management services is determined in the following manner.^[?]

(i) Total allowable costs for each provider will be determined by analyzing the allowable historical costs reported on the cost report and other pertinent cost survey information.

(ii) Total allowable costs are reduced by the amount of administrative expense fee revenues reported.

(iii) Each provider's total allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost reporting period to the prospective reimbursement period as described in §355.108 of this chapter (relating to Determination of Inflation Indices).

(iv) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or social security, Medicare contributions, Workers' compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(v) Each provider's projected total allowable costs are divided by the number of monthly units of service to determine the projected cost per client month of service.

(vi) Each provider's projected cost per client month of service is arrayed from low to high and weighted by the number of units of service and the median cost per client month of service is calculated.

(vii) The median projected cost per client month of service is multiplied by 1.044.

(C) The unit of service reimbursement for day activity and health services is determined in accordance with §355.6907 of this chapter (relating to Reimbursement Methodology for Day Activity and Health Services).

(D) HHSC also adjusts reimbursement according to §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs) if new legislation, regulations, or economic factors affect costs.

(5) Reimbursement determination for support family services and continued family services. The reimbursement for support family services and continued family services will be determined as a per day rate using a method based on modeled costs which are developed by using data from surveys, cost report data from other similar programs, payment rates from other similar programs, consultation with other service providers and/or professionals experienced in delivering contracted services, or other sources as determined appropriate by HHSC. The per day rate will have two parts, one part for the child placing agency and one part for the support family.

(d) - (j) (No change.)

§355.507. Reimbursement Methodology for Long-Term Services and Supports State Plan and Medically Dependent Children Waiver Program Services Delivered through the STAR Kids and STAR Health Managed Care Programs.

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

(c) MDCP reimbursement determination. Recommended payment rates are developed based on payment rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma analysis in accordance with §355.105(h) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures). Recommended payment rates for MDCP services are determined as follows.

(1) Reimbursement for nursing services. The rates for in-home respite and flexible family supports nursing services provided by a registered nurse (RN) or licensed vocational nurse (LVN) are determined in accordance with §355.502 of this subchapter (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(2) Reimbursement for in-home respite and flexible family supports attendant services. The rates for in-home respite and flexible family supports provided by an attendant without delegation of the service by an RN are based on the STAR+PLUS Home and Community-Based Services (HCBS) waiver rate methodology for PAS in accordance with §355.503 of this subchapter (relating to Reimbursement Methodology for Long-Term Services and Supports State Plan and Home and Community-Based Services Waiver Program Services Delivered through the STAR+PLUS Managed Care Program) and §355.7052 of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component) [~~§355.112(m) of this title (relating to Attendant Compensation Rate Enhancement)~~]. The rates for in-home respite and flexible family supports provided by an attendant with delegation of the service by an RN are based on the STAR+PLUS HCBS waiver rate methodology for PAS in accordance with §355.503 of this subchapter and are modeled to account for additional requirements of this service. [~~and the add-on payment for the highest level of attendant compensation rate enhancement in accordance with §355.112(o) of this title.~~]

(3) The rate ceiling for respite care. Camp setting services is equivalent to the Community Living Assistance and Support Services direct service agency (CLASS DSA) out-of-home respite rate.

Actual payments for this service are the lesser of the rate ceiling or the actual cost of the camp.

(4) Reimbursement for facility-based respite care. Facility-based respite care rates are determined on a 24-hour basis. The rates for facility-based respite care are calculated at 77 percent of the daily nursing facility rate methodology in accordance with §355.307 of this title (relating to Reimbursement Setting Methodology before September 1, 2025). After September 1, 2025, the rates for facility-based respite care are calculated at 77 percent of the daily nursing facility rate methodology in accordance with §355.318 of this title (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025). The base rates used in this calculation do not include nursing facility rate add-ons.

(5) Reimbursement for supported employment and employment assistance. The rates for supported employment and employment assistance are based on the rate methodology for supported employment and employment assistance in accordance with §355.503 of this subchapter.

(6) Reimbursement for transition assistance services. Transition assistance services rates are determined in accordance with §355.502 of this subchapter.

(d) - (g) (No change.)

§355.509. *Reimbursement Methodology for Residential Care.*

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

(c) Reimbursement determination.

(1) Reporting and verification of allowable costs.

(A) Providers are responsible for reporting only allowable costs on the cost report, except where cost report instructions indicate that other costs are to be reported in specific lines or sections. Only allowable cost information is used to determine recommended reimbursements. HHSC or its designee excludes from reimbursement determination any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers. The purpose is to ensure that the database reflects costs and other information that are necessary for the provision of services and that are consistent with federal and state regulations.

(B) Individual cost reports may not be included in the database used for reimbursement determination if:

(i) there is reasonable doubt as to the accuracy or allowability of a significant part of the information reported; or

(ii) an auditor determines that reported costs are not verifiable.

(2) Residential care reimbursement. Recommended per diem reimbursement for residential care is determined as follows.

(A) Reported allowable expenses are combined into four cost areas:

(i) attendant;

(ii) other direct care;

(iii) facility; and

(iv) administration and transportation.

(B) Facility, transportation (vehicle), and administration expenses are lowered to reflect expenses for a provider at the lower of:

(i) 85% occupancy rate; or

(ii) the overall average occupancy rate for licensed beds in facilities included in the database during the cost-reporting periods included in the base. The occupancy adjustment is applied if the provider's occupancy rate is below 85% or the overall average, whichever is lower. The occupancy adjustment is determined by the individual provider occupancy rate being divided by .85 or the average occupancy rate of all providers in the database.

(C) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes and employee benefits are Federal Insurance Contributions Act or Social Security, Medicare contributions, Workers' Compensation Insurance, the Federal Unemployment Tax Act, and the Texas Unemployment Compensation Act.

(D) The attendant cost area from subparagraph (A)(i) of this paragraph will be calculated as specified in §355.7052 [§355.112] of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [~~title (relating to Attendant Compensation Rate Enhancement).~~]

(E) The following applies to the cost areas from subparagraph (A)(ii) - (iv) of this paragraph.[:]

(i) Each provider's total reported allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost-reporting period to the prospective reimbursement period as described in §355.108 of this title (relating to Determination of Inflation Indices). The prospective reimbursement period is the period of time that the reimbursement is expected to be in effect.

(ii) Cost area per diem expenses are calculated by dividing total reported allowable costs for each cost area by the total days of service. Cost area per diem expenses are rank ordered from low to high to produce projected per diem expense arrays.

(iii) Reimbursement is determined by selecting from each cost area the median day of service and the corresponding per diem expense times 1.07. The resulting cost area amounts are totaled to determine the per diem reimbursement.

(iv) The client is required to pay for their room and board portion of the per diem reimbursement. HHSC [DADS] will pay the services portion of the per diem reimbursement. The room and board payments will be paid to providers by the client from the client's Supplemental Security Income (SSI). When SSI is increased or decreased by the Federal Social Security Administration, the per diem reimbursement will be adjusted in amounts equal to the increase or decrease in SSI received by clients.

(3) Exceptions to the reimbursement determination methodology. Reimbursement may be adjusted in accordance with §355.109 of this title (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs) when new legislation, regulations, or economic factors affect costs.

(d) - (g) (No change.)

§355.513. *Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program.*

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

(c) Waiver rate determination methodology. If HHSC deems it appropriate to require contracted providers to submit a cost report, recommended reimbursements for waiver services will be determined on a fee-for-service basis in the following manner for each of the services provided.[:]

(1) Total allowable costs for each provider will be determined by analyzing the allowable historical costs reported on the cost report.

(2) Each provider's total reported allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost-reporting period to the prospective reimbursement period as described in §355.108 of this chapter (relating to Determination of Inflation Indices). The prospective reimbursement period is the period of time that the reimbursement is expected to be in effect.

(3) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or Social Security, Medicare Contributions, Workers' Compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(4) Allowable administrative and overall facility/operations costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's service units reported to the amount of total waiver service units reported. Service-specific facility and operations costs for out-of-home respite, and individualized skills and socialization services will be directly charged to the specific waiver service.

(5) For in-home and out-of-home nursing services provided by a registered nurse (RN), in-home and out-of-home nursing services provided by a licensed vocational nurse (LVN), in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, behavioral support services, audiology services, dietary services, employment assistance, and supported employment, an allowable cost per unit of service is calculated for each contracted provider cost report in accordance with paragraphs (1) - (4) of this subsection. The allowable costs per unit of service for each contracted provider cost report is multiplied by 1.044. This adjusted allowable costs per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this subchapter (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(6) Requisition fees are reimbursements paid to the Deaf-Blind with Multiple Disabilities (DBMD) Waiver contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, and minor home modifications for DBMD participants. Reimbursement for adaptive aids, medical supplies, dental services, and minor home modifications will vary based on the actual cost of the adaptive aid, medical supply, dental service, and minor home modification. Reimbursements are determined using a method based on modeled projected expenses which are developed by using data from surveys, cost report data from similar programs, consultation with other service providers or professionals experienced in delivering contracted services, or other sources.

(7) For residential habilitation transportation, chore, and intervener (excluding Interveners I, II, and III), services, two cost areas are created:

(A) The attendant cost area, which includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.7052 [~~§355.112~~] of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [~~(relating to Attendant Compensation Rate Enhancement).~~]

(B) An administration and facility cost area, which includes costs for services not included in subparagraph (A) of this paragraph as determined in paragraphs (1) - (4) of this subsection. An allowable cost per unit of service is determined for each contracted provider cost report for the administration and facility cost area. The allowable costs per unit of service for each contracted provider cost report are arrayed. The units of service for each contracted provider cost report in the array are summed until the median unit of service is reached. The corresponding expense to the median unit of service is determined and is multiplied by 1.044.

(C) The attendant cost area, and the administration and facility cost area are summed to determine the cost per unit of service.

(8) For Interveners I, II, and III, payment rates are developed based on rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma approach in accordance with §355.105(h) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures). [~~Interveners I, II, and III are not considered attendants for purposes of the Attendant Compensation Rate Enhancement described in §355.112 of this chapter, and providers are not eligible to receive direct care add-ons to the Intervener I, II, or III rates.]~~

(9) Assisted living services payment rates are determined using a pro forma approach in accordance with §355.105(h) of this chapter. The rates are adjusted periodically for inflation. The room and board payments for waiver clients receiving assisted living services are covered in the reimbursement for these services and will be paid to providers from the client's Supplemental Security Income, less a personal needs allowance.

(10) Pre-enrollment assessment services and case management services payment rates are determined by modeling the salary for a Case Manager staff position. This rate is periodically updated for inflation.

(11) The orientation and mobility services payment rate is determined by modeling the salary for an Orientation and Mobility Specialist staff position. This rate is updated periodically for inflation.

(12) The employment readiness payment rates will initially be determined using a pro forma approach in accordance with §355.105(h) of this chapter. Once cost report data for this service are available, HHSC will calculate the methodological rate for employment readiness as a weighted median cost of the service from the most recently examined Medicaid cost report, adjusted for anticipated programmatic and staffing requirements, and inflated from the cost reporting year to the prospective rate year. The employment readiness rates will be rebased every biennium from the most recent projected cost report data. Adopted rates will be limited within available appropriations.

(13) HHSC may adjust reimbursement if new legislation, regulations, or economic factors affect costs, according to §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs).

(d) - (h) (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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**SUBCHAPTER F. REIMBURSEMENT
METHODOLOGY FOR PROGRAMS SERVING
PERSONS WITH AN INTELLECTUAL OR
DEVELOPMENTAL DISABILITY**

1 TAC §355.722

STATUTORY AUTHORITY

The repeal 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The repeal affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.722. *Reporting Costs by Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Providers.*

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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1 TAC §355.723

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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable

rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendment affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.723. *Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs.*

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

(c) Recommended rates. The recommended payment rates are determined for each HCS and TxHmL service listed in subsections (b)(1) and (2) of this section by type and, for services listed in subsection (b)(1) of this section, by LON to include the following cost areas.

(1) Attendant compensation cost area. The determination of the attendant compensation cost area is calculated as specified in §355.7052 [§355.112] of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [~~relating to Attendant Compensation Rate Enhancement~~]. The attendant compensation cost area includes personal attendant staffing costs (wages, benefits, modeled staffing ratios for attendant staff, direct care trainers, and job coaches).

(2) Other direct care cost area. The other direct care cost area includes other direct service staffing costs (wages and benefits for direct care and attendant supervisors). The other direct care cost area is determined by calculating a median from allowable other direct care costs for each service, weighed by units of service for the applicable service from the most recently examined HCS/TxHmL cost report adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter (relating to Determination of Inflation Indices).

(A) For the following services, multiply the other direct care cost area as specified in this paragraph by 1.044:

- (i) EA;
- (ii) in-home respite;
- (iii) OHR in a camp;
- (iv) OHR in a respite facility;
- (v) OHR in a setting where HH/CC is provided;
- (vi) OHR in a setting that is not listed; and
- (vii) SE.

(B) For the following services, multiply the other direct care cost area as specified in this paragraph by 1.07:

- (i) employment readiness;
- (ii) individualized skills and socialization;
- (iii) in-home and out-of-home individualized skills and socialization;
- (iv) OHR in an individualized skills and socialization facility;
- (v) OHR in a setting with SL or RSS is provided;
- (vi) RSS; and
- (vii) SL.

(3) Administration and operations cost area. The administration and operation cost area includes:

- (A) administration and operation costs; and

(B) professional consultation and program support costs, including:

- (i) allowable costs for required case management and service coordination activities; and
- (ii) service-specific transportation costs.

(4) Projected costs. Projected costs are determined by allowable administrative and operations costs from the most recently audited cost report adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter. The steps to determine projected costs are as follows.

(A) Step 1. Determine total projected administration and operation costs and projected units of service by service type using cost reports submitted by HCS and TxHmL providers in accordance with §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs). [~~§355.722 of this subchapter (relating to Reporting Costs by Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Providers).~~]

(B) Step 2. Determine the HH/CC coordinator component of the HH/CC rate as follows: This component is determined by summing total reported HH/CC coordinator wages and allocated payroll taxes and benefits from the most recently available audited HCS cost report, inflating those costs to the rate period, and dividing the resulting product by the total number of host home units of service reported on that cost report.

(C) Step 3. Determine total HH/CC coordinator dollars as follows. Multiply the HH/CC coordinator component of the HH/CC rate from subparagraph (B) of this paragraph by the total number of HH/CC units of service reported on the most recently available, reliable audited HCS cost report database.

(D) Step 4. Determine total projected administration and operation costs after offsetting total HH/CC coordinator dollars as follows. Subtract the total HH/CC coordinator dollars from subparagraph (C) of this paragraph from the total projected administration and operation costs from subparagraph (A) of this paragraph.

(E) Step 5. Determine projected weighted units of service for each HCS and TxHmL service type as follows.

(i) SL and RSS in HCS. Projected weighted units of service for SL and RSS equal projected SL and RSS units of service times a weight of 1.00.

(ii) Individualized skills and socialization and employment readiness in HCS and TxHmL. Projected weighted units of service for individualized skills and socialization and employment readiness equal projected individualized skills and socialization and employment readiness units of service times a weight of 0.25.

(iii) HH/CC in HCS. Projected weighted units of service for HH/CC equal projected HH/CC units of service times a weight of 0.50.

(iv) SHL in HCS, high medical needs support in HCS, and CSS in TxHmL. For each service, projected weighted units of service equal projected units of service times a weight of 0.30.

(v) Respite in HCS and TxHmL. Projected weighted units of service for respite equal projected respite units of service times a weight of 0.20.

(vi) SE in HCS and TxHmL. Projected weighted units of service for SE equal projected units of service times a weight of 0.25.

(vii) Behavioral support in HCS and TxHmL. Projected weighted units of service for behavioral support equal projected behavioral support units of service times a weight of 0.18.

(viii) Audiology, CRT, OT, PT, and speech and language pathology in HCS and TxHmL. Projected weighted units of service for audiology, CRT, OT, PT, and speech and language pathology equal projected audiology, CRT, OT, PT, and speech and language pathology units of service times a weight of 0.18.

(ix) Social work in HCS. Projected weighted units of service for social work equal projected social work units of service times a weight of 0.18.

(x) In-home and out-of-home nursing in HCS and TxHmL and high medical needs nursing in HCS. Projected weighted units of service for nursing and high medical needs nursing equal projected nursing and high medical needs nursing units of service times a weight of 0.25.

(xi) EA in HCS and TxHmL. Projected weighted units of service for EA equal projected EA units of service times a weight of 0.25.

(xii) Dietary in HCS and TxHmL. Projected weighted units of service for dietary equal projected dietary units of service times a weight of 0.18.

(F) Step 6. Calculate the total projected weighted units of service by summing the projected weighted units of service from subparagraph (E) of this paragraph.

(G) Step 7. Calculate the percent of total administration and operation costs to be allocated to the service type by dividing the projected weighted units for the service type from subparagraph (E) of this paragraph by the total projected weighted units of service from subparagraph (F) of this paragraph.

(H) Step 8. Calculate the total administration and operation cost to be allocated to the service type by multiplying the percent of total administration and operation costs allocated to the service type from subparagraph (G) of this paragraph by the total administration and operation costs after offsetting total HH/CC coordinator dollars from subparagraph (D) of this paragraph.

(I) Step 9. Calculate the administration and operation cost component per unit of service for each HCS and TxHmL service type by dividing the total administration and operation cost to be allocated to that service type from subparagraph (H) of this paragraph by the projected units of service for that service type from subparagraph (A) of this paragraph.

(J) Step 10. The final recommended administration and operation cost area per unit of service for each HCS and TxHmL service type is calculated as follows.

(i) For the following services, multiply the administration and operation cost area from this subparagraph by 1.044:

- (I) CFC PAS/HAB;
- (II) CSS;
- (III) EA;
- (IV) in-home individualized skills and socialization;
- (V) in-home respite;
- (VI) OHR in a camp;
- (VII) OHR in a respite facility;

vided;

(VIII) OHR in a setting where HH/CC is provided;

(IX) OHR in a setting that is not listed;

(X) SE; and

(XI) SHL.

(ii) For the following services, multiply the administration and operation cost area from this subparagraph by 1.07:

(I) employment readiness;

(II) individualized skills and socialization;

(III) in-home and out-of-home individualized skills and socialization;

(IV) OHR in an individualized skills and socialization facility;

(V) RSS; and

(VI) SL.

(5) The facility cost area. The facility cost area includes the following:

(A) room and board costs, including rent, mortgage interest, depreciation expenses, property taxes, property insurance, and food costs as defined in §355.103 of this chapter (relating to Specifications for Allowable and Unallowable Costs), unless excluded if unallowable under Federal Medicaid rules; and

(B) non-room and board costs not already reimbursed through the monthly amount collected from the individual receiving services as defined in 26 TAC §565.27(a) (relating to Finances and Rent).

(6) The facility cost area is determined by calculating a median cost for each service using allowable facility costs, weighted by units of service for the applicable service from the most recently audited cost report, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108.

(A) For the following services, multiply the facility cost component by 1.044:

(i) HH/CC;

(ii) OHR in a camp;

(iii) OHR in a respite facility; and

(iv) OHR in a setting where HH/CC is provided.

(B) For the following services, multiply the facility cost component by 1.07:

(i) employment readiness;

(ii) individualized skills and socialization;

(iii) in-home and out-of-home DH;

(iv) OHR in a DH or individualized skills and socialization facility;

(v) OHR in a setting where SL or RSS are provided;

(vi) RSS; and

(vii) SL.

(d) - (f) (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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SUBCHAPTER G. ADVANCED TELECOMMUNICATIONS SERVICES AND OTHER COMMUNITY-BASED SERVICES

1 TAC §355.5902, §355.6907

STATUTORY AUTHORITY

The amendments are 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendments affect Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.5902. *Reimbursement Methodology for Primary Home Care.*

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

(c) Reimbursement determination. Reimbursement is determined in the following manner.

(1) Cost determination by cost area. Allowable costs are combined into three cost areas, after allocating payroll taxes to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense and after applying employee benefits directly to the corresponding salary line item.

(A) Service support cost area. This includes field supervisors' salaries and wages, benefits, and mileage reimbursement expenses. This also includes building, building equipment, and operation and maintenance costs; administration costs; and other service costs. Administration expenses equal to \$0.18 per priority unit of service are allocated to priority. The administration costs remaining after this allocation are summed with the other service support costs.

(B) Non-priority attendants cost area. This includes non-priority attendants' salaries and wages, benefits, and mileage reimbursement expenses. This cost area is specified in §355.7052 of this chapter (relating to Reimbursement Methodology for Determining

Attendant Cost Component). [calculated as specified in §355.112 of this title (relating to Attendant Compensation Rate Enhancement).]

(C) Priority attendants cost area. This includes priority attendants' salaries and wages, benefits, and mileage reimbursement expenses. This cost area is specified in §355.7052 of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [calculated as specified in §355.112 of this title.]

(2) Recommended reimbursement by cost area. For the service support cost area described in paragraph (1)(A) of this subsection the following is calculated.[:]

(A) Projected costs. Each contract's total allowable costs, excluding depreciation and mortgage interest, per unit of service are projected from each contract's reporting period to the next ensuing reimbursement period, as described in §355.108 of this title (relating to Determination of Inflation Indices) to calculate the projected expenses. Reimbursement may be adjusted where new legislation, regulations, or economic factors affect costs as specified in §355.109 of this title (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs).

(B) Projected cost per unit of service. To determine the projected cost per unit of service for each contract, the total projected allowable costs for the service support cost area are divided by total units of service, including non-priority services, priority services, and STAR+PLUS services, in order to calculate the projected cost per unit of service.

(C) Projected cost arrays. Each contract's projected allowable costs per unit of service are rank ordered from low to high, along with each contract's corresponding units of service for each cost area.

(D) Recommended reimbursement for the service support cost area. The total units of service for each contract are summed until the median hour of service is reached. The corresponding projected expense is the weighted median cost component. The weighted median cost component is multiplied by 1.044 to calculate the recommended reimbursement for the service support cost area. The service support cost area recommended reimbursement is limited, if necessary, to available appropriations.

(3) Total recommended reimbursement.

(A) For non-priority clients. The recommended reimbursement is determined by summing the recommended reimbursement described in paragraph (2) of this subsection and the cost area component from paragraph (1)(B) of this subsection.

(B) For priority clients. The recommended reimbursement is determined by summing the recommended reimbursement described in paragraph (2) of this subsection and the cost area component from paragraph (1)(C) of this subsection.

(d) - (g) (No change.)

§355.6907. *Reimbursement Methodology for Day Activity and Health Services.*

(a) Day Activity and Health Care Services. Day activity and health care facilities provide noninstitutional care to clients residing in the community through rehabilitative nursing and social services. The Texas Health and Human Services Commission (HHSC) [Department of Aging and Disability Services (DADS)] reimburses Day Activity and Health Services (DAHS) provider agencies for the services they provide to clients.

(b) - (e) (No change.)

(f) Reimbursement determination. HHSC determines reimbursement in the following manner.

(1) A contracted provider must submit a cost report unless the provider meets one or more of the conditions in §355.105(b)(4)(D) of this title.

(2) HHSC staff allocate payroll taxes and employee benefits to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense. The employee benefits for administrative staff are allocated directly to the corresponding salaries for those positions. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or Social Security, Workers' Compensation Insurance (WCI), Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(3) HHSC staff project all allowable expenses, excluding depreciation and mortgage interest, for the period from each provider's reporting period to the next ensuing reimbursement period. HHSC staff determine reasonable and appropriate economic adjusters as described in §355.108 of this title (relating to Determination of Inflation Indices) to calculate the projected expenses. HHSC staff also adjust reimbursement if new legislation, regulations, or economic factors affect costs as specified in §355.109 of this title (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs).

(4) HHSC staff combine allowable reported costs into the following four cost areas.[:]

(A) Attendant cost area. This cost area is specified in §355.7052 of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component). [calculated as specified in §355.112 of this title (relating to Attendant Compensation Rate Enhancement).]

(B) Other direct care costs. This cost area includes other direct care staff; food and food service costs; activity costs; and other direct service costs.

(C) Facility cost area. This cost area includes building, maintenance staff, and utility costs.

(D) Administration and transportation cost area. This cost area includes transportation, administrative staff, and other administrative costs.

(5) For the cost areas described in paragraph (4)(B) - (D) of this subsection, allowable costs are totaled by cost area and then divided by the total units of service for the reporting period to determine the cost per unit of service. HHSC staff rank from low to high all provider agencies' projected costs per unit of service in each cost area. The median projected unit of service cost from each cost area is then determined. Those median projected unit of service costs from each cost area are totaled. That resulting total is multiplied by 1.07 and becomes the recommended reimbursement.

(6) The reimbursement determination authority is specified in §355.101 of this title (relating to Introduction).

(g) (No change.)

(h) DAHS-specific allowable costs. Allowable costs specific to the DAHS program are:

(1) certain medical equipment and supplies, if they are related to the services for which HHSC [DADS] has contracted. This may include, but is not limited to, supplies and equipment considered necessary to perform client assessments, medication administration, and nursing treatment.

(2) transportation costs if they are related to the services for which HHSC [DAHS] has contracted. This includes the costs of garaging a vehicle that is primarily used to transport clients to and from the DAHS center. The vehicle may be garaged off-site of the center for security reasons or for route efficiency management. In these cases of off-site vehicle garaging, a mileage log is not required if the vehicle is not used for personal use and is used solely (100 percent [%]) for the delivery of DAHS services.

(i) - (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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SUBCHAPTER H. ATTENDANT COST DETERMINATION

1 TAC §355.7051, §355.7052

STATUTORY AUTHORITY

The amendment and new rule are 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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendments affect Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.7051. Base Wage for a Personal Attendant before September 1, 2025.

(a) - (f) (No change.)

§355.7052. Reimbursement Methodology for Determining Attendant Cost Component.

(a) Introduction. The Texas Health and Human Services Commission (HHSC) establishes the rate methodology for the attendant cost rate component used in the rate methodologies of long-term services and supports (LTSS) state plan and 1915(c), 1915(i) and 1115 waiver programs with personal attendant and attendant-like services.

(b) Meaning of attendant. An attendant is an unlicensed caregiver providing direct assistance to individuals with Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL). The following parameters apply to the attendant cost rate component.

(1) An attendant includes the following:

(A) a driver who is transporting individuals in the day activity and health services (DAHS), Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID), and residential care (RC) and STAR+PLUS Home and Community-Based Services (STAR+PLUS HCBS) Assisted Living Facilities (ALF) programs and the Home and Community-Based Services supervised living and residential support services (HCS SL/RSS) and HCS and Texas Home Living (TxHmL) individualized skills and socialization settings;

(B) a medication aide in the HCS SL/RSS setting, ICF/IID, and RC and ALF programs; and

(C) direct care workers, direct care trainers, job coaches, employment assistance direct care workers, and supported employment direct care workers.

(2) Attendants do not include the director; administrator; assistant director; assistant administrator; clerical and secretarial staff; professional staff; other administrative staff; licensed staff; attendant supervisors; cooks and kitchen staff; maintenance and groundskeeping staff; activity director; Deaf-Blind with Multiple Disabilities (DBMD) Interveners I, II, or III; Qualified Intellectual Disability Professionals (QIDPs) or assistant QIDPs; direct care worker supervisors; direct care trainer supervisors; job coach supervisors; foster care providers; and laundry and housekeeping staff.

(3) Staff other than attendants may deliver attendant services and be considered an attendant if they must perform attendant services that cannot be delivered by another attendant to prevent a break in service.

(c) Attendant cost center. This cost center will include employee compensation, contract labor costs, for attendants as defined in subsection (b) of this section.

(1) Attendant compensation is the allowable compensation for attendants defined in §355.103(b)(1) of this chapter (relating to Specifications for Allowable and Unallowable Costs) and required to be reported as either salaries and/or wages, including payroll taxes and workers' compensation, or employee benefits. Benefits required by §355.103(b)(1)(A)(iii) of this chapter to be reported as costs applicable to specific cost report line items, except as noted in paragraph (3) of this subsection, are not to be included in this cost center.

(2) Contract labor refers to personnel for whom the contracted provider is not responsible for the payment of payroll taxes, such as Federal Insurance Contributions Act, Medicare, and federal and state unemployment insurance, and who perform tasks routinely performed by employees where allowed by program rules.

(3) The following costs are not included in the calculation of the attendant cost center.

(A) Costs of required trainings for direct care or personal attendant workers.

(B) Travel costs for direct care or personal attendant workers including mileage reimbursement or public transportation subsidies.

(C) Costs of personal protective equipment for direct care or personal attendant workers.

(4) For staff who provide attendant functions part time as specified in subsection (b)(3) of this section, the cost center includes only the proportion of staff compensation associated with the hours allowable attendant functions were performed.

(d) Programs with personal attendant services. The reimbursement methodology outlined in this section applies to services provided by personal attendants that meet the following parameters.

(1) An employee or subcontractor of an HHSC contractor, or an employee of an employer in the Consumer Directed Services (CDS) option, who provides the following services, as described in 26 TAC §52.1 (relating to Application):

(A) services in the Community Attendant Services program;

(B) services in the Family Care program;

(C) services in the Primary Home Care program;

(D) DAHS;

(E) RC;

(F) services in the Community Living Assistance and Support Services Program:

(i) community first choice personal assistance services/habilitation (CFC PAS/HAB);

(ii) employment assistance;

(iii) habilitation (transportation) and prevocational services;

(iv) in-home respite;

(v) service planning team meeting; or

(vi) supported employment;

(G) in the DBMD Program:

(i) CFC PAS/HAB;

(ii) chore services;

(iii) employment assistance;

(iv) individualized skills and socialization services;

(v) in-home respite;

(vi) intervener (excluding intervener I, II, and III);

(vii) licensed assisted living;

(viii) licensed home health assisted living;

(ix) residential habilitation (transportation); or

(x) service planning team meeting;

(H) in the HCS Program:

(i) CFC PAS/HAB;

(ii) employment assistance;

(iii) employment readiness;

(iv) individualized skills and socialization services;

(v) in-home and out-of-home respite;

(vi) supported employment;

(vii) supported home living (transportation); or

(viii) SL/RSS; and

(I) in the Texas Home Living Program:

(i) CFC PAS/HAB;

(ii) community support services (transportation);

(iii) employment assistance;

(iv) employment readiness;

(v) individualized skills and socialization services;

(vi) in-home and out-of-home respite; or

(vii) supported employment.

(2) An employee or subcontractor of an HHSC contractor who provides the following services in the Home and Community-Based Services--Adult Mental Health (HCBS-AMH) program, as described in 26 TAC §307.51 (relating to Purpose and Application):

(A) assisted living services;

(B) employment assistance;

(C) in-home respite;

(D) supported employment;

(E) supported home living services; or

(F) supervised living services.

(3) An employee or subcontractor of an HHSC contractor or an employee of an employer in the CDS option who provides:

(A) personal care services, as described in Chapter 363, Subchapter F of this title (relating to Personal Care Services); or

(B) CFC habilitation (CFC HAB) or CFC personal assistance services (CFC PAS), as described in Chapter 354, Subchapter A, Division 27 of this title (relating to Community First Choice).

(4) A provider, which has the meaning assigned in §353.2 of this title (relating to Definitions), or an employee of an employer in the CDS option who provides:

(A) in the STAR+PLUS program and STAR+PLUS Home and Community-based Services (HCBS) program:

(i) assisted living;

(ii) CFC PAS;

(iii) CFC HAB;

(iv) employment assistance;

(v) DAHS;

(vi) in-home respite care;

(vii) personal assistance services;

(viii) protective supervision; or

(ix) supported employment;

(B) in the STAR Health program and Medically Dependent Children Program (MDCP):

(i) CFC PAS;

(ii) CFC HAB;

(iii) employment assistance;

(iv) DAHS;

(v) flexible family support;

(vi) in-home respite;

(vii) personal care services; or

(viii) supported employment; and

(C) in the STAR Kids program and MDCP:

- (i) CFC PAS;
- (ii) CFC HAB;
- (iii) employment assistance;
- (iv) DAHS;
- (v) flexible family support;
- (vi) in-home respite;
- (vii) personal care services; or
- (viii) supported employment.

(5) An employee or subcontractor of an HHSC contractor, who provides ICF/IID program services, as described in 26 TAC §261.203 (relating to Definitions).

(e) Determination of attendant cost component. The attendant cost component is calculated as follows.

(1) For all programs with services as specified in subsection (d) of this section, except for DBMD, HCBS-AMH, HCS, ICF/IID, and TxHmL programs, HHSC will calculate an attendant cost rate component by calculating a median of attendant cost center data for each applicable attendant service, weighted by the applicable attendant service's units of service from the most recently examined cost report database for each program, and adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter (related to Determination of Inflation Indices).

(A) The weighted median cost component is multiplied by 1.044 for all attendant services specified in subsection (d) except for DAHS, RC, and STAR+PLUS ALF services. For these services, the weighted median cost component is multiplied by 1.07. The result is the attendant cost rate component.

(B) If HHSC has insufficient cost data, the attendant compensation rate component will be established through a pro forma costing approach as defined in §355.105(h) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(C) For DBMD and HCBS-AMH, the attendant cost component is modeled according to subparagraph (B) of this paragraph unless HHSC collects a cost report for the applicable program.

(2) For ICF/IID program services, HHSC will calculate an attendant cost rate component for day habilitation (DH) and residential services by calculating a median of attendant cost center data as defined in subsection (b) of this section for each DH and Residential services, weighted by ICF/IID units of service from the most recently examined ICF/IID cost report database, and adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter.

(A) The weighted median attendant cost component is adjusted by modeled direct care hours to unit ratios to determine attendant compensation rate components for each level of need (LON).

(B) The weighted median cost component is multiplied by 1.07 for both ICF/IID DH and residential services.

(C) If HHSC has insufficient cost data, the attendant compensation rate component will be established through a pro forma costing analysis as defined in §355.105(h) of this chapter.

(3) For HCS and TxHmL programs, HHSC will calculate an attendant compensation rate component for each service by calculating a median of attendant cost center data as defined in subsection (b) of this section for each applicable attendant service, weighted by the

applicable attendant service's units of service from the most recently examined HCS/TxHmL cost report database, and adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter.

(A) The weighted median cost component is multiplied by 1.044 for the following services:

- (i) CFC PAS/HAB
- (ii) employment assistance;
- (iii) in-home respite;
- (iv) out-of-home respite in a camp;
- (v) out-of-home respite in a respite facility;
- (vi) out-of-home respite in a setting where host home / companion care (HH/CC) is provided;
- (vii) out-of-home respite in a setting that is not listed;
- (viii) supported employment; and
- (ix) supported home living (transportation).

(B) The weighted median cost component is multiplied by 1.07 for the following services:

- (i) individualized skills and socialization services;
- (ii) out-of-home respite in an individualized skills and socialization facility;
- (iii) out-of-home respite in a setting with SL or RSS is provided; and
- (iv) SL/RSS.

(C) For services with rates that are variable by LON as specified in §355.723(b) of this chapter (relating to Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs), the weighted median attendant cost component is adjusted by modeled direct care hours to unit or direct care staff to individual ratios to determine attendant compensation rate components for each LON.

(D) If HHSC has insufficient cost data, the attendant compensation rate component will be established through a pro forma costing analysis as defined in §355.105(h) of this chapter.

(E) The attendant cost component for employment readiness is calculated as a blend of the cost component for individualized skills and socialization services.

(f) Determination of attendant cost component for CDS option services. Attendant services delivered through the CDS option as specified in subsection (d) of this section have an attendant cost component that is equal to the attendant cost component of the same service delivered through the provider agency option as specified in §355.114 of this chapter (relating to Consumer Directed Services Payment Option).

(g) The adopted attendant cost rate component is limited to available levels of appropriated state and federal funds as specified in §355.201 of this chapter (relating to Establishment and Adjustment of Reimbursement Rates for Medicaid).

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 M. MISCELLANEOUS
PROGRAMS
DIVISION 7. COMMUNITY FIRST CHOICE

1 TAC §355.9090

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 agencies; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Senate Bill 457, 89th Legislature, Regular Session, 2025.

The amendment affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

§355.9090. *Reimbursement Methodology for Community First Choice.*

(a) (No change.)

(b) Reimbursement Methodology. Community First Choice (CFC) rates are established using pre-existing rates as follows.

(1) CFC State Plan Rate--Attendant and Habilitation: The recommended payment rate is calculated by summing the following cost components. [Rates will be equal to a weighted average of rates established for Community Living Assistance and Support Services (CLASS) habilitation services according to the reimbursement methodology for the CLASS program under §355.505 of this title (relating to Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program) and proxy rates for attendant services used in the calculation of the STAR+PLUS managed care capitation rates for the Home and Community-based Services (HCBS) risk group. The weighted average will include applicable attendant compensation rate enhancements.]

(A) Attendant cost area. This cost area is specified in §355.7052 of this chapter (relating to Reimbursement Methodology for Determining Attendant Cost Component).

~~[(A) Proxy rates are equal to rates established for attendant services under the Community Based Alternatives (CBA) waiver prior to its termination, updated for changes in allowable reported expenses and units of service.]~~

(B) Administration and operations cost area. An allowable cost per unit of service is calculated for the other habilitation cost area. The allowable costs per unit of service for each contracted

provider cost report are arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated. The median cost per unit of service is multiplied by 1.044.

~~[(B) Weighting factors assume that 30 percent of personal attendant services historically provided to existing recipients in the STAR+PLUS HCBS risk group and 100 percent of personal attendant services provided to newly eligible recipients under CFC will be for habilitation.]]~~

(2) CLASS--Attendant and Habilitation CFC: Rates will be equal to rates established for CLASS habilitation services, including applicable attendant compensation rate enhancements, under §355.505 of this title.

(3) Deaf-Blind with Multiple Disabilities (DBMD)--Attendant and Habilitation CFC: Rates will be equal to rates established for DBMD Residential Habilitation, including applicable attendant compensation rate enhancements, under §355.513 of this title (relating to Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program).

(4) Home and Community-Based Services (HCS)--Supported Home Living (SHL) CFC: Rates will be equal to rates established for HCS SHL, including applicable attendant compensation rate enhancements, under §355.723 of this title (relating to Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs).

(5) Texas Home Living (TxHmL)--Community Support Services (CSS) CFC: Rates will be equal to rates established for TxHmL CSS, including applicable attendant compensation rate enhancements, under §355.723 of this title.

(6) Personal Care Services (PCS)--Habilitation CFC: Rates will be equal to rates established for PCS attendant services for recipients with a behavioral health condition under §355.8441 of this title (relating to Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services).

(7) Personal Care Services (PCS)--Attendant CFC: Rates will be equal to the rates established for PCS attendant services for recipients without a behavioral health condition under §355.8441 of this title.

(8) Consumer Directed Services (CDS)--CFC: Rates will be equal to rates established for CDS for the equivalent non-CFC service under §355.114 of this title (relating to Consumer Directed Services Payment Option).

(9) Support Consultation Services--CFC: Rates will be equal to rates established for Support Consultation Services under §355.114 of this title.

(10) CFC State Plan rate for Financial Management Services Agencies (FMSA) (only authorized for individuals receiving all of their CDS services under CFC): Rates will be equal to rates established for FMSAs for an equivalent non-CFC service under §355.114 of this title.

(11) Emergency Response Services (ERS)--CFC: Rates will be equal to rates established for ERS under §355.510 of this title (relating to Reimbursement Methodology for Emergency Response Services (ERS)).

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 30, 2025.



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 53. REGIONAL EDUCATION SERVICE CENTERS

SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §53.1002, §53.1021

The Texas Education Agency (TEA) proposes amendments to §53.1002 and §53.1021, concerning regional education service centers (RESCs). The proposed amendments would clarify existing rules, reflect current RESC practices, allow electronic application submissions, and replace the Performance Standards and Indicators Manual with a reference to online metrics.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 53.1002 allows the commissioner of education to appoint a non-voting charter school representative to the board of an RESC if at least one open-enrollment charter school operates in the region and outlines the eligibility, application, and appointment process for that role.

The proposed amendment to §53.1002 would clarify the term limits for charter members serving on RESC boards to ensure consistent understanding and implementation of the rule. Additionally, the amendment would permit applicants to submit their applications electronically to the commissioner, which would reduce the administrative burden and result in time and cost savings for both applicants and RESCs. A cross reference would also be updated to reflect a reorganization of charter school rules in 19 TAC Chapter 100.

Section 53.1021 authorizes the commissioner to establish and communicate performance standards and indicators for evaluating RESCs and their executive directors, as outlined in the manual adopted as Figure: 19 TAC §53.1021(b).

The proposed amendment would remove the current figure containing the outdated Performance Standards and Indicators Manual. This manual would be replaced by a new version, which would reflect more relevant and accurate metrics. The new manual would be published on the TEA website rather than included as a figure in the rule, allowing for easier updates and improved accessibility. Section 53.1021(c), which references the outdated manual, would also be removed.

FISCAL IMPACT: Alejandro Delgado, deputy commissioner for operations, 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. RESCs may have a decrease in postage costs if they choose to submit applications electronically.

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 limit an existing regulation by removing a manual from the current rule.

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 expand 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. Delgado 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 a reduction of administrative burden and costs for RESCs by introducing the electronic application process. In addition, replacing obsolete standards with current, relevant metrics published online would enhance transparency and ensure evaluations reflect present-day practices. 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: The public comment period on the proposal begins July 11, 2025, and ends August 11, 2025. 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 11, 2025. 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 amendments are proposed under Texas Education Code (TEC), §8.001, which provides the

commissioner of education with authority to decide any matter concerning the operation or administration of regional education service centers (RESCs); TEC, §8.003, which provides the commissioner of education with rulemaking authority regarding the local selection, appointment, and continuity of membership of RESC boards of directors; TEC, §8.101, which provides that the commissioner of education shall establish performance standards and indicators for evaluating RESCs; and TEC, §12.104, which provides that the commissioner of education with rulemaking authority to provide for the representation of open-enrollment charter schools in RESCs.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§8.001, 8.003, 8.101, and 12.104.

§53.1002. *Charter School Representation on Board of Directors.*

(a) Charter school member. Notwithstanding the provisions of §53.1001 of this title (relating to Board of Directors), where a regional education service center (RESC) has at least one open-enrollment charter school, as defined by §100.1001(6) [§100.1011(3)] of this title (relating to Definitions), approved to operate within its boundaries on or after June 1, and to which the RESC provides services, the commissioner of education shall appoint a representative of the open-enrollment charter schools in the region to serve as a non-voting member of the board of directors of that RESC as provided by this section.

(b) Term of office.

(1) A charter school member of an RESC board of directors shall be appointed for a one-year term. The term of office shall begin June 1[-] and may be extended for an additional [up to] three years, for a total of four years, by the commissioner.

(2) If a vacancy occurs due to death or resignation of a charter school member of an RESC board of directors, a 30-day period shall elapse, after notice has been given to the board chair, before the vacancy is filled.

(3) At the beginning of the 30-day period, notice of any vacancy shall be given to the president of the governing body and the chief executive officer of each open-enrollment charter school in the education service center region and shall be posted in appropriate locations.

(4) A vacancy for the unexpired term of a charter school member of an RESC board of directors shall be filled by appointment by the commissioner [of education].

(c) Appointment process.

(1) A charter school member of an RESC board of directors must be a United States citizen, [and] a resident of the State of Texas, and [must be] at least 18 years of age. A person may be appointed to serve as a charter school member of more than one RESC board of directors.

(2) Any eligible person wishing to seek appointment as a charter school member of an RESC board of directors shall file an application between February 1 and February 20. The application shall be in the form of a letter seeking appointment to a specific RESC board of directors. The letter must:

(A) include a description of the applicant's qualifications to serve as a charter member of the RESC board of directors;

(B) enclose letters of support signed by representatives from at least one open-enrollment charter school in the education service center region; and

(C) supply contact information for the persons signing the letters of support.

(3) The application for appointment as a charter school member of an RESC board of directors may be filed electronically by sending the application materials to the commissioner or by mail to the Commissioner of Education [if sent by certified United States mail, return receipt requested, or by an overnight courier service. The envelope must be addressed to the Charter School Division], Texas Education Agency, 1701 N. Congress Avenue, Austin, Texas 78701-1494.

(4) Not later than May 31, the commissioner [of education] shall notify the board of directors of each qualifying RESC of the commissioner's appointee to serve as the charter school member of that RESC board of directors effective June 1.

(d) No applicant appointed. If the commissioner does not select a representative from among the applicants under subsection (c) of this section, or if no applicant applies for such appointment, then there shall be a vacancy which shall be filled by appointment by the commissioner [of education].

§53.1021. *Regional Education Service Center Performance Standards and Indicators.*

(a) In accordance with the Texas Education Code, §8.101, the commissioner of education shall establish performance standards and indicators for regional education service centers (RESCs) to be used in the annual evaluation of each RESC [regional education service center] and executive director.

(b) The [specific] performance standards and indicators for evaluating [by which the commissioner shall evaluate] each RESC [regional education service center] and executive director will be published on the Texas Education Agency's website annually prior to the evaluation cycle [are described in the Regional Education Service Center Performance Standards and Indicators Manual provided in this subsection].

[Figure: 19 TAC §53.1021(b)]

[(e) The specific criteria used in the Regional Education Service Center Performance Standards and Indicators Manual are established by the commissioner and communicated to all regional education service centers and executive directors.]

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 30, 2025.

TRD-202502157

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: August 10, 2025

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

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TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 363. EXAMINATION AND REGISTRATION

22 TAC §363.4

The Texas State Board of Plumbing Examiners (Board) proposes an amendment to the existing rule at 22 Texas Administrative Code (TAC), Chapter 363, §363.4. The proposed change is referred to as the "proposed rule."

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

The Texas Occupations Code, Chapter 1301 (Plumbing License Law or PLL) was amended by House Bill 3214 (HB 3214), 89th Texas Legislature, Regular Session, 2025. The proposed rule implements the statutory change made by HB 3214.

HB 3214 amends the Plumbing License Law to reduce the minimum required work experience as a journeyman plumber from four years to two years in order to qualify for a master plumber license. Under this bill, a journeyman plumber may qualify to take the examination for a master plumber's license after holding a journeyman's license for two years. The bill aims to address a shortage of skilled plumbers in Texas by streamlining the path to becoming a master plumber, allowing capable professionals to advance more quickly and meet growing demand in the plumbing industry.

SECTION BY SECTION SUMMARY

Section 363.4 - The proposed rule amends the existing regulation by reducing the required number of years a journeyman plumber must be licensed--from four years to two--in order to qualify for the master plumber's licensing exam.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Lisa G. Hill, Executive Director for the board (Executive Director), has determined that for the first five-year period the proposed rule is in effect, there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the rule. The executive director has further determined that for the first five-year period the proposed rule is in effect, there will be no foreseeable losses or increases in revenue for the state or local governments as a result of enforcing or administering the rule.

PUBLIC BENEFITS

The executive director has determined that for each of the first five years the proposed rule is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be to have fewer regulatory barriers to licensure and greater opportunity to expand the population of licensed plumbers.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH THE RULE

The executive director has determined that for the first five years the proposed rule is in effect, there is no substantial economic costs anticipated to persons required to comply with the proposed rule.

ONE-FOR-ONE REQUIREMENT FOR RULE WITH A FISCAL IMPACT

Given that the proposed rule does not have a fiscal note which imposes a cost on regulated persons, including another state agency, a special district, or local government, proposal and adoption of the rule is not subject to the requirements of Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

For each of the first five years the proposed rule is in effect, the Board has determined the following: (1) the proposed rule does not create or eliminate a government program; (2) implementa-

tion of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the proposed rule does not require an increase or decrease in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand, limit, or repeal an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the proposed rule does not positively or adversely affect this state's economy.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

FISCAL IMPACT ON SMALL AND MICRO-BUSINESS, AND RURAL COMMUNITIES

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

TAKINGS IMPACT ASSESSMENT

There are no private real property interests affected by the proposed rule. As a result, preparation of a takings impact assessment, as provided by Government Code §2007.043, is not required.

PUBLIC COMMENTS

Written comments regarding the proposed rule may be submitted by mail to Patricia Latombe at 929 East 41st Street, Austin, Texas 78751, or by email to rule.comment@tsbpe.texas.gov with the subject line "Rule Amendment." All comments must be received within 30 days of publication of this proposal.

STATUTORY AUTHORITY

This proposal is made under the authority of Texas Occupations Code Chapter 1301 as proposed by HB 3214 during the 89th Legislative Session. Section 1301.251(2) of the Texas Occupations Code authorizes the Texas State Board of Plumbing Examiners to adopt rule as necessary to implement the Chapter.

No other statutes, articles, or codes are affected by the proposed rule.

§363.4. Master Plumber License.

To be eligible for a Master Plumber License an applicant must have held a Journeyman Plumber License issued in Texas or another state:

- (1) for at least two [~~four~~] years; or
- (2) for at least one year if the applicant has successfully completed a training program approved by the United States Department of Labor, Office of Apprenticeship or another nationally-recognized apprentice training program accepted by the Board.

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 30, 2025.
TRD-202502146



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 259. COMMUNITY LIVING ASSISTANCE AND SUPPORT SERVICES (CLASS) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) SERVICES

SUBCHAPTER B. ELIGIBILITY, ENROLLMENT, AND REVIEW DIVISION 1. ELIGIBILITY AND MAINTENANCE OF THE CLASS INTEREST LIST

26 TAC §259.51

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §259.51, concerning Eligibility Criteria for CLASS Program Services and CFC Services.

BACKGROUND AND PURPOSE

The 2026-2027 General Appropriations Act, Senate Bill 1, 89th Texas Legislature, Regular Session, 2025 (Article II, HHSC Rider 23) includes appropriations to increase the base wage for personal attendant services. This wage increase will impact Medicaid personal attendant reimbursement rates.

As a result of this direction and prior reimbursement rate increases, HHSC proposes to amend the waiver cost limit, where applicable, for the Community Living Assistance and Support Services (CLASS) waiver program to ensure the cost limits align with the rate increases. The purpose for increasing the waiver cost limit for an individual's plan of care (IPC) is to off-set the cost of higher personal attendant reimbursement rates while allowing the individual to continue to qualify for services in the CLASS Program by not exceeding the cost limit for the IPC.

HHSC will also propose an amendment in the waiver cost limit for an individual's IPC in the Deaf Blind with Multiple Disabilities and Texas Home Living Programs, and the waiver cost limits in the Home and Community-based Services Program, in this same issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §259.51(a)(4) amends the cost for the individual's IPC CLASS Program services to be 210 percent of the annualized cost of care in an ICF/IID using the un-weighted average of the current non-state-operated small facility daily rates for levels of need 1, 5, and 8, rounded to the nearest dollar. This change provides more funding to pay for the services an individual needs, including the higher cost for personal attendant-like services, while maintaining eligibility for the program.

FISCAL NOTE

Trey Wood, HHSC Chief Financial 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 government.

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. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rule.

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.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, State Medicaid Director, has determined that for each year of the first five years the rule is in effect, the public will benefit from this project because the individual cost limits allow individuals in the CLASS waiver program to adjust budgets to coincide with the individual plan of care for personal attendant and attendant-like services in alignment with the attendant rate increases. Similarly, providers will be reimbursed for the services provided to individuals according to their individual plans of care and waiver budgets.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated costs to comply with the rule because the rule does not impose a cost on regulated persons.

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 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 21 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 post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R038" 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 provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§259.51. *Eligibility Criteria for CLASS Program Services and CFC Services.*

- (a) An individual is eligible for CLASS Program services if:
 - (1) the individual meets the financial eligibility criteria described in Appendix B of the CLASS Program waiver application approved by CMS and available on the HHSC website;
 - (2) the individual is determined by HHSC to meet the LOC VIII criteria described in §261.239 of this title (relating to ICF/MR Level of Care VIII Criteria);
 - (3) the individual demonstrates a need for CFC PAS/HAB;
 - (4) the individual's IPC has an IPC cost for CLASS Program services at or below 210 percent of the annualized cost of care in an ICF/IID using the unweighted average of the current non-state operated small facility daily rates for level of need, as defined by the ICF/IID program rules in §261.203 of this title (relating to Definitions), 1, 5, and 8 rounded to the nearest dollar [§114,736.07];
 - (5) the individual is not enrolled in another waiver program or receiving a service that may not be received if the individual is enrolled in the CLASS Program, as identified in the Mutually Exclusive Services table in Appendix III of the Community Living Assistance and Support Services Provider Manual available on the HHSC website;
 - (6) the individual resides in the individual's own home or family home; and
 - (7) the individual requires the provision of:
 - (A) at least one CLASS Program service per month or a monthly monitoring by a case manager; and
 - (B) at least one CLASS Program service during an IPC period.

(b) Except as provided in subsection (c) of this section, an individual is eligible for a CFC service under this chapter if the individual:

- (1) meets the criteria described in subsection (a) of this section;
- (2) requires the provision of the CFC service; and
- (3) is not receiving SFS or CFS.

(c) To be eligible for a CFC service under this chapter, an individual receiving MAO Medicaid must, in addition to meeting the eligibility criteria described in subsection (b) of this section, receive a CLASS Program service at least monthly, as required by 42 CFR §441.510(d).

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 30, 2025.

TRD-202502158

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-2910



**CHAPTER 260. DEAF BLIND WITH
MULTIPLE DISABILITIES (DBMD) PROGRAM
AND COMMUNITY FIRST CHOICE (CFC)
SERVICES**

**SUBCHAPTER B. ELIGIBILITY,
ENROLLMENT, AND REVIEW
DIVISION 1. ELIGIBILITY AND
MAINTENANCE OF THE DBMD INTEREST
LIST**

26 TAC §260.51

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §260.51, concerning Eligibility Criteria for DBMD Program Services and CFC Services.

BACKGROUND AND PURPOSE

The 2026-2027 General Appropriations Act, Senate Bill 1, 89th Texas Legislature, Regular Session, 2025 (Article II, HHSC Rider 23) includes appropriations to increase the base wage for personal attendant services. This wage increase will impact Medicaid personal attendant reimbursement rates.

As a result of this direction and prior reimbursement rate increases, HHSC proposes to amend the waiver cost limit, where applicable, for the Deaf Blind with Multiple Disabilities (DBMD) waiver program to ensure the cost limits align with the rate increases. The purpose for increasing the waiver cost limit for an individual's plan of care (IPC) is to off-set the cost of higher personal attendant reimbursement rates while allowing the individual to continue to qualify for services in the DBMD Program by not exceeding the cost limit for the IPC.

HHSC will also propose an amendment in the waiver cost limit for an individual's IPC in the Community Living Assistance and Support Services, and Texas Home Living Programs, and waiver cost limits in the Home and Community-based Services in this same issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §260.51(a)(4) amends the cost for the individual's IPC DBMD Program services to be 210 percent of the annualized cost of care in an ICF/IID using the unweighted average of the current non-state-operated small facility daily rates for levels of need 1, 5, and 8, rounded to the nearest dollar. This change provides more funding to pay for the services an individual needs, including the higher cost for personal attendant-like services, while maintaining eligibility for the program.

FISCAL NOTE

Trey Wood, HHSC Chief Financial 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 government.

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. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rule.

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.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, State Medicaid Director, has determined that for each year of the first five years the rule is in effect, the public will benefit from this project because the individual cost limits allow individuals in the DBMD waiver program to adjust budgets

to coincide with the individual plan of care for personal attendant and attendant-like services in alignment with the attendant rate increases. Similarly, providers will be reimbursed for the services provided to individuals according to their individual plans of care and waiver budgets.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated costs to comply with the rule because the rule does not impose a cost on regulated persons.

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 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 21 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 post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R038" 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 provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§260.51. *Eligibility Criteria for DBMD Program Services and CFC Services.*

(a) An individual is eligible for DBMD Program services if:

(1) the individual meets the financial eligibility criteria as described in Appendix B of the DBMD Program waiver application approved by CMS and available on the HHSC website;

(2) the individual is determined by HHSC to meet the LOC VIII criteria described in §261.239 of this title (relating to ICF/MR Level of Care VIII Criteria);

(3) the individual, as documented on the ID/RC Assessment:

(A) has one or more diagnosed related conditions and, as a result:

(i) has deafblindness;

(ii) has been determined to have a progressive medical condition that will result in deafblindness; or

(iii) functions as a person with deafblindness; and

(B) has one or more additional disabilities that result in impairment to independent functioning;

(4) the individual has an IPC with a cost for DBMD Program services at or below 210 percent of the annualized cost of care in an ICF/IID using the unweighted average of the current non-state operated small facility daily rates for level of need, as defined by the ICF/IID program rules in §261.203 of this title (relating to Definitions), 1, 5, and 8 rounded to the nearest dollar [~~\$114,736.07~~];

(5) the individual is not enrolled in another waiver program or receiving a service that may not be received if the individual is enrolled in the DBMD Program, as identified in the Mutually Exclusive Services table in Appendix V of the Deaf Blind with Multiple Disabilities Program Manual;

(6) the individual does not reside in:

(A) an ICF/IID;

(B) a nursing facility;

(C) an ALF, unless it provides licensed assisted living in the DBMD Program;

(D) a residential child-care facility unless it is an agency foster home;

(E) a hospital;

(F) a mental health facility;

(G) an inpatient chemical dependency treatment facility;

(H) a residential facility operated by the Texas Workforce Commission;

(I) a residential facility operated by the Texas Juvenile Justice Department;

(J) a jail; or

(K) a prison;

(7) at least one program provider is willing to provide DBMD Program services to the individual;

(8) the individual resides or moves to reside in a county served by a program provider; and

(9) the individual requires the provision of:

(A) at least one DBMD Program Service per month or a monthly monitoring by a case manager; and

(B) at least one DBMD Program Service during an IPC period.

(b) Except as provided in subsection (c) of this section, an individual is eligible for a CFC service under this chapter if the individual:

(1) meets the criteria described in subsection (a) of this section;

(2) requires the provision of the CFC service; and

(3) is not receiving licensed assisted living or licensed home health assisted living.

(c) To be eligible for a CFC service under this chapter, an individual receiving MAO Medicaid must, in addition to meeting the

eligibility criteria described in subsection (b) of this section, receive a DBMD Program service at least monthly, as required by 42 CFR §441.510(d).

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 30, 2025.

TRD-202502159

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-2910



CHAPTER 262. TEXAS HOME LIVING (TxHmL) PROGRAM AND COMMUNITY FIRST CHOICE (CFC)

SUBCHAPTER B. ELIGIBILITY, ENROLLMENT, AND REVIEW

26 TAC §262.101

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §262.101, concerning Eligibility Criteria for TxHmL Program Services and CFC Services.

BACKGROUND AND PURPOSE

The 2026-2027 General Appropriations Act, Senate Bill 1, 89th Texas Legislature, Regular Session, 2025 (Article II, HHSC Rider 23) includes appropriations to increase the base wage for personal attendant services. This wage increase will impact Medicaid personal attendant reimbursement rates.

As a result of this direction and prior reimbursement rate increases, HHSC proposes to amend the waiver cost limit, where applicable, for the Texas Home Living (TxHmL) waiver program to ensure the cost align with the rate increases. The purpose for increasing the waiver cost limit for an individual's plan of care (IPC) is to off-set the cost of higher personal attendant reimbursement rates while allowing the individual to continue to qualify for services in the TxHmL Program by not exceeding the cost limit for the IPC.

HHSC will also propose an amendment in the waiver cost limit for an individual's IPC in the Community Living Assistance and Support Services, Deaf Blind with Multiple Disabilities, and the waiver cost limits in the Home and Community-based Services Programs in this same issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §262.101(a)(4) amends the cost for the individual's IPC TxHmL Program services to not exceed 50 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for level of need 1, rounded to the nearest dollar. This change provides more money to pay for the services an individual needs, including the higher cost to pay for personal attendant-like services, while maintaining eligibility for the program.

FISCAL NOTE

Trey Wood, HHSC Chief Financial 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 government.

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. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rule.

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.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, State Medicaid Director, has determined that for each year of the first five years the rule is in effect, the public will benefit from this project because the individual cost limits allow individuals in the TxHmL waiver program to adjust budgets to coincide with the individual plan of care for personal attendant and attendant-like services in alignment with the attendant rate increases. Similarly, providers will be reimbursed for the services provided to individuals according to their individual plans of care and waiver budgets.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated costs to comply with the rule because the rule does not impose a cost on regulated persons.

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 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 HHSCRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 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 25R038" 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 provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§262.101. Eligibility Criteria for TxHmL Program Services and CFC Services.

(a) An applicant or individual is eligible for TxHmL Program services if:

(1) the applicant or individual meets the financial eligibility criteria as described in Appendix B of the TxHmL waiver application approved by CMS and available on the HHSC website;

(2) the applicant or individual meets one of the following criteria:

(A) based on a DID and as determined by HHSC in accordance with §262.104 of this subchapter (relating to LOC Determination), the applicant or individual qualifies for an ICF/IID LOC I as defined in §261.238 of this title (relating to ICF/MR Level of Care I Criteria); or

(B) meets the following criteria:

(i) based on a DID and as determined by HHSC in accordance with §262.105 of this subchapter (relating to LON Assignment), qualifies for one of the following levels of care:

(I) an ICF/IID LOC I as defined in §261.238 of this title; or

(II) an ICF/IID LOC VIII as defined in §261.239 of this title (relating to ICF/MR Level of Care VIII Criteria);

(ii) meets one of the following:

(I) resides in a nursing facility immediately before enrolling in the TxHmL Program; or

(II) is at imminent risk of entering a nursing facility as determined by HHSC; and

(iii) is offered TxHmL Program services designated for a member of the reserved capacity group "Individuals with a level

of care I or VIII residing in a nursing facility" included in Appendix B of the TxHmL Program waiver application approved by CMS and available on the HHSC website;

(3) the applicant or individual has been assigned an LON in accordance with §262.105 of this subchapter;

(4) the applicant or individual has an IPC cost that does not exceed 50 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for LON 1, rounded to the nearest dollar [\$17,000];

(5) the applicant or individual is not enrolled in another waiver program and is not receiving a service that may not be received if the individual is enrolled in the TxHmL Program, as identified in the Mutually Exclusive Services table in Appendix I of the TxHmL Handbook available on the HHSC website;

(6) the applicant or individual has chosen, or the applicant's or individual's LAR has chosen, participation in the TxHmL Program over participation in the ICF/IID Program;

(7) the applicant's or individual's service planning team concurs that the TxHmL Program services and, if applicable, non-TxHmL Program services for which the applicant or individual may be eligible are sufficient to ensure the applicant's or individual's health and welfare in the community;

(8) the applicant or individual does not reside in:

(A) a hospital;

(B) an ICF/IID;

(C) a nursing facility;

(D) an assisted living facility licensed or subject to being licensed in accordance with THSC Chapter 247;

(E) a residential child care facility licensed by HHSC unless it is an agency foster home;

(F) an inpatient chemical dependency treatment facility;

(G) a mental health facility;

(H) a residential facility operated by the Texas Workforce Commission; or

(I) a residential facility operated by the Texas Juvenile Justice Department, a jail, or a prison; and

(9) the applicant or individual requires the provision of:

(A) at least one TxHmL Program service per month or a monthly monitoring visit by a service coordinator as described in §262.701(o) of this chapter (relating to LIDDA Requirements for Providing Service Coordination in the TxHmL Program); and

(B) at least one TxHmL Program service per IPC year.

(b) Except as provided in subsection (c) of this section, an applicant or individual is eligible for a CFC service under this subchapter if the applicant or individual:

(1) meets the criteria described in subsection (a) of this section; and

(2) requires the provision of the CFC service.

(c) To be eligible for a CFC service under this chapter, an applicant or individual receiving MAO Medicaid must, in addition to meeting the eligibility criteria described in subsection (b) of this section, receive a TxHmL Program service at least monthly, as required by

42 CFR §441.510(d), which may not be met by a monthly monitoring visit by a service coordinator as described in §262.701(o)(1) and (2) of this chapter.

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 30, 2025.

TRD-202502160

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-2910



CHAPTER 263. HOME AND COMMUNITY-BASED SERVICES (HCS) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) SUBCHAPTER B. ELIGIBILITY, ENROLLMENT, AND REVIEW

26 TAC §263.101

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §263.101, concerning Eligibility Criteria for HCS Program Services and CFC Services.

BACKGROUND AND PURPOSE

The 2026-2027 General Appropriations Act, Senate Bill 1, 89th Texas Legislature, Regular Session, 2025 (Article II, HHSC Rider 23) includes appropriations to increase the base wage for personal attendant services. This wage increase will impact Medicaid personal attendant reimbursement rates.

As a result of this direction and prior reimbursement rate increases, HHSC proposes to amend the waiver cost limit, where applicable, for the Home and Community-based Services waiver program to ensure the cost limits align with the rate increases. The purpose for increasing the waiver cost limit for an individual's plan of care (IPC) is to off-set the cost of higher personal attendant reimbursement rates while allowing the individual to continue to qualify for services in the HCS Program by not exceeding the cost limit for the IPC.

HHSC will also propose an amendment in the waiver cost limit for an individual's IPC in the Community Living Assistance and Support Services, Deaf Blind with Multiple Disabilities, and Texas Home Living Programs in this same issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §263.101(a)(3)(A) amends the cost for the individual's IPC HCS Program services to be 210 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for level of need (LON) 8, rounded to the nearest dollar for an applicant or individual with an LON 1, LON 5, or LON 8. This change provides more money to pay for the services an individual needs, including the higher cost to pay for personal attendant-like services, while maintaining eligibility for the program.

The proposed amendment to §263.101(a)(3)(B) amends the cost for the individual's IPC HCS Program services to be 210 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for LON 6, rounded to the nearest dollar for an applicant or individual with an LON 6. This change provides more money to pay for the services an individual needs, including the higher cost to pay for personal attendant-like services, while maintaining eligibility for the program.

The proposed amendment to §263.101(a)(3)(C) amends the cost for the individual's IPC HCS Program services to be 210 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for LON 9, rounded to the nearest dollar for an applicant or individual with an LON 9. This change provides more money to pay for the services an individual needs, including the higher cost to pay for personal attendant-like services, while maintaining eligibility for the program.

FISCAL NOTE

Trey Wood, HHSC Chief Financial 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 government.

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. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rule.

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.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, State Medicaid Director, has determined that for each year of the first five years the rule is in effect, the public will benefit from this project because the individual cost limits allow individuals in the HCS waiver program to adjust budgets to coincide with the individual plan of care for personal attendant and attendant-like services in alignment with the attendant rate increases. Similarly, providers will be reimbursed for the services provided to individuals according to their individual plans of care and waiver budgets.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated costs to comply with the rule because the rule does not impose a cost on regulated persons.

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 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 21 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 post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R038" 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 provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§263.101. Eligibility Criteria for HCS Program Services and CFC Services.

(a) An applicant or individual is eligible for HCS Program services if the applicant or individual:

(1) meets the financial eligibility criteria as described in Appendix B of the HCS Program waiver application approved by CMS and available on the HHSC website;

(2) meets one of the following criteria:

(A) based on a DID and as determined by HHSC in accordance with §263.105 of this subchapter (relating to LOC Determination), qualifies for an ICF/IID LOC I, as defined in §261.238 of this title (relating to ICF/MR Level of Care I Criteria);

(B) as determined by HHSC in accordance with §263.105 of this subchapter, qualifies for an ICF/IID LOC I as defined in §261.238 of this title or ICF/IID LOC VIII, as defined in §261.239 of this title (relating to ICF/MR Level of Care VIII Criteria), and has been determined by HHSC:

(i) to have an intellectual disability or a related condition;

(ii) to need specialized services; and

(iii) to be inappropriately placed in a Medicaid certified nursing facility based on an annual resident review conducted in accordance with the requirements of Chapter 303 of this title (relating to Preadmission Screening and Resident Review (PASRR)); or

(C) meets the following criteria:

(i) based on a DID and as determined by HHSC in accordance with §261.237 of this title (relating to Level of Care) qualifies for one of the following levels of care:

(I) an ICF/IID LOC I as defined in §261.238 of this title; or

(II) an ICF/IID LOC VIII as defined in §261.239 of this title;

(ii) meets one of the following:

(I) resides in a nursing facility immediately before enrolling in the HCS Program; or

(II) is at imminent risk of entering a nursing facility as determined by HHSC; and

(iii) is offered HCS Program services designated for a member of the reserved capacity group "Individuals with a level of care I or VIII residing in a nursing facility" included in Appendix B of the HCS Program waiver application approved by CMS and available on the HHSC website;

(3) has an IPC cost that does not exceed:

(A) 210 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for LON 8, rounded to the nearest dollar [\$167,468] for an applicant or individual with an LON 1, LON 5, or LON 8;

(B) 210 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for LON 6, rounded to the nearest dollar [\$168,615] for an applicant or individual with an LON 6; or

(C) 210 percent of the annualized cost of care in an ICF/IID using the current non-state-operated small facility daily rate for LON 9, rounded to the nearest dollar [\$305,877] for an applicant or individual with an LON 9;

(4) is not enrolled in another waiver program and is not receiving a service that may not be received if the individual is enrolled in the HCS Program as identified in the Mutually Exclusive Services table in Appendix II of the HCS Handbook available on the HHSC website;

(5) does not reside in:

(A) a hospital;

(B) an ICF/IID;

(C) a nursing facility;

(D) an ALF;

(E) a residential child care facility licensed by HHSC unless it is an agency foster home;

(F) an inpatient chemical dependency treatment facility;

(G) a mental health facility;

(H) a residential facility operated by the Texas Workforce Commission; or

(I) a residential facility operated by the Texas Juvenile Justice Department, a jail, or a prison; and

(6) requires the provision of:

(A) at least one HCS Program service per month or a monthly monitoring visit by a service coordinator as described in §263.901(e)(40) of this chapter (relating to LIDDA Requirements for Providing Service Coordination in the HCS Program); and

(B) at least one HCS Program service per IPC year.

(b) For applicants or individuals with spouses who live in the community, the income and resource eligibility requirements are determined according to the spousal impoverishment provisions in §1924 of the Social Security Act and as specified in the Medicaid State Plan.

(c) Except as provided in subsection (d) of this section, an applicant or individual is eligible for a CFC service under this chapter if the applicant or individual:

(1) meets the criteria described in subsection (a) of this section;

(2) requires the provision of the CFC service; and

(3) is not receiving host home/companion care, supervised living, or residential support.

(d) To be eligible for a CFC service under this chapter, an applicant or individual receiving MAO Medicaid must, in addition to meeting the eligibility criteria described in subsection (c) of this section, receive an HCS Program service at least monthly, as required by 42 CFR §441.510(d), which may not be met by a monthly monitoring visit by a service coordinator as described in §263.901(e)(40) of this chapter.

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 30, 2025.

TRD-202502161

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-2910



CHAPTER 745. LICENSING SUBCHAPTER J. WAIVERS AND VARIANCES FOR MINIMUM STANDARDS

26 TAC §745.8301

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §745.8301, concerning What words must I know to understand

this subchapter, in Title 26, Texas Administrative Code, Chapter 745, Licensing.

BACKGROUND AND PURPOSE

The purpose of this proposal is to implement House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023, which requires Child Care Regulation (CCR) to collaborate with the Department of Family and Protective Services (DFPS) to develop and adopt a set of licensing and approval standards for kinship foster homes pursuant to the adoption of federal rules. The Administration for Children and Families amended 45 Code of Federal Regulations (CFR) Parts 1355 and 1356, with the amendments effective on November 27, 2023. The amendments allow CCR to adopt a set of licensing or approval standards for all kinship foster homes that (1) are different from the standards used for non-kinship foster homes, and (2) will allow a child-placing agency (CPA) to issue a foster home verification to a kinship foster home that meets the new standards.

CCR is proposing an amendment to §745.8301(3) to amend the definition of "kinship foster home" to be consistent with how the term is defined across CCR and DFPS rules.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §745.8301 (1) expands the definition of kinship foster home to include foster parents who have a longstanding and significant relationship with the foster child's family; (2) removes language from the rule for consistency with language in DFPS rules and (3) replaces "Licensing" with "Child Care Regulation (CCR)"; and (4) renames the section to "Definitions for Subchapter J."

FISCAL NOTE

Trey Wood, Chief Financial 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 regulations;
- (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 rule does not impose any additional

costs on small businesses, micro-businesses, or rural communities that are required to comply with the rule.

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 is necessary to protect the health, safety and welfare of the residents of Texas; does not impose a cost on regulated persons; is necessary to receive a source of federal funds or comply with federal law; and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Rachel Ashworth-Mazerolle, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rule is in effect, the public benefit will be improved regulatory consistency by aligning definitions across agencies.

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 the rule does not impose fees and a CPA is not required to verify kinship foster homes.

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 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 21 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 24R047" in the subject line.

STATUTORY AUTHORITY

The amended section 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The amended section affects Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§745.8301. *Definitions for Subchapter J. [What words must I know to understand this subchapter?]*

These words have the following meanings in this subchapter:

(1) Foster family home--A home that is the primary residence of the foster parent or parents and provides care to six or fewer children or young adults, under the regulation of a child-placing agency. Also referred to as "foster home."

(2) Foster parent--A person verified to provide child care services in the foster home.

(3) Kinship foster home--A foster family home with a foster parent or parents who:

(A) Is related to a foster child by consanguinity or affinity; or

(B) Has a longstanding and significant relationship with the foster child or ~~[before the child is placed with]~~ the foster child's family ~~[parent]~~.

(4) Variance--A decision by Child Care Regulation (CCR) that there is good and just cause for an operation to meet the purpose of a minimum standard in a different way.

(5) ~~[(4)]~~ Waiver--A decision by CCR ~~[Licensing]~~ that waives an operation's compliance with a minimum standard if the economic impact of compliance with that standard is great enough to make compliance impractical.

~~[(5) Variance--A decision by Licensing that there is good and just cause for an operation to meet the purpose of a minimum standard in a different way.]~~

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 26, 2025.

TRD-202502131

Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



CHAPTER 749. MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §749.2472 and new §§749.4401, 749.4403, 749.4421, 749.4423, 749.4425, 749.4427, 749.4429, 749.4441, 749.4443, 749.4445, 749.4447, 749.4449, 749.4451, 749.4461, 749.4463, 749.4465, 749.4471, 749.4473, 749.4475, 749.4477, 749.4479, 749.4481, 749.4483, 749.4485, 749.4487, 749.4489, 749.4491, 749.4493, 749.4501, 749.4503, 749.4505, 749.4507, 749.4509, 749.4511, 749.4513, 749.4515, 749.4517, 749.4519, 749.4521, 749.4523, 749.4551, 749.4553, 749.4555, 749.4557, 749.4559, 749.4561, 749.4563, 749.4565, 749.4567, 749.4569, 749.4571, 749.4573, 749.4575, 749.4577, 749.4579, and 749.4581 in Texas Administrative Code, Title 26, Chapter 749, Minimum Standards for Child-Placing Agencies.

BACKGROUND AND PURPOSE

The purpose of this proposal is to implement House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023, which requires Child

Care Regulation (CCR) to collaborate with the Department of Family and Protective Services (DFPS) to develop and adopt a set of licensing and approval standards for kinship foster homes pursuant to the adoption of federal rules. The Administration for Children and Families amended 45 Code of Federal Regulations (CFR) Parts 1355 and 1356, with the amendments effective on November 27, 2023. The amendments allow CCR to adopt a set of licensing or approval standards for all kinship foster homes that (1) are different from the standards used for non-kinship foster homes, and (2) will allow a child-placing agency (CPA) to issue a foster home verification to a kinship foster home that meets the new standards.

CCR is proposing the repeal of §749.2472 and new rules, in new Subchapter W of Chapter 749, to establish a CPA's ability to issue a non-expiring foster home verification to a kinship foster home.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §749.2472 deletes the rule as it is no longer necessary because the content of the rule has been modified and moved to new §749.4503(a)(2).

Proposed new Subchapter W, Kinship Foster Homes, adds a new subchapter in Chapter 749 for rules related to kinship foster homes as listed below.

Proposed new Division 1, Definitions and Scope, in Subchapter W, (1) contains definitions for words and terms used in Subchapter W; and (2) establishes who is required to comply with the rules.

Proposed new §749.4401, Definitions for Subchapter W, provides terms and definitions that are used throughout the subchapter. The rule (1) includes definitions for the terms "affinity" and "consanguinity," which are identical to the definitions found in Chapter 745, Licensing, Subchapter A, §745.21; and (2) adds definitions for "kinship caregiver," "kinship foster child," "kinship foster home," "kinship foster home verification," and "kinship foster parent."

Proposed new §749.4403, Scope, establishes that a CPA must comply with the rules in new Subchapter W (1) before issuing a kinship foster home verification and (2) while the kinship foster home verification is in effect. It also identifies the other subchapters in Chapter 749 that apply to kinship foster homes. The rule clarifies that if a home is both a foster family home and a kinship foster home, the home may follow the rules in Subchapter W relating to the direct care of a kinship foster child, but the home must: (1) be verified as a kinship foster home; and (2) follow all other applicable rules in Chapter 749 for non-kinship foster children.

Proposed new Division 2, Pre-Verification and Ongoing Training Requirements, in Subchapter W, contains rules relating to training requirements for kinship caregivers.

Proposed new §749.4421, Documentation of Required Trainings, establishes documentation requirements for required trainings. The rule requires a CPA to document the completion of all required trainings and signed agreements. It also requires that certificates for pediatric first aid and pediatric cardiopulmonary resuscitation have an expiration date and be renewed prior to the expiration date. The rule clarifies that if a CPA requires a home to complete additional training, the documentation must include (1) the topics covered; (2) the curriculum used; and (3) how the CPA determined which training topics to use.

Proposed new §749.4423, Pre-Verification Training Requirements, establishes pre-verification training requirements. The rule requires each kinship caregiver to have pre-verification training that includes: (1) an overview of the minimum standards in Chapter 749 the kinship caregiver must follow; (2) the CPA's philosophy, structure, policies, and services; (3) a review of the prudent parent standard; (4) a review of the agreements between the CPA and kinship foster parents; and (5) a review of the CCR Statement of Foster Parents and Child-Placing Agency Rights and Responsibilities.

Proposed new §749.4425, Pediatric First Aid and Pediatric Cardiopulmonary Resuscitation (CPR) Requirements, requires one kinship foster parent to be certified in pediatric first aid and pediatric CPR prior to the home's verification. The rule allows subsequent caregivers to be certified within 90 days after the CPA issues the home's verification. The rule clarifies that the training must (1) include rescue breathing and choking, and (2) adhere to guidelines for CPR established by the American Heart Association.

Proposed new §749.4427, General Training Requirements, establishes the general training requirements and timeframes for completion for kinship caregivers. The rule requires all kinship caregivers to complete four hours of general training and at least six hours of emergency behavior intervention training within 60 days after the CPA issues the home's verification. If the home will care for children younger than two years of age, it also requires one kinship foster parent to complete safe sleep training prior to the CPA verifying the home; the rule additionally requires all other caregivers in the home to complete safe sleep training within 90 days after the verification. For all caregivers that administer psychotropic medication, the rule requires them to complete training on administering psychotropic medication prior to administering the medication. The rule specifies that general caregiver training must include specific curriculum requirements; however, for the other trainings, the CPA must determine the appropriate curriculum.

Proposed new §749.4429, Additional Training Requirements, establishes the additional training requirements for kinship caregivers. The rule requires the CPA to annually evaluate the kinship foster home for any areas of non-compliance with minimum standards. If the CPA identifies areas of non-compliance with minimum standards, the rule requires the CPA to provide all kinship caregivers in the home with additional training appropriate to the areas of non-compliance. The rule also requires the CPA to provide at least one hour of annual training to each kinship foster parent that provides care to a kinship foster child receiving treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder.

Proposed new Division 3, Admission and Placement, in Subchapter W, contains rules related to the admission and placement of kinship foster children.

Proposed new §749.4441, Admission Criteria, establishes criteria for admitting a kinship foster child. The rule (1) allows for regular or emergency admissions; (2) requires the CPA to ensure the placement meets the kinship foster child's needs; and (3) establishes situations when an individual over the age of 18 years old can remain in care or be admitted into the care of a kinship foster home.

Proposed new §749.4443, Documentation of Admission Information, specifies the admission information that a CPA must document into a kinship foster child's record.

Proposed new §749.4445, Initial Requirements at the Time of Admission or Verification, establishes the initial admission requirements for a kinship foster child. The rule requires the CPA to obtain specific information about the child, including (1) the circumstances that brought the child into care; (2) the child's current health status and medical conditions; (3) high-risk behaviors, including a suicide risk screening when applicable; (4) known contraindications to the use of restraint; and (5) any safety plans the kinship caregiver will implement related to the behaviors or risk factors.

Proposed new §749.4447, Placement Agreement, describes the general purpose of a placement agreement and specifies what the agreement must include.

Proposed new §749.4449, Admission Assessment, establishes requirements for the admission assessment. The rule describes functions for which the CPA must use information obtained during the assessment; timeframes for when the assessment must be completed; and what the assessment must include. For a child who is over three years of age, the rule also allows the CPA to use a written assessment of the child's needs provided by DFPS in lieu of the admission assessment; this documentation is presently entitled the Child Assessment of Needs and Strengths (CANS).

Proposed new §749.4451, Post-Placement Contacts, establishes requirements for post-placement contacts with the kinship foster child. The rule requires the CPA to have monthly face-to-face contact with a kinship foster child. The rule establishes requirements for the length and content of the visits.

Proposed new Division 4, Medical and Dental Requirements, in Subchapter W, contains rules related to medical and dental requirements for kinship foster children.

Proposed new §749.4461, Documentation Requirements for Medical and Dental Care, establishes documentation requirements related to medical and dental care. The rule specifies information the CPA must verify is documented in the kinship foster child's health passport or record; information a kinship foster home must maintain in a daily medication log for the child on a form provided by the CPA; and documentation requirements when a kinship caregiver fails to administer any medication to the child according to the medication label or subsequent signed orders.

Proposed new §749.4463 General Medical, Dental, and Medication Requirements, establishes the general medical, dental, and medication requirements. The rule describes requirements for medical and dental care that a kinship foster child must receive and requires (1) a kinship foster child to receive timely routine and emergency medical and dental care; (2) the CPA to verify that a kinship foster child at least three years of age has had (A) a medical examination in the last year and (B) a dental examination in the last year; (3) all medications to be administered according to the label or to a prescriber's subsequent signed orders; and (4) all medications to be stored securely and in a way that makes them inaccessible to kinship foster children.

Proposed new §749.4465, Immunization and Tuberculosis Testing, establishes requirements for immunizations and tuberculosis testing for kinship foster children.

Proposed new Division 5, Daily Care, Education, and Discipline, in Subchapter W contains rules relating to the daily care, education, and discipline of kinship foster children.

Proposed new §749.4471, Normalcy, requires a kinship foster parent to ensure a kinship foster child can participate in childhood activities, including unsupervised activities, that are appropriate in relation to the child's age and developmental needs.

Proposed new §749.4473, Infants: Basic Care and Supervision, establishes basic care and supervision requirements for infants in a kinship foster home. The rule establishes (1) that infants receive individual and prompt attention; (2) environmental requirements, including (A) keeping the area free of harmful objects, including diaper changing items, and (B) ensuring electrical outlets are inaccessible; and (3) that an infant may never be left unsupervised. The rule defines what is considered supervision for a sleeping infant, an awake infant, and further establishes supervision requirements.

Proposed new §749.4475, Infants: Cribs, establishes crib requirements for infants. The rule (1) requires a kinship foster home to have an individual crib that meets certain requirements for an infant; (2) clarifies when the home may use a full-sized, portable, or mesh-side crib; (3) prohibits (A) using a stackable crib for an infant and (B) leaving an infant in a crib portable crib, or mesh-side crib with a side folded down; (4) clarifies that special items may be used to assist with safe sleep in a crib used by an infant with primary medical needs with the written recommendation from a health care professional; and (5) requires the CPA to notify the parent of each child in care of each foster home verified by the CPA if specific rules in this section are cited as deficient.

Proposed new §749.4477, Infants: Safe Sleep Requirements, establishes safe sleep requirements for infants. The rule requires kinship caregivers to (1) place an infant who is unable to turn over unassisted in a face up sleeping position unless they have signed orders from a health care professional; (2) ensure the infant's head, face, and crib are not covered by any item; (3) ensure the infant does not (A) co-sleep with an adult or (B) sleep in a restrictive device, such as a car seat, swing, or highchair; and (4) ensure infants who can roll over are not swaddled. The rule requires the CPA to notify the parent of each child in care of each foster home verified by the CPA if specific rules in this section are cited as deficient.

Proposed new §749.4479, Infants: Equipment Safety, establishes equipment safety requirements for infants.

Proposed new §749.4481, Infants: Feeding Requirements, establishes feeding requirements for infants. The rule requires kinship caregivers to (1) feed an infant based on the recommendations of the infant's health-care professional; (2) hold infants birth through six months old or unable to sit unassisted while feeding; (3) never prop a bottle with anything other than the infant's or adult's hands; and (4) sterilize shared bottles and clean highchair trays before each use when caring for more than one infant.

Proposed new §749.4483, Toddlers: Basic Care Requirements, establishes basic care requirements for toddlers. The rule includes (1) environmental requirements, including (A) keeping the area free of harmful objects, and (B) ensuring electrical outlets are inaccessible; and (2) supervision requirements, including (A) never leaving a toddler unsupervised, and (B) ensuring the toddler is within eyesight or hearing range. The rule allows for the use of video camera or audio monitoring if the kinship caregiver is close enough to intervene as needed.

Proposed new §749.4485, Additional Requirements for Pregnant Kinship Foster Children, establishes additional requirements for pregnant kinship foster children. The rule requires the

CPA to ensure information, training, and counseling is available to the kinship foster child.

Proposed new §749.4487, Additional Requirements for Kinship Foster Children Receiving Treatment Services for Primary Medical Needs or Intellectual Disabilities, establishes additional requirements for kinship foster children receiving treatment services for primary medical needs or intellectual disabilities. The rule requires kinship caregivers to (1) follow recommendations from the kinship foster child's medical providers; and (2) ensure that a kinship foster child receiving treatment services for primary medical needs or an intellectual disability has opportunities for sensory stimulation.

Proposed new §749.4489, Educational Services: General, establishes general educational requirements for kinship foster children. The rule requires the CPA to arrange appropriate education that includes an approved or accredited educational facility or program, and to advocate for a kinship foster child to receive educational and related services to which they are entitled under federal and state law. The rule establishes specific requirements for kinship foster children with autism spectrum disorder. The rule also requires the CPA to designate a liaison between the agency and the school for a kinship foster child who receives treatment services.

Proposed new §749.4491, Education Services: Caregiver Responsibilities, establishes kinship caregiver responsibilities related to education. The rule requires kinship caregivers to (1) request educational meetings with the school if concerns are identified; (2) attend scheduled educational meetings and staffings; and (3) know what is in the kinship foster child's Individual Education Plan.

Proposed new §749.4493, Discipline and Punishment, establishes discipline and punishment requirements in a kinship foster home. The rule requires (1) only a kinship caregiver known to a kinship foster child can discipline the child; and (2) all disciplinary measures be consistent with child's rights related to discipline and punishment.

Proposed new Division 6, Screenings and Verifications, in Subchapter W contains rules relating to the requirements for kinship home screenings and the verification of kinship foster homes.

Proposed new §749.4501, General Requirements, establishes the general requirements for a kinship foster home verification. The rule (1) requires kinship parents to be at least 18 years old; (2) establishes circumstances when a CPA can verify an individual spouse as a kinship foster parent; and (3) prohibits a kinship foster home from being verified by more than one CPA at a time for kinship foster care services.

Proposed new §749.4503, Kinship Foster Home Screenings, establishes the steps that a CPA takes to complete a home screening for a kinship foster home. The rule clarifies that the CPA (1) may (A) complete the home screening as detailed in the rule, or (B) use a completed home assessment obtained from the Department of Family and Protective Services (DFPS) or Single Source Continuum Contractor (SSCC) that meets the requirements of the Subchapter W, Division 5; and (2) must update a kinship foster home screening any time there is a major life change. The rule describes the specific categories of information that the CPA must discuss, document, and assess through interviews with each prospective kinship foster parent and joint interviews. The rule also requires a CPA to report to CCR any information obtained about domestic violence.

Proposed new §749.4505, Verifying a Kinship Foster Home, establishes steps the CPA takes to complete a kinship foster home verification. The rule requires the CPA to (1) complete and document requirements of Subchapter W, Division 5; (2) obtain a sketch or photo of the inside and outside of the home; (3) inspect the home and ensure and document compliance with applicable rules relating to Daily Care, Education, and Discipline, and Health and Safety Requirements, Environment, Space, and Equipment; (4) evaluate and make recommendations about the home's ability to keep children safe; (5) document (A) any indicators of substantial safety risk to children based on the evaluation of the home and (B) how the CPA addressed them prior to approving and verifying the home; (6) obtain from the child placement management staff (CPMS) (A) review and approval of the home screening and (B) recommendation for verification of the home; and (7) issue a verification certificate that includes (A) the name of the kinship foster family, (B) capacity details, and (C) services the kinship foster home provides.

Proposed new §749.4507, Previously Verified Kinship Foster Homes, establishes requirements for working with kinship foster homes that were previously verified by or transferring from another CPA.

Proposed new §749.4509, Releasing Information About a Previously Verified Kinship Foster Home, establishes requirements for releasing information about a previously verified kinship foster home. The rule requires a CPA to release background information about current and previous kinship foster homes to other CPAs and independent contractors who are hired or required by the court.

Proposed new §749.4511, Changes to the Verification Status of a Kinship Foster Home, establishes requirements for changing the verification status of a kinship foster home. The rule (1) describes changes a CPA must inform CCR about within two business days; (2) requires that child placement management staff ensure that any additional services offered by a kinship foster home do not create a conflict of care with children currently in the home; and (3) includes requirements for when a kinship foster home adds a new, unrelated household member.

Proposed new §749.4513, Transferring or Closing a Kinship Foster Home, establishes the criteria for a transfer or closing summary for a kinship foster home, including what the summary must include and timeframes for their completion.

Proposed new §749.4515, Temporary Kinship Foster Home Verifications, establishes criteria for issuing a temporary kinship foster home verification, including inspection requirements, that the temporary verification can be valid for a maximum of six months, and that the CPA must ensure compliance with requirements in subchapter W before issuing a non-expiring kinship foster home verification to the home at the new location.

Proposed new §749.4517, Capacity and Child/Caregiver Ratio, establishes capacity and child/caregiver ratio for a kinship foster home.

Proposed new §749.4519, Supervision, establishes supervision requirements at a kinship foster home. The rule addresses what the CPA must ensure that the supervision of a kinship foster child accounts for; describes the responsibilities of a kinship caregiver; and information that a kinship caregiver must have when a kinship foster child participates in an unsupervised childhood activity.

Proposed new §749.4521, Kinship Foster Children as Babysitters, establishes requirements for when a kinship foster child may act as a babysitter.

Proposed new §749.4523, Respite Child-Care Services, establishes that a kinship foster home may only provide respite care services for kinship foster children. The rule requires the CPMS to (1) approve of any respite placement to ensure the respite care will not cause a conflict of care; and (2) ensure information is shared about kinship foster children for continuity of care.

Proposed new Division 7, Health and Safety Requirements, Environment, Space, and Equipment, in Subchapter W, contains rules relating to health and safety, environment, space, and equipment in kinship foster homes.

Proposed new §749.4551, Documentation of Health and Safety Requirements, establishes what a CPA must document in a kinship foster home's record related to health and safety requirements.

Proposed new §749.4553, Health and Fire Inspections, establishes requirements for health and fire inspections or evaluations at a kinship foster home. The rule describes who must conduct each type of inspection or evaluation and requires a home to correct deficiencies and comply with any conditions or restrictions.

Proposed new §749.4555, Emergency Plans, establishes requirements for a written plan that a kinship foster home must have for handling potential disasters and emergencies, including fire and severe weather. The rule requires the CPA that verified the home to annually review and evaluate the plan with all kinship caregivers and kinship foster children in the home. The rule allows the CPA to develop the plan or to obtain a copy of the plan the kinship foster family developed with DFPS or the relevant Single Source Continuum Contractor.

Proposed new §749.4557, Fire Safety, establishes fire safety requirements. The rule includes the places in a kinship foster home where there must be a working smoke detector; a requirement for the home to have at least one non-expired and operational fire extinguisher that is accessible in an emergency; and that the home must ensure that exits to the home are not blocked.

Proposed new §749.4559, Animals, requires that any animals in a kinship foster home do not pose a health or safety threat to kinship foster children.

Proposed new §749.4561, Weapons, Firearms, Explosive Materials, and Projectiles at a Kinship Foster Home, establishes requirements related to weapons, firearms, explosive materials, and projectiles at a kinship foster home. The rule requires a CPA to have a policy identifying specific precautions to ensure that a kinship foster child does not have unsupervised access to these items; requires the CPA to determine whether it is appropriate for a specific kinship foster child to use a weapon, firearm, explosive material, or projectile or to use a toy that explodes or shoots; and exempts a firearm that is inoperable and solely ornamental from storage requirements.

Proposed new §749.4563, Storage of Weapons, Firearms, Explosive Materials, or Projectiles in a Kinship Foster Home, establishes what factors the CPA must consider when determining if a weapon, firearm, explosive material, or projectile is stored adequately in a kinship foster home. The rule specifies that a CPA may not require a kinship foster home to disclose the specific types of firearms that are stored or otherwise present in the kinship foster home, nor may a CPA require a kinship foster home

to notify the CPA if there is any change in the types of firearms present in the home.

Proposed new §749.4565, Determining Weapons, Firearms, Explosive Materials, or Projectiles are Present in a Kinship Foster Home, establishes how a CPA determines if weapons, firearms, explosive materials, and projectiles are present at a kinship foster home. The rule requires the CPA to assess this information during the home screening and document (1) whether weapons, firearms, explosive materials, or projectiles are present in the home; and (2) specific precautions the kinship caregiver must take to ensure that the kinship foster children do not have unsupervised access. The rule specifies that a CPA may not require a kinship foster home to disclose the specific types of firearms that are present in the kinship foster home or to notify the CPA if there is any change in the types of firearms present in the home. The rule further requires the CPA to discuss these items with the kinship foster home during the two-year evaluation.

Proposed new §749.4567, Transporting a Kinship Foster Child in a Vehicle Where Firearms, Explosive Materials, or Projectiles are Present, establishes requirements for transporting a kinship foster child in a vehicle where firearms, explosive materials, or projectiles are present. Due to the statutory requirements in Texas Human Resources Code §42.042(e-2), the rule addresses requirements related to transporting a child in a vehicle where a handgun is present separately from requirements related to transporting a child in a vehicle where another type of firearm or an explosive material or projectile is present.

Proposed new §749.4569, Physical Environment of a Kinship Foster Home, establishes requirements related to the safety of indoor and outdoor space and equipment. The rule requires the home to ensure that indoor and outdoor space and equipment do not pose a safety risk to kinship foster children. The rule also includes supervision requirements to prevent a kinship foster child from having access to space or equipment, if necessary, based on the child's age, maturity, and service plan restrictions.

Proposed new §749.4571, Indoor Space: Sleeping Spaces and Sleeping Surfaces, establishes requirements related to sleeping spaces and surfaces used by a kinship foster child, as well as what CPMS must determine and document before approving a kinship foster child to share a sleeping space or surface with another individual.

Proposed new §749.4573, Indoor Space: Bathrooms, describes bathroom requirements for a kinship foster home.

Proposed new §749.4575, Nutrition and Food Safety, establishes requirements for food and food safety at a kinship foster home, including that (1) kinship caregivers provide kinship foster children with drinking water and food that is served in a safe and sanitary manner; and (2) all food items are stored in a manner that protects them from contamination, spoiling, and insects and rodents.

Proposed new §749.4577, Transportation, establishes requirements for transporting a kinship foster child. The rule requires (1) kinship caregivers to secure safe and reliable transportation; (2) special provisions to be made for transporting non-ambulatory and non-mobile children; and (3) each kinship foster child to be secured in a safety seat or safety belt appropriate to their age, height, and weight.

Proposed new §749.4579, Water Safety: Pools, Hot Tubs, and Bodies of Water, establishes general water safety rules. The rule includes requirements related to a door alarm or lock; the bottom

of a pool having to be visible; and swimming pool chemicals and machinery being inaccessible to kinship foster children.

Proposed new §749.4581, Swimming Supervision, establishes supervision requirements for swimming activities. The rule requires kinship caregivers to (1) inform each kinship foster child about house rules related to water activities; (2) adequately supervise and monitor kinship foster children while participating in water activities; (3) ensure that a kinship foster child has access to a lifesaving device when participating in water activities; and (4) be able to clearly see all parts of the swimming pool or hot tub while supervising. The rule defines "personal floatation device" (PFD) and requires a kinship foster child who is unable to swim to wear a PFD of the correct size for the child while participating in water activities.

FISCAL NOTE

Trey Wood, 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

HHSC has determined that during the first five years that 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 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 new regulations;
- (6) the proposed rules will repeal existing regulations;
- (7) the proposed rules will not change 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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

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; are necessary to receive a source of federal funds or comply with federal law; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Rachel Ashworth-Mazerolle, Associate Commissioner for Child Care Regulation, has determined that for each year of the first

five years the rules are in effect the public benefit will be (1) increased safety and well-being of foster children placed with kinship caregivers who meet basic health and safety requirements; (2) kinship providers who can accept foster children more quickly with rules that are unique to kinship providers; and (3) rules that comply with state law.

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 the rules do not impose fees and a CPA is not required to verify kinship foster homes.

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 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 21 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 24R047" in the subject line.

SUBCHAPTER M. FOSTER HOMES: SCREENINGS AND VERIFICATIONS DIVISION 3. VERIFICATION OF FOSTER HOME

26 TAC §749.2472

STATUTORY AUTHORITY

The repealed sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.2472. Are there any additional requirements to verify a foster home that is currently acting as a kinship home with the Child Protective Services (CPS) Division of the Department?

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 26, 2025.

TRD-202502132

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-3269

SUBCHAPTER W. KINSHIP FOSTER HOMES DIVISION 1. DEFINITIONS AND SCOPE

26 TAC §749.4401, §749.4403

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4401. Definitions for Subchapter W.

These terms have the following meanings in this subchapter.

(1) Affinity--Related by marriage, as set forth in Texas Government Code §573.024.

(2) Consanguinity--Two individuals are related to each other by consanguinity if one is a descendant of the other, or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is defined in Texas Government Code §573.022.

(3) Kinship caregiver--A kinship caregiver:

(A) Is a person counted in the child/caregiver ratio for kinship foster care services, including employees, kinship foster parents, contract service providers, and volunteers whose duties include direct care, supervision, guidance, and protection of a kinship foster child, including any person who is solely responsible for a kinship foster child; a child placement staff taking a kinship foster child on an appointment or doctor's visit is an example of a kinship caregiver; and

(B) Does not include a babysitter, an overnight care provider, or a respite child-care provider unless the person is:

(i) A verified kinship foster parent;

(ii) An agency employee;

(iii) A contract service provider; or

(iv) A volunteer.

(4) Kinship foster child--A child in the care of a kinship foster home who:

(A) Is related to the kinship foster parents by consanguinity or affinity; or

(B) Has, or whose family has a longstanding and significant relationship with the kinship foster parent.

(5) Kinship foster home--A foster family home that has a kinship foster parent or parents.

(6) Kinship foster home verification--A verification for a kinship foster home. A kinship foster home must meet certain requirements for a non-expiring foster home verification, as provided in this subchapter, and may only care for kinship foster children.

(7) Kinship foster parent--A foster parent who:

(A) Is related to a foster child by consanguinity or affinity;

(B) Has a longstanding and significant relationship with a foster child or the child's family before the child is placed; or

(C) Is the spouse of a foster parent who has a longstanding and significant relationship with the foster child or the foster child's family.

§749.4403. Scope.

(a) A child-placing agency (CPA) must comply with the rules in the following subchapters of this chapter, as applicable, before issuing a kinship foster home verification and while the kinship foster home verification is in effect:

(1) Subchapter A (relating to Purpose and Scope);

(2) Subchapter B (relating to Definitions and Services);

(3) Subchapter C (relating to Organization and Administration);

(4) Subchapter D (relating to Reports and Record Keeping);

(5) Subchapter E (relating to Agency Staff and Caregivers);

(6) Subchapter G (relating to Children's Rights);

(7) Subchapter I (relating to Foster Care Services: Service Planning, Discharge);

(8) Subchapter L (relating to Foster Care Services: Emergency Behavior Intervention);

(9) Subchapter N (relating to Foster Homes: Management and Evaluation); and

(10) Subchapter P (relating to Foster-Adoptive Homes and Legal Risk Placements).

(b) For the regulation and ongoing monitoring of a kinship foster home, the CPA must comply with the divisions of this subchapter as noted in the following chart.

Figure: 26 TAC §749.4403(b)

(c) A foster family home that also provides care to a kinship foster child may follow the rules in this subchapter relating to the direct care of kinship foster children. However, the home must:

(1) Be verified as a foster family home; and

(2) Follow all other applicable rules in this chapter for the direct care of non-kinship foster children.

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. PRE-VERIFICATION AND ONGOING TRAINING REQUIREMENTS

26 TAC §§749.4421, 749.4423, 749.4425, 749.4427, 749.4429

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4421. Documentation of Required Trainings.

(a) A child-placing agency (CPA) must document completion of all required training, including any training certificates and signed agreements reviewed during pre-verification training, in the appropriate kinship foster home record.

(b) Certificates for pediatric first aid and pediatric cardiopulmonary resuscitation must have an expiration date, and the training documented on the certificate must be renewed prior to the expiration date.

(c) If the CPA determines that a kinship foster home requires additional training to address areas of non-compliance identified during the CPA's annual evaluation of the kinship foster home, the CPA must document:

(1) The additional training topics covered;

(2) The curriculum used for each of the kinship caregiver's additional training; and

(3) How the CPA determined which additional training topics were appropriate.

§749.4423. Pre-Verification Training Requirements.

Prior to a child-placing agency (CPA) verifying a kinship foster home, each kinship caregiver must have pre-verification training that includes:

(1) An overview of the relevant and applicable rules of this chapter;

(2) The CPA's philosophy, organizational structure, and policies, as well as a description of services and programs the CPA offers;

(3) A review of the reasonable and prudent parent standard, including how the kinship caregivers will use the standard to ensure safety in the kinship foster home;

(4) A review of the agreements between the CPA and kinship foster parents while the verification is in effect; and

(5) A review of the CCR Statement of Foster Parent and Child-Placing Agency Rights and Responsibilities, Form 2907, or a form created by the CPA with the same information.

§749.4425. Pediatric First Aid and Pediatric Cardiopulmonary Resuscitation (CPR) Requirements.

(a) One kinship foster parent must be certified in pediatric first aid and pediatric CPR before a child-placing agency (CPA) issues the kinship foster home's verification. Other kinship caregivers, including a second kinship foster parent, must be certified in pediatric first aid and CPR within 90 days after the CPA verifies the home.

(b) Pediatric first aid must include training related to rescue breathing and choking.

(c) Pediatric CPR training must adhere to guidelines for CPR established by the American Heart Association.

§749.4427. General Training Requirements.

A kinship caregiver must complete the following applicable types of general training within the noted timeframes.
Figure: 26 TAC §749.4427

§749.4429. Additional Training Requirements.

(a) From the date a child-placing agency (CPA) verifies a kinship foster home, the CPA must annually evaluate the kinship foster home to identify any areas of non-compliance with minimum standards.

(b) If the CPA identifies areas of non-compliance in the kinship foster home, the CPA must provide all kinship caregivers in that kinship foster home with additional training appropriate to address the areas of non-compliance.

(c) For each kinship foster home that provides care to a kinship foster child receiving treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder, the CPA must provide at least one hour of annual training to each kinship caregiver relating to the treatment services that the kinship foster child receives, regardless of whether the CPA identifies concerns in the home.

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 3. ADMISSION AND PLACEMENT

26 TAC §§749.4441, 749.4443, 749.4445, 749.4447, 749.4449, 749.4451

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4441. Admission Criteria.

(a) A kinship foster home may only provide foster care to kinship foster children. A kinship foster child may be admitted as a regular admission or emergency admission.

(b) Each kinship placement must meet the kinship foster child's physical, medical, recreational, educational, and emotional needs as identified in the kinship foster child's admission assessment or the written assessment of the child's needs and strengths by the Texas Department of Family and Protective Services.

(c) After a kinship foster child turns 18 years old, the person may remain in care until the person's 23rd birthday to:

(1) Transition to independence, including attending college or vocational or technical training;

(2) Attend high school, a program leading to a high school diploma, or GED classes;

(3) Complete the child-placing agency's program; or

(4) Stay with a minor sibling.

(d) A young adult who turns 18 years old in the care of a kinship foster home may remain in care indefinitely if the person:

(1) Continues to need the same level of care; and

(2) Is unlikely to physically or intellectually progress over time.

(e) The CPA may admit a young adult into the care of a kinship foster home if the person:

(1) Comes immediately from another residential child-care operation;

(2) Meets the conditions of subsection (d) of this section; and

(3) Is in the care of the Texas Department of Family and Protective Services.

§749.4443. Documentation of Admission Information.

A child-placing agency (CPA) must document the following in the kinship child's record:

(1) Initial admission information;

(2) The admission assessment;

(3) The signed placement agreement; and

(4) Post-placement contacts.

§749.4445. Initial Requirements at the Time of Admission or Verification.

For each kinship foster child living in the kinship foster home at the time of verification or who is subsequently placed in the home, a child-placing agency (CPA) must obtain the following information prior to verifying the home or admitting the kinship foster child:

(1) A brief description of the circumstance that led to the kinship foster child's placement in the kinship foster home;

(2) Current health status, chronic or acute health conditions, such as asthma, diabetes, or allergies, and medication the kinship foster child is taking;

(3) Identification of the kinship foster child's high-risk behaviors, if applicable; suicide risk screening, if required; and supervision needs;

(4) Known contraindication to the use of restraint; and

(5) Any safety plans kinship caregivers will implement related to the behaviors or risk factors.

§749.4447. Placement Agreement.

A placement agreement is a child-placing agency's (CPA's) agreement with the kinship foster child's parent or the kinship foster child that defines the CPA's roles and responsibilities and authorizes the CPA to obtain or provide services for the kinship foster child. The placement agreement must include:

(1) Authorization permitting the CPA to care for the kinship foster child;

(2) A medical consent form signed by a person authorized by the Texas Family Code to provide consent; and

(3) The reason for placement and anticipated length of time in care.

§749.4449. Admission Assessment.

(a) A child-placing agency (CPA) must use the information obtained during the admission assessment to facilitate service planning and evaluate whether the placement is appropriate for the kinship foster child.

(b) The admission assessment must be complete within the following timeframe.

Figure: 26 TAC §749.4449(b)

(c) The admission assessment must include:

(1) A description of the circumstances that led to the kinship foster child's referral for substitute care;

(2) A description of the kinship foster child's behavior, including appropriate and maladaptive behavior and any high-risk behavior;

(3) Any history of physical, sexual, or emotional abuse or neglect;

(4) Current medical status, including the available results of any medical and dental examinations;

(5) Current mental health and substance abuse status, including available results of any psychiatric evaluation, psychological evaluation, or psychosocial assessment;

(6) The child's current developmental, educational, and behavioral level of functioning;

(7) The kinship foster child's social history, including information about the past and existing relationship with the kinship foster child's birth parents, siblings, and extended family members and the quality of those relationships with the child;

(8) The kinship foster child's criminal history, if applicable;

(9) A determination how the CPA can meet the needs of the kinship foster child and the services the CPA plans to provide; and

(10) If the child is at least three years of age, the most recent copy of the written assessment of the child's needs and strengths by the Texas Department of Family and Protective Services (DFPS).

(d) The written assessment of the child's needs and strengths by DFPS may be used in place of completing the admission assessment. If the DFPS assessment is used in place of the admission assessment, it must be requested and reviewed within the timeframe established in subsection (b) of this section.

(e) The completed admission assessment or written assessment of the child's needs and strengths by DFPS must be shared with the kinship foster parents.

§749.4451. Post-Placement Contacts.

(a) Child placement staff must have monthly face-to-face contact with a kinship foster child.

(b) Monthly visits must meet the following requirements:

(1) At least half of the contacts must occur in the foster home;

(2) The child placement staff must ensure that the kinship foster child is safe and their basic needs are being met;

(3) The visits must:

(A) Be for a length of time to address the needs of a kinship foster child who is verbal, or observe the kinship foster child if they are non-verbal;

(B) Provide an opportunity to meet privately; and

(C) Provide an opportunity for the kinship foster child to express their feelings about how the placement is working out.

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DIVISION 4. MEDICAL AND DENTAL REQUIREMENTS

26 TAC §§749.4461, 749.4463, 749.4465

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4461. Documentation Requirements for Medical and Dental Care.

(a) A child-placing agency (CPA) must verify that the following is documented either in the kinship foster child's health passport or in the kinship foster child's record:

(1) Each emergency medical and dental visit or hospitalization, including a discharge summary;

(2) Applicable immunization requirements; and

(3) Results of the kinship foster child's tuberculosis screening.

(b) A kinship foster home must maintain a daily medication log for each controlled substance and psychotropic prescription medi-

ation administered to a kinship foster child on a form provided by the CPA. The daily medication log must include:

- (1) The name of the kinship foster child;
- (2) The name of the controlled substance or psychotropic medication administered; and
- (3) The date and time the medication was administered.

(c) If a kinship caregiver fails to administer any medication to a kinship foster child according to the medication label or subsequent signed orders, the kinship caregiver must document the following on a form provided by the CPA:

- (1) The kinship foster child's name;
- (2) The medication name;
- (3) A description of the medication error; and
- (4) How the kinship caregiver ensured the kinship foster child's safety.

§749.4463. General Medical, Dental, and Medication Requirements.

(a) A kinship foster child must receive timely routine and emergency medical and dental care.

(b) At the time of verification, a child-placing agency (CPA) must verify whether a kinship foster child who is at least three years old has had a medical examination within the past year and a dental examination within the past year. If the CPA determines that the child has not had one of these examinations during that time frame, the CPA must develop a plan for the child to receive the examination.

(c) All medications must be administered according to the instructions on the label or according to a prescribing health-care professional's subsequent signed order.

(d) All medications must be stored securely and in a way that makes them inaccessible to kinship foster children.

§749.4465. Immunizations and Tuberculosis Testing.

(a) Each kinship foster child that a child-placing agency admits must meet and continue to meet applicable immunization requirements as specified by the Texas Department of State Health Services.

(b) Each kinship foster child over the age of one year must have a documented tuberculosis screening that was conducted as recommended in the testing and diagnosis guidelines by the Centers for Disease Control and Prevention (CDC) within 30 days before or after beginning to live at a kinship foster home unless the child:

- (1) Has lived at a regulated residential child-care operation within the previous 12 months; and
- (2) Provides documentation of tuberculosis screening.

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DIVISION 5. DAILY CARE, EDUCATION, AND DISCIPLINE

26 TAC §§749.4471, 749.4473, 749.4475, 749.4477, 749.4479, 749.4481, 749.4483, 749.4485, 749.4487, 749.4489, 749.4491, 749.4493

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4471. Normalcy.

A kinship foster parent must ensure a kinship foster child has the opportunity to participate in childhood activities, including unsupervised activities, as much as possible. Childhood activities, including unsupervised activities, must be appropriate in relation to the kinship foster child's age and developmental needs.

§749.4473. Infants: Basic Care and Supervision.

(a) Each infant in a kinship foster home must receive individual attention, including play, talking, cuddling, and holding.

(b) A kinship caregiver must provide prompt attention to an infant's physical needs, such as feeding and diapering.

(c) A kinship caregiver must ensure that the environment is safe for each infant, including:

(1) Keeping the area free of objects that may choke or harm the infant; and

(2) Ensuring accessible electrical outlets have childproof covers or safety outlets.

(d) Items necessary for diaper changing must be kept out of the reach of kinship foster children.

(e) A kinship caregiver must never leave an infant unsupervised.

(1) A sleeping infant is considered supervised if the kinship caregiver:

(A) Is within eyesight or hearing range of the infant and can intervene as needed; or

(B) Uses a video camera or audio monitoring device to monitor the infant and is close enough to the infant to intervene as needed.

(2) An awake infant is considered supervised if the kinship caregiver is within eyesight of the infant and is close enough to the infant to intervene as needed. For short periods of time during routine household activities, the infant may be out of the kinship caregiver's eyesight, as long as:

(A) The infant is within hearing range of the kinship caregiver;

(B) The infant's environment is free of any safety hazards; and

(C) The kinship caregiver can intervene immediately, as needed.

§749.4475. Infants: Cribs.

(a) A kinship foster home that provides care to a kinship foster child who is an infant must have an individual crib for the infant. All cribs must:

(1) Have a firm, flat mattress that snugly fits the sides of the crib, and the mattress must not be supplemented with additional foam material or pads and must be waterproof or washable;

(2) Have sheets that fit snugly and do not present an entanglement hazard;

(3) Be bare, except for a tight-fitting sheet, for an infant who is younger than twelve months of age; and

(4) Be assembled per the manufacturer's instructions with no loose hardware, damaged parts, or entrapment hazards.

(b) A kinship foster home may use a full-sized, portable, or mesh-side crib if:

(1) The kinship caregivers follow the manufacturer's instructions; and

(2) The crib has mesh that is securely attached to the top of the rails and floor plate, and the folded sides are securely latched in place when raised.

(c) The kinship foster home may not use a stackable crib for an infant.

(d) A kinship caregiver must never leave an infant in a crib, portable crib, or mesh-side crib with a side folded down.

(e) An infant receiving treatment services for primary medical needs may have special items that assist with safe sleep at the written recommendation of a health-care professional. The child-placing agency (CPA) must keep the recommendation in the kinship foster child's record.

(f) The CPA must notify the parent of each child in care of each kinship foster home verified by the CPA of any deficiencies relating to subsections (a)(1), (a)(3), or (b)(2) of this section.

§749.4477. Infants: Safe Sleep Requirements.

(a) A kinship caregiver must place an infant who is unable to turn over without assistance in a face-up sleeping position unless a healthcare professional orders otherwise. A child-placing agency (CPA) must keep any orders from a healthcare professional in the kinship foster child's record.

(b) An infant's head, face, or crib must not be covered at any time by any item, including a blanket, linen, or clothing.

(c) An infant must not co-sleep with an adult at any time, including in the adult's bed or on a couch.

(d) An infant must not sleep in a restrictive device, such as a car seat, swing, bouncy seat, or highchair. If an infant falls asleep in one of these devices, the kinship caregiver must move the infant to a crib as soon as possible.

(e) An infant who can roll over without assistance must not be swaddled.

(f) The CPA must notify the parent of each child in care of each kinship foster home verified by the CPA of any deficiencies cited in this section.

§749.4479. Infants: Equipment Safety.

A highchair, swing, stroller, infant carrier, rocker, bouncer seat, or similar type of equipment that a kinship foster home uses for an infant must

have safety straps fastened when the equipment is in use with the infant.

§749.4481. Infants: Feeding Requirements.

(a) Kinship caregivers must feed an infant based on the recommendations of the infant's health-care professional.

(b) Unless recommendations from the service planning team are contrary, kinship caregivers must hold the infant while feeding the infant if the infant is:

(1) Birth through six months old; or

(2) Unable to sit unassisted in a highchair or other seating equipment during feeding.

(c) Kinship caregivers must never prop a bottle by supporting it with anything other than the infant's or adult's hands.

(d) A kinship caregiver who cares for more than one infant must:

(1) Sterilize shared bottles or training cups between uses by different infants; and

(2) Clean highchair trays before each use.

§749.4483. Toddlers: Basic Care Requirements.

(a) Each toddler must receive individual attention, including play, talking, and cuddling.

(b) A kinship caregiver must ensure that the environment is safe for each toddler, including:

(1) Keeping the area free of objects that may choke or harm the toddler; and

(2) Ensuring each accessible electrical outlet has a child-proof cover or safety outlet.

(c) A kinship caregiver must never leave a toddler unsupervised. A toddler is considered supervised if the kinship caregiver:

(1) Is within eyesight or hearing range of the child and can intervene as needed; or

(2) Uses a video camera or an audio monitoring device to monitor the kinship foster child and is close enough to the child to intervene as needed.

§749.4485. Additional Requirements for Pregnant Kinship Foster Children.

A child-placing agency must ensure information, training, and counseling is available regarding prenatal care, childbirth, and recovery from childbirth.

§749.4487. Additional Requirements for Kinship Foster Children Receiving Treatment Services for Primary Medical Needs or Intellectual Disabilities.

(a) A kinship caregiver who cares for a kinship foster child receiving treatment services for primary medical needs or an intellectual disability must follow recommendations from the kinship foster child's medical providers, including recommendations relating to physical stimulation.

(b) A kinship caregiver must ensure that a kinship foster child receiving treatment services for primary medical needs or an intellectual disability has opportunities for sensory stimulation.

§749.4489. Educational Services: General.

(a) A child-placing agency (CPA) must arrange appropriate education for each kinship foster child, including:

(1) Ensuring the kinship foster child attends an educational facility or program that is approved or accredited;

(2) Advocating for the kinship foster child to receive educational and related services to which the child is entitled under provisions of federal and state law and regulations, including the implementation of an individual education plan (IEP) for students receiving special education services; and

(3) Ensuring that an education program for a kinship foster child with autism spectrum disorder:

(A) Encourages normalization through appropriate stimulation and by encouraging self-help skills; and

(B) Is appropriate to the kinship foster child's intellectual and social functioning.

(b) For a kinship foster child receiving treatment services, the CPA must designate a liaison between the agency and the kinship foster child's school.

§749.4491. Educational Services: Caregiver Responsibilities.

Kinship caregivers must:

(1) Request Admission, Review, and Dismissal (ARD), Individual Education Plan (IEP), and Individual Transitional Planning (ITP) meetings, if concerned with a kinship foster child's education program or if the kinship foster child does not appear to be making progress;

(2) Attend ARD, IEP, ITP meetings, or other school staffings and conferences to represent the kinship foster child's educational best interests; and

(3) Know what is in the kinship foster child's IEP and support the school's efforts to implement the IEP, if applicable.

§749.4493. Discipline and Punishment.

(a) Only a kinship caregiver known to and knowledgeable of a kinship foster child may discipline the child.

(b) All disciplinary measures used with a kinship foster child must be consistent with the child's rights related to discipline and punishment.

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DIVISION 6. SCREENINGS AND VERIFICATIONS

26 TAC §§749.4501, 749.4503, 749.4505, 749.4507, 749.4509, 749.4511, 749.4513, 749.4515, 749.4517, 749.4519, 749.4521, 749.4523

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4501. General Requirements.

(a) Each kinship foster parent must be at least 18 years old.

(b) A child-placing agency (CPA) may verify only one spouse as a kinship foster parent if:

(1) The spouse whom the CPA verifies will be the only one responsible for the day-to-day care of kinship foster children in the home; and

(2) The CPA determines that the spouses maintain separate residences.

(c) A kinship foster home may not be verified to provide kinship foster services by more than one CPA at a time; however, a home may be verified by one agency to provide kinship foster care services only and approved by another CPA for adoption only.

§749.4503. Kinship Foster Home Screenings.

(a) A child-placing agency (CPA) must complete a home screening before verifying a kinship foster home. The CPA may:

(1) Complete the home screening as detailed in this section; or

(2) Use a completed home assessment obtained from the Texas Department of Family and Protective Services (DFPS) or Single Source Continuum Contractor (SSCC). If the CPA uses the home assessment obtained from DFPS or SSCC, the CPA is responsible for ensuring it meets the requirements of this division.

(b) The CPA must update a kinship foster home screening with an addendum any time there is a major life change in the kinship foster family.

(c) Through interviewing each prospective kinship foster parent or completing a joint interview, a CPA must obtain, discuss, document, and assess the following information about a prospective kinship foster home.

Figure: 26 TAC §749.4503(c)

(d) Regarding (c)(7) in subsection (c) of this section the CPA must report to Child Care Regulation the information obtained about the prospective kinship foster family's domestic violence history, as applicable. The CPA must report this information regardless of whether the CPA verifies the home.

§749.4505. Verifying a Kinship Foster Home.

A child-placing agency (CPA) must take the following steps to verify a kinship foster home.

(1) Complete and document the requirements in this division.

(2) Obtain the following:

(A) A sketch, photo, or other documentation of the home that shows the purposes of all rooms in the home and identifies the indoor areas for the kinship foster children's use; and

(B) A sketch or photo of the outside areas that shows the buildings, driveways, fences, storage areas, gardens, recreation areas, and bodies of water.

(3) Evaluate all areas required in this subchapter by:

(A) Completing an inspection of the kinship foster home to ensure that the home meets applicable rules relating to Daily Care, Education, and Discipline, and Health and Safety Requirements, Environment, Space and Equipment of this subchapter; and

(B) Making recommendations about the home's overall ability to keep kinship foster children safe, paying specific attention to areas of substantial safety risk to kinship foster children and how the CPA addressed areas of identified safety risks with the prospective kinship foster parent before approving and verifying the kinship foster home; and

(C) Documenting in the kinship foster home file the details of the inspection of the kinship foster home and any identified safety risks.

(4) Obtain from the child placement management staff the review and approval of the home screening, and the recommended verification of the home.

(5) Issue a verification certificate that must be posted at the kinship foster home or immediately available for review upon request that includes:

(A) The name and address of the kinship foster family;

(B) The kinship foster home's total capacity and kinship foster care capacity, including ages and sex of the kinship foster children being served; and

(C) The types of services the home provides.

§749.4507. Previously Verified Kinship Foster Homes.

(a) For a kinship foster home that was previously verified by another child-placing agency (CPA), the receiving CPA must conduct and complete a new home screening as required in this subchapter.

(b) If the kinship foster home is transferring from another CPA, the receiving CPA must request information about the home by submitting a written request to the agency that transferred the kinship foster home.

(c) If the kinship foster home is transferring from another CPA with a child in care, the receiving CPA may verify the kinship foster home prior to completion of the background check.

§749.4509. Releasing Information About a Previously Verified Kinship Foster Home.

(a) A child-placing agency (CPA) must release background information regarding a current or previous kinship foster home to:

(1) Another CPA conducting a foster home screening, pre-adoptive home screening, or post-placement adoptive report; or

(2) An independent contractor who is hired or required by the court to conduct a social study under Chapter 107 of the Texas Family Code.

(b) Background information includes:

(1) The kinship foster home screening and any related documentation or addendums;

(2) Documentation of supervisory visits and evaluations for the past year;

(3) Any record of deficiencies and their resolutions for the past year, including information regarding pending investigations and unresolved deficiencies;

(4) The most current fire and health inspections or checklists;

(5) The transfer or closing summary for the kinship foster home;

(6) Copies of any current or previous plans to achieve compliance or other type of development plan for the past two years, if applicable; and

(7) Copies of any current or previous corrective action or adverse action plans for the past two years, if applicable.

(c) A CPA must release the background information to the requesting agency by the 10th day after receiving the written request, including informing the requesting agency of any pending investigations and unresolved deficiencies. By the 10th day after the completion of any pending investigations and the resolution of any deficiencies, the CPA must release to the requesting agency the:

(1) Outcome of any investigations and any resulting deficiencies cited; and

(2) Resolution of any deficiencies.

§749.4511. Changes to the Verification Status of a Kinship Foster Home.

(a) A child-placing agency (CPA) must submit information to Child Care Regulation within two business days of:

(1) Verifying a new kinship foster home or issuing a temporary kinship foster home verification;

(2) Placing a kinship foster home on or taking it off inactive status;

(3) Changing conditions of the verification for an existing kinship foster home; and

(4) Closing a kinship foster home, including the reason the CPA closed the home.

(b) If a CPA changes the conditions of a kinship foster home's verification to allow the home to provide additional services, the child placement management staff must ensure there is no conflict of care with children currently in the home.

(c) If the kinship foster home adds a new, unrelated household member, the CPA must:

(1) Ensure the individual has the necessary background checks; and

(2) Evaluate the impact the individual will have on the kinship foster family and kinship foster children prior to the individual moving into the home.

§749.4513. Transferring or Closing a Kinship Foster Home.

(a) A child-placing agency (CPA) must complete a transfer summary or closing summary when a kinship foster home transfers to another CPA or closes.

(b) A transfer summary and a closing summary must include:

(1) A copy of the verification certificate;

(2) The kinship foster home's addresses for the past two years and, as needed, directions for rural addresses;

(3) The length of time the kinship foster parents have been verified by the CPA;

(4) For the kinship foster children that were in care for the last two years, the:

(A) Number of kinship children fostered;

(B) Type of treatment services provided to each kinship foster child; and

(C) Reason for each kinship foster child's discharge from care;

(5) A description of any limitations on the verification that were in place for the kinship foster home in caring for and working with kinship foster children;

(6) A description of any indicators of risk to children at the time of the transfer or closing;

(7) Any plan to achieve compliance or other type of development plan that was in place within the previous 12 months of the date of transfer or closing;

(8) Any corrective action or adverse action plan that was in place at the time of transfer or closing; and

(9) A statement concerning whether the CPA would recommend the kinship foster home for verification in the future, including whether the CPA would recommend any limitations or restrictions on the verification, and the basis of the CPA's recommendation.

(c) A transfer summary must also:

(1) Include pending investigations or unresolved deficiencies; and

(2) Be completed by the 10th day after a CPA receives a written request to transfer and the transferring CPA must forward it immediately to the requesting CPA.

(d) A closing summary must also:

(1) Include the reason the home is closing, including whether the CPA required the kinship foster home to close;

(2) Include any unresolved deficiencies that have not been corrected and a description of those deficiencies; and

(3) Be completed by the 20th day after a kinship foster home is closed.

§749.4515. Temporary Kinship Foster Home Verifications.

(a) A child-placing agency (CPA) may issue a temporary kinship foster home verification when a kinship foster home moves from one residence to another. Within 30 days of the kinship foster home moving to the new residence, the CPA must inspect the new residence for compliance with health and safety requirements in this subchapter.

(b) Before issuing the non-expiring kinship foster home verification, the CPA must ensure the kinship foster home is compliant with all requirements in this subchapter.

(c) A temporary kinship foster home verification is valid for a maximum of six months.

§749.4517. Capacity and Child/Caregiver Ratio.

(a) A kinship foster home may care for up to six children regardless of the number of caregivers or ages of the children in the home. This capacity includes kinship foster children, as well as adopted and biological children living in the home, children receiving respite services, and children for whom the kinship foster home provides daycare.

(b) A kinship foster home may care for seven or eight children as recommended and approved by the Texas Department of Family and Protective Services and a child-placing agency (CPA). To approve expanding the kinship foster home's capacity, the CPA must:

(1) Complete Form 4003 Foster Family Home Capacity Exception; and

(2) Request a variance from Child Care Regulation.

§749.4519. Supervision.

(a) The child placement management staff must ensure that supervision of a kinship foster child adequately accounts for:

(1) The specific needs of the kinship foster child, including any history of high- risk behaviors that would require additional supervision; and

(2) The environment where the supervision is taking place.

(b) A kinship caregiver is responsible for:

(1) Knowing which kinship foster children the kinship caregiver is responsible for;

(2) Providing the level of supervision necessary to ensure each kinship foster child's safety and well-being, including auditory and/or visual awareness of each kinship foster child's ongoing activity as appropriate;

(3) Being able to intervene when necessary to ensure each kinship foster child's safety; and

(4) Being aware of any special supervision needs based on the kinship foster child's developmental age, maturity, and service plan restrictions.

(c) When a kinship foster child participates in an unsupervised childhood activity, the kinship caregiver must know:

(1) Where the kinship foster child is scheduled to be, and who they will be with; and

(2) How and when the kinship foster child will be returning home.

§749.4521. Kinship Foster Children as Babysitters.

(a) A kinship foster child may serve as a babysitter for another kinship foster child if the child placement management staff approves the child to babysit and establishes limits with duration and frequency.

(b) A child-placing agency must consider:

(1) The developmental age of the child who will provide the babysitting; and

(2) Any known history of high-risk behaviors of the child providing the babysitting and the child who will be babysat.

§749.4523. Respite Child-Care Services.

(a) A kinship foster home may only provide respite services to a kinship foster child.

(b) The child placement management staff (CPMS) must approve any respite child-care and ensure that the placement will not cause a conflict of care for any child that is already placed in the home.

(c) The CPMS must ensure information is shared about the kinship foster children to ensure continuity of care, including any special supervision requirements or safety plans.

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 26, 2025.

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Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-3269



DIVISION 7. HEALTH AND SAFETY REQUIREMENTS, ENVIRONMENT, SPACE, AND EQUIPMENT

26 TAC §§749.4551, 749.4553, 749.4555, 749.4557,
749.4559, 749.4561, 749.4563, 749.4565, 749.4567, 749.4569,
749.4571, 749.4573, 749.4575, 749.4577, 749.4579, 749.4581

STATUTORY AUTHORITY

The new sections are 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 agencies, and Texas Human Resources Code §42.042(a) which requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed and new sections affect Texas Government Code §524.0151 and Texas Human Resources Code §42.042.

§749.4551. Documentation of Health and Safety Requirements.

A child-placing agency must document the following in the kinship foster home's record:

- (1) The results of each health inspection or health and safety evaluation;
- (2) The results of each fire inspection or fire safety evaluation; and
- (3) A copy of the home's emergency preparedness plan, including any subsequent reviews.

§749.4553. Health and Fire Inspections.

- (a) A kinship foster home must have either:
 - (1) A health inspection conducted by the local health authority; or
 - (2) A health and safety evaluation conducted by the child-placing agency's (CPA's) child placement staff using the Environmental Health Checklist for Kinship Foster Homes form.
- (b) A kinship foster home must also have either:
 - (1) A fire inspection conducted by a state or local fire authority; or
 - (2) A fire safety evaluation developed and conducted by the CPA's child placement staff.

(c) A kinship foster home must correct any deficiencies documented during any inspection or evaluation and comply with any conditions or restrictions specified by the inspector or evaluator.

§749.4555. Emergency Plans.

(a) A kinship foster home must have a written plan for handling potential disasters and emergencies, including fire and severe

weather. The child-placing agency (CPA) that verified the home must annually review and evaluate the plan with all kinship caregivers and kinship foster children in the home. The review of the plan must be provided in the kinship foster child's communication method.

(b) The CPA may develop the emergency plan with the kinship foster family or obtain a copy of the emergency plan the family developed with the Texas Department of Family and Protective Services or Single Source Continuum Contractor.

§749.4557. Fire Safety.

(a) A kinship foster home must have a working smoke detector in the following areas:

- (1) The kitchen;
- (2) Hallways or open areas outside of sleeping rooms; and
- (3) On each level of a home with multiple levels.

(b) The kinship foster home must have one non-expired, operational fire extinguisher that is accessible in the case of emergency.

(c) The kinship foster home must ensure that exits to the home are not blocked.

§749.4559. Animals.

Any animal on the premises of a kinship foster home must not pose a health or safety threat to the kinship foster children.

§749.4561. Weapons, Firearms, Explosive Materials, and Projectiles in a Kinship Foster Home.

(a) Each child-placing agency (CPA) must have and enforce a policy that addresses the presence of weapons, firearms, explosive materials, and projectiles in a kinship foster home. The policy must contain specific requirements to ensure that a kinship foster child does not have unsupervised access to these items, including requiring a kinship foster parent to keep such items in locked storage when they are not in use.

(b) The CPA must determine whether it is appropriate for a specific kinship foster child to use weapons, firearms, explosive materials, or projectiles.

(c) No kinship foster child may use a weapon, firearm, explosive material, or projectile unless the kinship foster child is directly supervised by an adult knowledgeable about the use of the weapon, firearm, explosive material, or projectile that is to be used by the kinship foster child.

(d) The CPA must determine whether it is appropriate for a specific kinship foster child to use a toy that explodes or shoots.

(e) No kinship foster child may use or be around a toy that explodes or shoots unless the kinship foster child is directly supervised by an adult and the toy is age-appropriate for the kinship foster child.

§749.4563. Storage of Weapons, Firearms, Explosive Materials, or Projectiles in a Kinship Foster Home.

(a) When determining if weapons, firearms, explosive materials, and projectiles are stored so that a kinship foster child does not have unsupervised access to such items, the child-placing agency (CPA) must consider the age, history, emotional maturity, and background of the children in the kinship foster home.

(b) A CPA may not require the kinship foster home to disclose the specific types of firearms that are stored or otherwise present in the kinship foster home.

(c) Firearms that are inoperable and solely ornamental are exempt from the storage requirements in this rule.

§749.4565. Determining if Weapons, Firearms, Explosive Materials, or Projectiles are Present in a Kinship Foster Home.

(a) When a child-placing agency (CPA) completes a kinship foster home screening, the CPA must ask whether weapons, firearms, explosive materials, or projectiles are present in the kinship foster home. If these items are present, the CPA must review the CPA's weapons, firearms, explosive materials, and projectiles policy and requirements with the prospective kinship foster parents.

(b) The kinship foster home record must include documentation on:

(1) Whether weapons, firearms, explosive materials, or projectiles are present in the home; and

(2) Specific precautions the kinship caregivers will take to ensure kinship foster children do not have unsupervised access.

(c) The two-year evaluation of a kinship foster home's compliance with this chapter must include a discussion of whether the kinship foster home has weapons, firearms, explosive materials, or projectiles, and if so, how these items are stored.

(d) In complying with this rule, a CPA may not require the kinship foster home to disclose the specific types of firearms that are stored or otherwise present in the kinship foster home.

(e) In complying with this rule, a CPA may not require the kinship foster home to notify the CPA if there is any change in the types of firearms that are present in the home.

§749.4567. Transporting a Kinship Foster Child in a Vehicle Where Firearms, Explosive Materials, or Projectiles are Present.

(a) A kinship caregiver may transport a kinship foster child in a vehicle where firearms (other than handguns), other weapons, explosive materials, or projectiles are present if:

(1) All firearms are not loaded;

(2) The firearms, other weapons, explosive materials, or projectiles are inaccessible to the kinship foster child; and

(3) Possession of the firearm is legal.

(b) A kinship caregiver may transport a kinship foster child in a vehicle where a handgun is present if:

(1) The handgun is in the possession and control of the kinship caregiver; and

(2) The kinship caregiver is not prohibited by law from carrying a handgun.

§749.4569. Physical Environment of a Kinship Foster Home.

(a) A kinship foster home must ensure that indoor and outdoor space and equipment does not pose a safety risk to kinship foster children.

(b) Kinship caregivers must provide adequate supervision to prevent access to space or equipment that poses a safety risk to a kinship foster child as needed based on the kinship foster child's developmental age, maturity, and service plan restrictions.

§749.4571. Indoor Space: Sleeping Spaces and Sleeping Surfaces.

(a) Unless approved to share by the child placement management staff (CPMS), each kinship foster child must have the child's own:

(1) Sleeping space; and

(2) Sleep surface, which may include a bed, mattress, air mattress, futon, or couch.

(b) Before approving a kinship foster child to share a sleeping space or sleeping surface, the CPMS must determine and document in

the kinship foster child's service plan there is no known risk of harm to the kinship foster child by sharing a sleeping space or sleeping surface with the other individual after assessing:

(1) The relationship between the kinship foster child and the individual;

(2) The ages and developmental levels of the kinship foster child and the individual, noting that after the kinship foster child's 18th birthday, the kinship foster child may share a bedroom with another youth who is 16 years of age or older, provided the age difference does not exceed two years;

(3) The behaviors of the kinship foster child and the individual;

(4) Any history of possible sexual trauma or sexually inappropriate behaviors of the kinship foster child and the individual; and

(5) Any other identifiable factors that may affect the appropriateness of the individual and the kinship foster child sharing a bedroom.

§749.4573. Indoor Space: Bathrooms.

A kinship foster home must have at least:

(1) one bathroom that allows for privacy;

(2) one toilet; and

(3) one bathroom sink and one tub or shower that have hot and cold running water.

§749.4575. Nutrition and Food Safety.

(a) Kinship caregivers must provide a kinship foster child with drinking water and food that is served in a safe and sanitary manner.

(b) A kinship home must ensure that all food items are stored in a manner that protects them from contamination, spoiling, and insects and rodents.

§749.4577. Transportation.

(a) Kinship caregivers must secure safe and reliable transportation for a kinship foster child.

(b) Special provisions must be made for transporting non-ambulatory and non-mobile children. When necessary, this may include locks for wheelchairs and hydraulic lifts.

(c) A kinship caregiver must secure each kinship foster child in an infant safety seat, rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the kinship foster child's age, height, and weight and according to the manufacturer's instructions.

§749.4579. Water Safety: Pools, Hot Tubs, and Bodies of Water.

(a) Any door that leads from the home to an area with a swimming pool, hot tub, or body of water must have:

(1) A door alarm; or

(2) A lock that is only accessible and operational by an adult unless:

(A) The state or local fire authority determines that the lock violates the fire code; and

(B) The child-placing agency keeps the fire authority's determination in the kinship foster home record.

(b) The bottom of a swimming pool must be always visible.

(c) Swimming pool chemicals and machinery rooms must be inaccessible to kinship foster children.

§749.4581. Swimming Supervision.

(a) Kinship caregivers must inform each kinship foster child about house rules for the use of a swimming pool, hot tub, or other body of water and appropriate safety precautions.

(b) Supervision and monitoring of safety features must be adequate to protect any kinship foster child from unsupervised access to the swimming pool, hot tub, or other body of water.

(c) Kinship caregivers must ensure that a kinship foster child has access to a lifesaving device when using a swimming pool, hot tub, or body of water.

(d) A personal flotation device (PFD) is a vest or suit designed to keep the wearer afloat in water and prevent drowning. A kinship foster child participating in a swimming activity who is unable to swim must wear a PFD that is U.S. Coast Guard-approved for use by a child that is the correct size for the child.

(e) Kinship caregivers must be able to clearly see all parts of the swimming pool or hot tub when supervising activity in the area.

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

Health and Human Services Commission

Earliest possible date of adoption: August 10, 2025

For further information, please call: (512) 438-3269



ADOPTED RULES

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

TITLE 22. EXAMINING BOARDS

PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER F. PROFESSIONAL DEVELOPMENT

22 TAC §463.35

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §463.35, relating to Professional Development. Section 463.35 is amended without changes as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2044) and will not be republished.

Reasoned Justification.

The amendments will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received thirteen formal comments against the proposed rule change. Most commenters argued that the proposed changes are politically motivated, rather than based on protection of the public, and that the change exhibit an incorrect value judgement that concepts of diversity and cultural awareness are negative. Several comments noted that understanding a person's background, as well as a licensee's own potential implicit bias, are necessary to provide effective psychological services. Several other commenters stated that the new language in the rule was vague and confusing, and the proposed change would leave individual licensees to choose what they considered necessary continuing education.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received two comments in favor of the rule change, with both noting they would like the agency to provide further information of groups qualifying as unique populations.

Agency Response.

The agency appreciates the public input. The changed rule language is being adopted to clarify the expectation regarding the focus of continuing education received by psychology licensees. The agency agrees with many of the commenters who stated that understanding individuals personal characteristics and background are important to provide effective psychological services, and that it is important for licensees to recognize any implicit bias or lack of knowledge that may lead to incorrect care and potential harm to the client they are serving. The comments are correct that the rule change is designed to allow greater flexibility for a licensee to target the continuing education they believe will most enhance their competency based on the clients they choose to serve. The adopted changes do not lower professional standards and do not change the fundamental requirement that psychology practitioners be competent to provide care in the places and to the people they encounter.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



CHAPTER 465. RULES OF PRACTICE

22 TAC §465.38

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendment to §465.38, relating to Psychological Services for Schools. Section 465.38 is amended without changes as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2046) and will not be republished.

Reasoned Justification.

The amendments will update the description of the scope of practice for Licensed Specialists in School Psychology to better reflect the full scope of practice and align with national standards, without substantively altering the scope of practice.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received two comments against the proposed rule change. One commenter believed the rule changes would limit the scope of their practice as an LSSP, while the other argues there should be a distinction between masters and doctoral level school psychologists.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received seven comments in favor of the rule change, noting appreciation for the rule change clarifying the role of school psychologists and aligning with national practice standards.

Agency Response.

The agency appreciates the public input. The proposed rule change does not increase or limit the scope of practice for LSSPs, but merely adds clarifying language to express the existing scope of practice. The suggestion to create distinct levels of licensure for masters and doctoral level school psychologists is outside the scope of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks

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Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §681.72

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors adopts amendments to §681.72, relating to Required Application Materials. Section 681.72 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2048) and will not be republished.

Reasoned Justification.

The amendments would remove the expiration provisions related to supervision training courses required for applications for supervisor status.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received six comments against the rule change. The commenters noted the important role a supervisor plays and argue that a Ph.D. student does not have sufficient experience as a therapist when taking the supervision course. The commenters believe expiration of the supervision course is necessary to ensure the training is fresh when becoming a supervisor.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received seven comments in favor of the rule change, citing the old language as causing unnecessary duplication of training and delays in becoming a supervisor, especially for individuals already licensed and a supervisor in another jurisdiction. One commenter suggested that Ph.D. students who complete a supervision course should be able to become a supervisor without practicing for five years.

Agency Response.

The agency appreciates the public comments. While the rule change will allow someone to become a supervisor who has received training more than five years ago, the rules will continue to require five years of experience practicing counseling, as well as continuing education in supervision to maintain up-to-date practice skills.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice,

standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

Filed with the Office of the Secretary of State on June 30, 2025.

TRD-202502147

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Effective date: July 20, 2025

Proposal publication date: March 21, 2025

For further information, please call: (512) 305-7706



22 TAC §681.140

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors adopts amendments to §681.140, relating to Requirements for Continuing Education. Section 681.140 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2050) and will not be republished.

Reasoned Justification.

The amendments will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

List of interested groups or associations against the rule.

Texas Counseling Association.

Summary of comments against the rule.

The agency received forty-three comments against the rule change. Commenters argue that cultural competence is an ethical obligation essential for providing quality, equitable, and effective care to diverse populations, including marginalized groups. Many commenters stated the proposed term "distinct populations" lacks clarity and opens the door for selective or biased interpretation. Several commenters see the rule change as politically motivated rather than professionally justified, and raise concerns that it does not align with national practice standards.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received fourteen comments in favor of the rule change, favoring keeping the foundational requirement of continuing education toward competency rather than eliminating the requirement altogether. Several commenters noted the rule change allows more flexibility and licensee choice in what continuing education is relevant to their practice, while still ensuring needed professional development focused on a client's needs.

Agency Response.

The agency appreciates the public comments. The changed rule language is being adopted to clarify the expectation regarding the focus of continuing education received by psychology licensees. The agency agrees with many of the commenters who stated that understanding individuals personal characteristics and background are important to provide effective psychological services, and that it is important for licensees to recognize any implicit bias or lack of knowledge that may lead to incorrect care and potential harm to the client they are serving. The comments are correct that the rule change is designed to allow greater flexibility for a licensee to target the continuing education they believe will most enhance their competency based on the clients they choose to serve. The adopted changes do not lower professional standards and do not change the fundamental requirement that psychology practitioners be competent to provide care in the places and to the people they encounter.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied

with Chapters 503 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

Filed with the Office of the Secretary of State on June 30, 2025.

TRD-202502148

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Effective date: July 20, 2025

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For further information, please call: (512) 305-7706



PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

CHAPTER 781. SOCIAL WORKER LICENSURE

SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §781.501

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.501, relating to Requirements for Continuing Education. Section 781.501 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2052) and will not be republished.

Reasoned Justification.

The adopted amendments will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received eight formal comments against the proposed rule change. These comments stated the proposed language devalued concepts of diversity and inclusion, and did not align with the values, principles, and national standards of social work. The commenters believe the current rule promotes providing services to vulnerable and marginalized populations. They noted that promoting social justice is a key component of social work. Many commenters believe the rule change was politically motivated and would weaken professional development.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one formal comment for the proposed rule change, without further discussion.

Agency Response.

The agency appreciates the public comment and believes the change in language surrounding CE requirements preserves the goal of many of the commenters, namely to ensure licensees are adequately trained and knowledgeable to provide services to the diverse set of populations they encounter. Training on issues of cultural competency and diversity will still be accepted under the amended language, as well as trainings focused on specific populations receiving services. The adopted language broadens, not restricts, the avenues for licensees to become competent to serve the people of Texas.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

Filed with the Office of the Secretary of State on June 30, 2025.
TRD-202502152

Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
Effective date: July 20, 2025
Proposal publication date: March 21, 2025
For further information, please call: (512) 305-7706



PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.261

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.261, relating to Continuing Education. Section 801.261 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2054) and will not be republished.

Reasoned Justification.

The adopted amendment will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received six formal comments against the proposed rule changes. The commenters stated the change would create vulnerabilities for culturally diverse clients by encouraging under-prepared therapists, devaluing the impact of culture and diversity in client lives. The comments also noted the current language aligns with best practice in the profession and does not force licensees to ascribe to a particular ideology.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one formal comment for the proposed rule changes, noting the changes will help preserve the underlying CE requirement.

Agency Response.

The agency appreciates the public comment and believes the change in language surrounding CE requirements preserves the goal of many of the commenters, namely to ensure licensees are adequately trained and knowledgeable to provide services to the diverse set of populations they encounter. Training on issues of cultural competency and diversity will still be accepted under the amended language, as well as trainings focused on specific populations receiving services. The adopted language broadens,

not restricts, the avenues for licensees to become competent to serve the people of Texas.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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TRD-202502151

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: March 21, 2025

For further information, please call: (512) 305-7706



PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER E. CONTINUING EDUCATION

22 TAC §882.50

The Texas Behavioral Health Executive Council adopts amendments to §882.50, relating to Continuing Education and Audits. Section 882.50 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2057) and will not be republished.

Reasoned Justification.

The amendment will require license holders to use any online system adopted by the Council for reporting continuing education hours.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received five comments against the proposed amendments. Generally the commenters objected to a requirement for licensees to use an online CE reporting system as potentially difficult to use, or costly, or negatively impacted by poor internet access in rural Texas.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received five comments for the proposed amendments. While the commenters noted the potential for efficiency and reduced paperwork, they also commented that the online system should be at no or low cost to licensees.

Agency Response.

The agency appreciates the public comments. The agency has already entered into a contract for an online platform that is effectively used across the country to report CE hours, and has included a stipulation in the contract that a free online account option will be available to licensee holders.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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TRD-202502153

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

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For further information, please call: (512) 305-7706



CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER B. INVESTIGATIONS AND DISPOSITION OF COMPLAINTS

22 TAC §884.10

The Texas Behavioral Health Executive Council adopts amendments to §884.10, relating to Investigation of Complaints. Section 884.10 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2058) and will not be republished.

Reasoned Justification.

The proposed amendment will clarify when a licensee is presumed to be engaging in the scope of practice of their license, and therefore subject to the jurisdiction of the Council, versus when conduct or statements by a licensee that are within the scope of practice will, nevertheless, be considered not done under the authority of their license.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received two comments against the rule change. The first commenter expressed concern about how the rule change would apply to someone providing services in a federal facility or in a practice location that might have differing standards of practice from Council rules. The comment raised concerns that the new language would be used to target language or conduct on political grounds. The second commenter argued that the proposed rule language differs from a position the Council previously took in a disciplinary action.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received three comments in support of the rule change, with one commenter hoping the Council would continue to take action against improper unlicensed conduct.

Agency Response.

The agency appreciates the public input, but respectfully disagrees with the characterization of the commenters against the proposed rule language. The proposed language will help clarify when the Council will not exert authority over a licensee's actions and does not extend the Council's authority to regulate political or non-professional language or conduct. The proposed change also creates a narrow pathway for licensees to disclaim working

under their license that was not available in the prior disciplinary action, nor would it have applied to that case.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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TRD-202502155

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

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For further information, please call: (512) 305-7706



CHAPTER 885. FEES

22 TAC §885.1

The Texas Behavioral Health Executive Council adopts amendments to §885.1, relating to Executive Council Fees. Section 885.1 is adopted without changes to the proposed text as published in the March 21, 2025, issue of the *Texas Register* (50 TexReg 2060) and will not be republished.

Reasoned Justification.

The proposed amendment would eliminate the fee requirement for a verification, which is available on the Council website.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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TRD-202502156

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

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For further information, please call: (512) 305-7706



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 57. FISHERIES

The Texas Parks and Wildlife Commission in a duly noticed meeting on March 27, 2025, adopted amendments to 31 TAC §§57.156, 57.252, and 57.253, concerning Fisheries, without changes to the proposed text as published in the February 21, 2025, issue of the *Texas Register* (50 TexReg 952). The text of the rules will not be republished.

The amendment to §57.156, concerning Definitions, removes a reference to a publication that no longer is applicable to the rule. The Texas Parks and Wildlife Commission finds that removing the reference is necessary to eliminate possible confusion.

The amendment to §57.252, concerning General Provisions, adds a provision repeating the statutory prohibition (Parks and Wildlife Code, §66.015) of the act of introducing any species of fish, shellfish, or aquatic plant into the public water of the state without a permit issued by the department.

The amendment to §57.253, concerning Permit Application, eliminates subsection (c)(2)(B)(i), which is no longer necessary because the Texas Department of Agriculture no longer regulates aquaculture.

The amendments are a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of

its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The department received no comments opposing adoption of the rules as proposed.

The department received nine comments supporting adoption of the rules as proposed.

SUBCHAPTER B. MUSSELS AND CLAMS

31 TAC §57.156

The amendment is adopted under Parks and Wildlife Code, §78.006, which authorizes the to regulate the taking, possession, purchase, and sale of mussels and clams.

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

Filed with the Office of the Secretary of State on June 24, 2025.

TRD-202502115

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: July 14, 2025

Proposal publication date: February 21, 2025

For further information, please call: (512) 389-4775



SUBCHAPTER C. INTRODUCTION OF FISH, SHELLFISH AND AQUATIC PLANTS

31 TAC §57.252, §57.253

The amendments are adopted under the authority of Parks and Wildlife Code, §66.007, which requires the department to make rules to carry out the provisions of that section.

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

Filed with the Office of the Secretary of State on June 24, 2025.

TRD-202502116

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: July 14, 2025

Proposal publication date: February 21, 2025

For further information, please call: (512) 389-4775



CHAPTER 58. OYSTERS, SHRIMP, AND FINFISH

The Texas Parks and Wildlife Commission in a duly noticed meeting on March 27, 2025, adopted amendments to 31 TAC §58.21 and §58.164, concerning the Statewide Oyster Fishery Proclamation, without changes to the proposed text as published in the February 21, 2025, issue of the *Texas Register* (50 TexReg 957). The text of the rules will not be republished.

The amendment to §58.21, concerning Taking or Attempting to Take Oysters from Public Oyster Beds; General Rules, eliminates provisions that expired on their own terms on November 1, 2024, and are therefore no longer necessary.

The amendment to §58.164, concerning Shrimping Inside Waters - Commercial Bait Shrimping, makes nonsubstantive changes to insert a missing preposition in subsection (b)(2)(A) and eliminate duplicated language in subsection (d). The Texas Parks and Wildlife Commission finds that the alterations are prudent because they eliminate possible confusion.

The amendments are a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The department received no comments opposing adoption of the rules as proposed.

The department received nine comments supporting adoption of the rules as proposed.

SUBCHAPTER A. STATEWIDE OYSTER FISHERY PROCLAMATION

31 TAC §58.21

The amendment is adopted under Parks and Wildlife Code, §76.301, which authorizes the commission to regulate the taking, possession, purchase and sale of oysters, including prescribing the times, places, conditions, and means and manner of taking oysters.

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

Filed with the Office of the Secretary of State on June 24, 2025.

TRD-202502117

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: July 14, 2025

Proposal publication date: February 21, 2025

For further information, please call: (512) 389-4775



SUBCHAPTER B. STATEWIDE SHRIMP FISHERY PROCLAMATION

31 TAC §58.164

The amendment is adopted under Parks and Wildlife Code, §77.007, which authorizes the commission to regulate the catching, possession, purchase, and sale of shrimp.

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

Filed with the Office of the Secretary of State on June 24, 2025.

TRD-202502118

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: July 14, 2025

Proposal publication date: February 21, 2025

For further information, please call: (512) 389-4775



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 152. CORRECTIONAL INSTITUTIONS DIVISION

SUBCHAPTER D. OTHER RULES

37 TAC §152.71

The Texas Board of Criminal Justice (board) adopts amendments to §152.71, concerning Acceptance of Gifts Related to Buildings for Religious and Secular Programs, without changes to the proposed text as published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1793). The rule will not be republished. The adopted amendments revise "offender" to "inmate" and "rule" to "section" throughout; revise the policy statement for clarity; remove language specifying a building related to the provision of religious and secular programs; add language to state the TDCJ shall meet with donor groups to evaluate a prospective donated building or enhancement; revise language to state a donor or designee will be qualified; remove language requiring the building to be used for religious and secular programs; and add language to specify building enhancements.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.001, which authorizes the board to govern the department; §492.013, which authorizes the board to adopt rules; and §501.009, which requires the agency to adopt a policy requiring each warden to identify and encourage volunteer and faith-based organizations that provide programs for inmates.

Cross Reference to Statutes: None.

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

Filed with the Office of the Secretary of State on June 26, 2025.

TRD-202502140

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Effective date: July 16, 2025

Proposal publication date: March 7, 2025

For further information, please call: (936) 437-6700



CHAPTER 163. COMMUNITY JUSTICE
ASSISTANCE DIVISION STANDARDS

37 TAC §163.33

The Texas Board of Criminal Justice (board) adopts amendments to §163.33, concerning Community Supervision Staff, without changes to the proposed text as published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1794). The rule will not be republished. The adopted amendments revise "rule" to "section" throughout; revise the definition of "direct supervision" and make grammatical and formatting updates.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

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

Filed with the Office of the Secretary of State on June 26, 2025.

TRD-202502141

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Effective date: July 16, 2025

Proposal publication date: March 7, 2025

For further information, please call: (936) 437-6700

◆ ◆ ◆
37 TAC §163.42

The Texas Board of Criminal Justice (board) adopts amendments to §163.42, concerning Substantial Noncompliance, without changes to the proposed text as published in the March 7, 2025, issue of the *Texas Register* (50 TexReg 1797). The rule will not be republished. The adopted amendments reflect the Office of the Independent Auditor as independent of the TDCJ.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

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

Filed with the Office of the Secretary of State on June 26, 2025.

TRD-202502142

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Effective date: July 16, 2025

Proposal publication date: March 7, 2025

For further information, please call: (936) 437-6700

REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Review

Texas Ethics Commission

Title 1, Part 2

The Texas Ethics Commission (Commission) files this Notice of Intent to Review and consider for re-adoption, revision, or repeal, Chapter 6, regarding Organization and Administration, in its entirety, contained in Title 1, Part 2, Texas Administrative Code. This review is being conducted in accordance with Tex. Gov't Code § 2001.039.

During the review, the Commission will assess whether the reasons for adopting or readopting the rules in this chapter continues to exist. The Commission will review each rule to determine whether it is obsolete, whether the rules reflect current legal and policy considerations, and whether the rules reflect current Commission procedures.

A detailed plan of the expected timing of the review for each chapter is available at the TEC's website at <https://www.ethics.state.tx.us/data/search/rules/commission/RuleReviewPlan.pdf>.

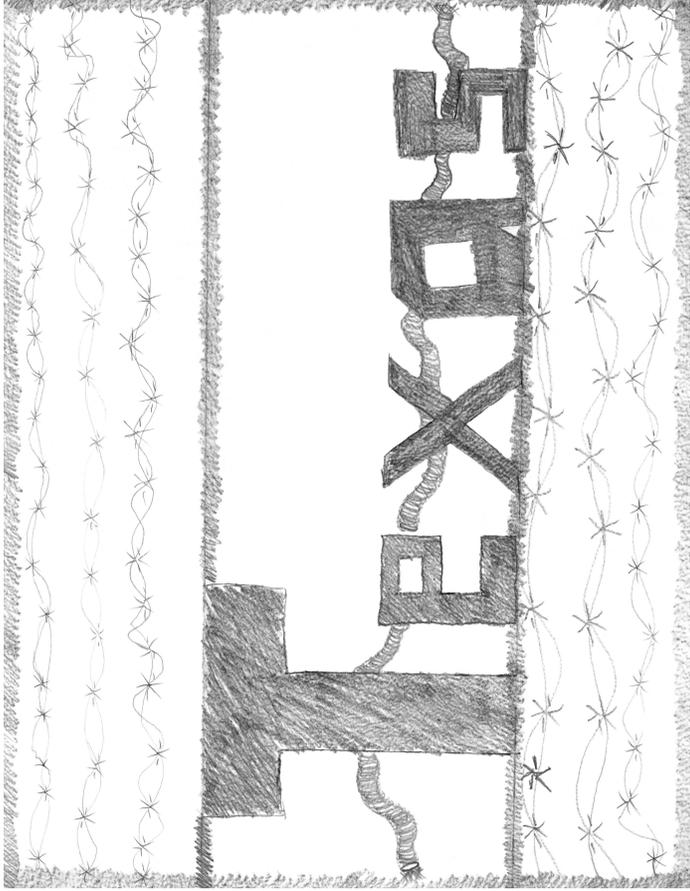
The Commission invites comments on this rule review from any member of the public. A written statement should be emailed to

public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. The deadline for comments is on or before 5:00 p.m. Central Time on the 31st day after the date this notice is published in the *Texas Register*. Should the Commission determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

The text of the chapters being reviewed will not be published but may be found in Title 1, Part 2, of the Texas Administrative Code (www.sos.state.tx.us/tac/index.shtml) or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202502193
James Tinley
Executive Director
Texas Ethics Commission
Filed: July 1, 2025





TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 26 TAC §749.4403(b)

<u>Topic</u>	<u>Follow this Division in Subchapter W</u>
<u>Training and Professional Development</u>	<u>Division 2, Pre-Verification and Ongoing Training Requirements</u>
<u>Admission and Placement</u>	<u>Division 3, Admission and Placement</u>
<u>Medical and Dental Care</u>	<u>Division 4, Medical and Dental Requirements</u>
<u>Daily Care, Problem Management</u>	<u>Division 5, Daily Care, Education, and Discipline</u>
<u>Screenings and Verifications</u>	<u>Division 6, Screenings and Verifications</u>
<u>Health and Safety Requirements, Environment, Space, and Equipment</u>	<u>Division 7, Health and Safety Requirements, Environment, Space, and Equipment</u>

Figure: 26 TAC §749.4427

<u>What type of training is required?</u>	<u>Which kinship caregiver must receive the training?</u>	<u>How many hours of training are required?</u>	<u>When must the kinship caregiver complete the training?</u>	<u>What must the training curriculum include?</u>
(1) <u>General Caregiver Training.</u>	(A) <u>All kinship caregivers.</u>	(B) <u>4 hours.</u>	(C) <u>Within 60 days after the child-placing agency (CPA) verifies the home.</u>	(D)(i) <u>Topics appropriate to the needs of children for whom the kinship caregiver will be providing care;</u> (D)(ii) <u>Trauma informed care;</u> (D)(iii) <u>Measures to prevent, recognize, and report suspected occurrences of child abuse (including sexual abuse);</u> (D)(iv) <u>Procedures to follow in emergencies, such as weather-related emergencies, volatile persons, and serve injury or illness of a child or adult; and</u> (D)(v) <u>Preventing the spread of communicable diseases.</u>
(2) <u>Emergency Behavior Intervention.</u>	(A) <u>All kinship caregivers.</u>	(B) <u>At least 6 hours.</u>	(C) <u>Within 60 days after the CPA verifies the home.</u>	(D) <u>The CPA must determine the appropriate curriculum.</u>

<p><u>(3) Safe Sleeping.</u></p>	<p><u>(A) Kinship caregivers who care for children younger than two years of age.</u></p>	<p><u>(B) No specified hours.</u></p>	<p><u>(C)(i) One kinship foster parent must complete the training before the CPA verifies the home; and</u> <u>(ii) Other kinship caregivers, including the second kinship foster parent must complete the training within 90 days following verification.</u></p>	<p><u>(D) The CPA must determine the appropriate curriculum.</u></p>
<p><u>(4) Administering Psychotropic Medication.</u></p>	<p><u>(A) Kinship caregivers who administer psychotropic medication.</u></p>	<p><u>(B) No specified hours.</u></p>	<p><u>(C) A kinship caregiver must complete the training before administering a psychotropic medication.</u></p>	<p><u>(D) The CPA must determine the appropriate curriculum.</u></p>

Figure: 26 TAC §749.4449(b)

<u>The kinship foster child is already living in the home at the time of verification:</u>	<u>Admission assessment complete:</u>
<u>(1) Yes</u>	<u>Within 40 days of verifying the kinship foster home.</u>
<u>(2) No</u>	<u>Within 40 days of admitting the child into a CPA's care.</u>

Figure: 26 TAC §749.4503(c)

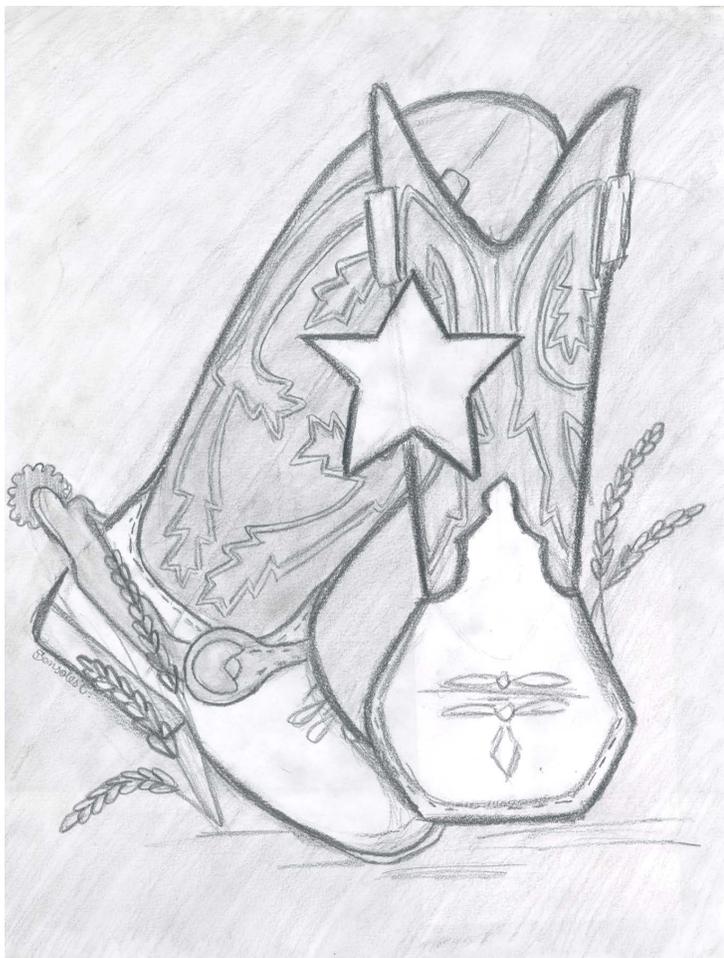
<u>Required Information</u>	<u>Discussion, Assessment, and Documentation Requirements</u>
<u>(1) The age of each prospective kinship foster parent and any other member of the household.</u>	<u>The CPA must document the ages of all household members.</u>
<u>(2) The basic competency of each prospective kinship foster parent.</u>	<p><u>The CPA must ensure and document that each prospective kinship foster parent:</u></p> <p><u>(A) Can meet basic competencies, including basic reading, writing, and math; or</u></p> <p><u>(B) Have a support system in place that can immediately assist with these subjects.</u></p>
<u>(3) Personal characteristics.</u>	<p><u>The CPA must document information from the prospective kinship foster parents that demonstrate the CPA's assessment of:</u></p> <p><u>(A) Each parent's emotional stability, character, health, and adult responsibility; and</u></p> <p><u>(B) The ability to provide a caring environment, appropriate supervision, and responsible discipline.</u></p>
<u>(4) History of current interpersonal relationships, including marriages, common-law marriages, and other relationships between people who share or have shared a domestic life without being married.</u>	<u>The CPA must document information about the current relationship status of the prospective kinship foster parents.</u>
<u>(5) A history of the prospective kinship foster parents' residence.</u>	<u>The CPA must document the length of time spent at each residence for the last two years (street address, city, state).</u>
<u>(6) The financial status of the prospective kinship foster parents.</u>	<u>(A) The CPA must discuss with the prospective kinship foster parents the current reimbursement process, if applicable, and assess the prospective</u>

	<p><u>kinship foster parents' understanding of that process.</u></p> <p><u>(B) The CPA must assess and document that the prospective kinship foster parents have or have reasonable access to sufficient resources to support the household and all children in care.</u></p>
<p><u>(7) The results of criminal history and central registry background checks conducted on the prospective kinship foster parents and on any non-client 14 years of age or older who regularly or frequently stays at or is present in the home.</u></p>	<p><u>(A) The CPA must assess, document, and maintain the documented assessment of the background checks for the prospective kinship foster parents and any person, including any non-client 14 years of age or older who will be regularly or frequently staying at or is present in the home.</u></p> <p><u>(B) With respect to law enforcement service call information, the CPA must do the following.</u></p> <p><u>(i) Obtain service call information from the appropriate law enforcement agency for each of the prospective kinship foster parent's addresses over the past two years. Discuss with the prospective kinship foster parents any service call information that the CPA obtains from a law enforcement agency and the facts surrounding the incident.</u></p> <p><u>(ii) Regardless of background check results, ask the prospective kinship foster parents whether any law enforcement agency has responded to any of the prospective kinship foster parent's residences in the past two years. If the CPA obtains additional information from the prospective kinship foster parents, request background information from each law enforcement agency that responded. Discuss the incident and any additional background information that the CPA</u></p>

	<p><u>obtains with the prospective kinship foster parents.</u></p> <p><u>(iii) Assess and document information obtained from law enforcement and any discussion with the prospective kinship foster parents in the foster home screening.</u></p>
<p><u>(8) Health status of all persons living in the home.</u></p>	<p><u>Discuss, assess, and document:</u></p> <p><u>(A) Information about the physical and mental health status (including substance abuse history) of all persons living in the home in relation to the family's ability to provide kinship care; and</u></p> <p><u>(B) Whether any noted health-related issue may affect the prospective kinship foster parents' ability to care for a kinship foster child.</u></p>
<p><u>(9) The prospective kinship foster parents' values, feelings, and practices regarding child care and discipline.</u></p>	<p><u>(A) Discuss, assess, and document:</u></p> <p><u>(i) Each prospective kinship foster parent's experience caring for children;</u></p> <p><u>(ii) The ways each prospective kinship foster parent was disciplined as a child and the prospective kinship foster parent's reactions to the discipline; and</u></p> <p><u>(iii) Each prospective kinship foster parent's discipline styles, techniques, and ability to recognize and respect differences in children and use discipline methods suitable to an individual child.</u></p> <p><u>(B) Discuss the CPA's approved disciplinary methods. If a prospective kinship foster parent's current discipline methods are different than those that the CPA approves, the CPA must discuss and assess how the kinship foster parent would change child-care</u></p>

	<u>practices to conform to the CPA's approved methods.</u>
<u>(10) Each prospective kinship foster parent's sensitivity to and feelings about children who may have been subjected to abuse or neglect.</u>	<p><u>(A) Discuss, assess, and document each prospective kinship foster parent's:</u></p> <p><u>(i) Understanding of the dynamics of child abuse and neglect; and</u></p> <p><u>(ii) How these issues and experiences will affect the kinship foster parents, the families, and kinship foster children in care.</u></p> <p><u>(B) Assess and document the availability of family and community resources to meet the needs of the children in the kinship foster family's care.</u></p>
<u>(11) The attitude of other household members about the prospective kinship foster parents' plan to provide foster care.</u>	<p><u>Discuss, assess, and document the attitudes of other household members toward the plan to provide kinship foster care, including each household member's:</u></p> <p><u>(A) Involvement in the care of kinship foster children;</u></p> <p><u>(B) Attitudes toward kinship foster children; and</u></p> <p><u>(C) Acceptance of the verification as a kinship foster family.</u></p>
<u>(12) Support systems available to prospective kinship foster parents.</u>	<u>(A) Discuss, assess, and document the support systems available to each kinship foster parent and the support the family may receive from these resources. The CPA must ask each prospective kinship foster parent for information about any person who may provide support as a caregiver during an unexpected event or crisis, such as an illness or disability of a kinship foster parent, loss of transportation, or</u>

	<p><u>the death of an immediate family member.</u></p> <p><u>(B) Unless the person will be a caregiver immediately after the CPA verifies the home, a background check on the person does not have to be completed before the CPA verifies the home.</u></p>
<p><u>(13) Background information from other child-placing agencies.</u></p>	<p><u>(A) Request, assess, and maintain the background information that the other CPA provides.</u></p> <p><u>(B) The receiving CPA must address and document the closure or any identified risk indicators, as applicable, with the prospective kinship foster parents before approval and verification of the home if the background information indicates that:</u></p> <p style="padding-left: 40px;"><u>(i) The kinship foster home was closed by the other CPA; or</u></p> <p style="padding-left: 40px;"><u>(ii) There were any potential risk indicators that the other CPA did not adequately address with the kinship foster parents.</u></p>



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, §303.005, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/07/25-07/13/25 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/07/25-07/13/25 is 18.00% for commercial² credit.

The monthly ceiling as prescribed by §303.005³ and §303.009 for the period of 07/01/25-07/31/25 is 18.00%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

³ Only for variable rate commercial transactions, as provided by §303.004(a).

TRD-202502204

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 2, 2025



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 11, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas

78711-3087 and must be received by 5:00 p.m. on **August 11, 2025**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: ABC Bandera, LLC; DOCKET NUMBER: 2024-1978-PWS-E; IDENTIFIER: RN111856696; LOCATION: Bandera, Bandera County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Daphne Greene, (903) 535-5157; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Adrisha Investment 4 LLC dba Food Mart 7; DOCKET NUMBER: 2025-0040-PST-E; IDENTIFIER: RN101876720; LOCATION: San Angelo, Tom Green County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.48(e)(1), §334.50(b)(1) and (2) and (A)(i) and (ii)(III), and TWC, §26.3475(a) and (c)(1), by failing to conduct a test of the proper operation of the release detection equipment at least annually, also failing to monitor the underground storage tanks (USTs) in a manner which will detect a release at a frequency of at least once every 30 days, additionally, failing to test the line leak detector for performance and operational reliability at least once per year, and furthermore, failing to provide release detection for the pressurized piping associated with the USTs; 30 TAC §334.48(g)(1)(A)(ii), (B), (h)(1)(A)(i) and (ii), and (B)(ii) and TWC, §26.3475(c)(1) and (2), by failing to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight, also failing to inspect the overfill prevention equipment at least once every three years to ensure that the equipment is set to activate at the correct level and will activate when a regulated substance reaches that level, additionally, failing to conduct a walkthrough inspection of the spill prevention equipment at least once every 30 days, furthermore, failing to conduct a walkthrough inspection of the release detection equipment at least once every 30 days, and finally, failing to conduct the annual walkthrough inspection of the UST containment sumps; and 30 TAC §334.49(c)(2)(C) and TWC, §26.3475(d), by failing to inspect the corrosion protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly; PENALTY: \$8,353; ENFORCEMENT COORDINATOR: Lauren Little, (817) 588-5888; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: Allen Butler Construction, Incorporated; DOCKET NUMBER: 2023-1205-AIR-E; IDENTIFIER: RN103145645; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: hot mix asphalt batch plant; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to

obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Michael Wilkins, (325) 698-6134; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(4) COMPANY: Aqua Texas, Incorporated; DOCKET NUMBER: 2023-0669-MWD-E; IDENTIFIER: RN101516268; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0011193001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$10,500; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Buckeye Texas Hub LLC; DOCKET NUMBER: 2024-1808-IWD-E; IDENTIFIER: RN103914974; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: warehousing and storage facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0005389000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$10,350; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: BULLSEYE CONSTRUCTION, INCORPORATED; DOCKET NUMBER: 2025-0147-WQ-E; IDENTIFIER: RN111963070; LOCATION: Bellville, Wharton County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4), TWC, §26.121(a)(2), and Texas Pollutant Discharge Elimination System General Permit Number TXR1549QR, Part III, Section F.6(a), by failing to maintain best management practices in effective operating condition; PENALTY: \$9,000; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(7) COMPANY: BURK ROYALTY COMPANY, LTD.; DOCKET NUMBER: 2024-0286-AIR-E; IDENTIFIER: RN110254000; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: oil storage tank battery; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$8,125; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: BURK ROYALTY COMPANY, LTD.; DOCKET NUMBER: 2024-0344-AIR-E; IDENTIFIER: RN110253622; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: sour gas and condensate/crude oil production facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$8,125; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: BURK ROYALTY COMPANY, LTD.; DOCKET NUMBER: 2024-0346-AIR-E; IDENTIFIER: RN110253457; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: sour gas and condensate/crude oil production facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$8,125; ENFORCEMENT COORDINATOR: Christina Ferrara, (512)

239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: BURK ROYALTY COMPANY, LTD.; DOCKET NUMBER: 2024-0377-AIR-E; IDENTIFIER: RN110254331; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: oil and gas production facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$8,125; ENFORCEMENT COORDINATOR: Trenton White, (903) 535-5155; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(11) COMPANY: BURK ROYALTY COMPANY, LTD.; DOCKET NUMBER: 2024-0415-AIR-E; IDENTIFIER: RN110254505; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: sour gas condensate/crude oil production facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$8,125; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: City of Whiteface; DOCKET NUMBER: 2024-1188-PWS-E; IDENTIFIER: RN101390094; LOCATION: Whiteface, Cochran County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.41(c)(3)(K), by failing to provide a well casing vent for Well Number 2 that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well; 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling cock on the discharge pipe of the facility's well pump prior to any treatment; 30 TAC §290.42(e)(4)(A), by failing to provide a small bottle of fresh ammonia solution for testing for chlorine leakage which is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency; 30 TAC §290.43(e), by failing to ensure that all potable water storage tanks and pressure maintenance facilities are installed in a lockable building that is designed to prevent intruder access or enclosed by an intruder-resistant fence with lockable gates; 30 TAC §290.44(h)(4), by failing to have all Backflow Prevention Assemblies tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; 30 TAC §290.46(f)(2) and (3)(A)(i)(III), and (iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(j), by failing to complete a Customer Service Inspection certificate prior to providing continuous water service to new construction on any existing service when the water purveyor has reason to believe cross-contamination hazards exist, or after any material improvement, corrections, or additions to the private water distribution system; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date

chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$6,168; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(13) COMPANY: City of Yantis; DOCKET NUMBER: 2024-1860-MWD-E; IDENTIFIER: RN101918589; LOCATION: Yantis, Wood County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1) and Texas Pollutant Discharge Elimination System Permit Number WQ0012187001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$16,500; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: COMMUNITY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2024-1380-WQ-E; IDENTIFIER: RN111189510; LOCATION: Azle, Tarrant County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and §319.5(b) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG640018, Part III, Section A, by failing to collect and analyze effluent samples at the intervals specified in the permit; and 30 TAC §305.125(1) and (17) and §319.7(d), and TPDES General Permit Number TXG640018, Part IV Standard Permit Condition Number 7.f, by failing to submit monitoring results at the intervals specified in the permit; PENALTY: \$20,000; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: D.A.M. WASTE and RECYCLING, LLC; DOCKET NUMBER: 2023-1568-MSW-E; IDENTIFIER: RN110304821; LOCATION: Nixon, Gonzales County; TYPE OF FACILITY: recycling business; RULES VIOLATED: 30 TAC §330.7(a) and §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized storage and disposal of municipal solid waste; PENALTY: \$10,000; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(16) COMPANY: El Dorado Nitrogen L.L.C.; DOCKET NUMBER: 2024-1088-AIR-E; IDENTIFIER: RN100217918; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(C), Federal Operating Permit (FOP) Number O1700, General Terms and Conditions (GTC), and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; and 30 TAC §122.143(4) and §122.146(2), FOP Number O1700, GTC and Special Terms and Conditions Number 11, and THSC, §382.085(b), by failing to submit a permit compliance certification within 30 days of any certification period; PENALTY: \$6,500; ENFORCEMENT COORDINATOR: Trenton White, (903) 535-5155; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: GUADALUPE READYMIX, LLC; DOCKET NUMBER: 2024-1648-WQ-E; IDENTIFIER: RN111984811; LOCATION: Garden Ridge, Comal County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$4,000; ENFORCEMENT COORDINATOR:

Sarah Castillo, (512) 239-1130; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: HAC, Incorporated dba Homeland; DOCKET NUMBER: 2024-0728-PST-E; IDENTIFIER: RN102245859; LOCATION: Justin, Denton County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.48(h)(1)(A)(ii) and TWC, §26.3475(c)(1), by failing to conduct the 30-day walkthrough inspections of the release detection equipment; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank (UST) in a manner which will detect a release at a frequency of at least once every 30 days; and 30 TAC §334.602(a)(4), by failing to have at least one certified operator, Class A, B, or C, present at the UST facility during hours of operation; PENALTY: \$7,000; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 430-6057; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(19) COMPANY: Harris County Water Control and Improvement District Number 21; DOCKET NUMBER: 2024-0145-MWD-E; IDENTIFIER: RN102077807; LOCATION: Channelview, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010105001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$31,400; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(20) COMPANY: Hull Fresh Water Supply District; DOCKET NUMBER: 2024-1905-PWS-E; IDENTIFIER: RN101427128; LOCATION: Hull, Liberty County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(k), by failing to obtain approval from the Executive Director for the use of interconnections; PENALTY: \$500; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(21) COMPANY: INEOS Calabrian Corporation; DOCKET NUMBER: 2024-1869-IWD-E; IDENTIFIER: RN101645018; LOCATION: Port Neches, Jefferson County; TYPE OF FACILITY: chemical manufacturing facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0004731000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$21,875; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(22) COMPANY: INV Polypropylene, LLC; DOCKET NUMBER: 2025-0310-AIR-E; IDENTIFIER: RN101618759; LOCATION: Longview, Harrison County; TYPE OF FACILITY: polypropylene pellet manufacturing facility; RULES VIOLATED: 30 TAC §§122.121, 122.133(2), and 122.241(b) and Texas Health and Safety Code, §382.054 and §382.085(b), by failing to submit a permit renewal application at least six months prior to the expiration of a federal operating permit; PENALTY: \$22,200; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(23) COMPANY: MANVEL TERRACE UTILITIES, INCORPORATED; DOCKET NUMBER: 2025-0197-PWS-E; IDENTIFIER: RN101269579; LOCATION: Pearland, Brazoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC

§290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$50; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(24) COMPANY: Mirando City Water Supply Corporation; DOCKET NUMBER: 2024-1960-PWS-E; IDENTIFIER: RN101195360; LOCATION: Mirando City, Webb County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average; PENALTY: \$1,300; ENFORCEMENT COORDINATOR: De'Shaune Blake, (210) 403-4033; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(25) COMPANY: MONDO GARDENS, INCORPORATED; DOCKET NUMBER: 2025-0183-WR-E; IDENTIFIER: RN111920195; LOCATION: Industry, Austin County; TYPE OF FACILITY: turfgrass farm; RULES VIOLATED: 30 TAC §297.11 and TWC, §11.081 and §11.121, by failing to obtain authorization prior to diverting, impounding, storing, taking, or using state water; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(26) COMPANY: Moriah TFS Operations, LLC; DOCKET NUMBER: 2025-0475-WQ-E; IDENTIFIER: RN111826061; LOCATION: Mertzon, Irion County; TYPE OF FACILITY: aggregate production operation; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(27) COMPANY: PAXTON Water Supply Corporation; DOCKET NUMBER: 2023-0902-MLM-E; IDENTIFIER: RN101210185; LOCATION: Joaquin, Shelby County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §288.20(c), by failing to review and update, as appropriate, the drought contingency plan at least every five years; 30 TAC §290.39(j) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the executive director (ED) prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; 30 TAC §290.42(j), by failing to use an approved chemical or media for the treatment of potable water that conforms to the American National Standards Institute/National Sanitation Foundation Standard 61 for Drinking Water System Components; 30 TAC §290.44(h)(4), by failing to have all backflow prevention assemblies tested upon installation and on an annual basis by a recognized backflow prevention assembly tester and certify that they are operating within specifications; 30 TAC §290.45(b)(1)(D)(i) and THSC, §341.0315(c), by failing to provide the minimum total production capacity; 30 TAC §290.45(b)(1)(D)(iii) and THSC, §341.0315(c), by failing to provide the minimum service pump capacity; 30 TAC §290.46(f)(2) and (3)(A)(iii), (B)(iv) and (ix), by failing to maintain water works operation and maintenance records and make them readily available for review by the ED upon request; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.46(p)(2), by failing to provide the ED with a list of all the operators and operating companies that the public water system uses on an annual basis; 30 TAC §290.46(s)(2)(C)(i),

by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; 30 TAC §290.46(s)(2)(C)(iii), by failing to determine and correct the cause of a discrepancy after a disinfectant residual analyzer produced results that were not within 15% of the expected value; 30 TAC §290.46(s)(2)(D), by failing to verify the accuracy of the analyzer used to determine the effectiveness of chloramination in accordance with the manufacturer's recommendations every 90 days; 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; and 30 TAC §290.121(a), by failing to maintain an up-to-date chemical and microbiological monitoring plan at each water treatment plant and at a central location; PENALTY: \$7,800; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(28) COMPANY: PAXTON Water Supply Corporation; DOCKET NUMBER: 2024-0601-PWS-E; IDENTIFIER: RN101211845; LOCATION: Tenaha, Shelby County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites that were tested, and failing to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2022 - December 31, 2022 and January 1, 2023 - December 31, 2023, monitoring periods; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, and failing to submit to the TCEQ by July 1st for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with the compliance monitoring period for calendar year 2021; and 30 TAC §290.272 and §290.274(a), by failing to meet the adequacy, availability, and/or content requirements for the CCR for the year of 2022; PENALTY: \$10,886; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(29) COMPANY: Phillips 66 Company; DOCKET NUMBER: 2023-0210-AIR-E; IDENTIFIER: RN101619179; LOCATION: Old Ocean, Brazoria County; TYPE OF FACILITY: oil refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 5920A, N292, 30513, 118699 and PSDTX103M4, Special Conditions Numbers 1 and 2, Federal Operating Permit Number O1626, General Terms and Conditions and Special Terms and Conditions Number 29, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$13,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,562; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(30) COMPANY: PRINCESS, INCORPORATED; DOCKET NUMBER: 2024-1874-PWS-E; IDENTIFIER: RN101225142; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), and TCEQ Agreed Order Docket Number 2015-0490-PWS-E, Ordering Provision Number 3.e, by failing to obtain a sanitary control easement that covers the land within 150 feet of Well Number 1; 30 TAC §290.46(n)(1), by failing to maintain accurate and up-to-date as-built plans or record

drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$1,518; ENFORCEMENT COORDINATOR: Daphne Greene, (903) 535-5157; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(31) COMPANY: S.K. Rogers Oil, Incorporated; DOCKET NUMBER: 2024-1027-AIR-E; IDENTIFIER: RN111971230; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: oil and gas production facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$1,625; ENFORCEMENT COORDINATOR: Trenton White, (903) 535-5155; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(32) COMPANY: Texas Parks and Wildlife Department; DOCKET NUMBER: 2025-0600-PWS-E; IDENTIFIER: RN101183341; LOCATION: Quitaque, Briscoe County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$11,000; ENFORCEMENT COORDINATOR: Katherine Argueta, (512) 239-4131; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202502180

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 1, 2025



Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater New Permit No. WQ0016624001

APPLICATION AND PRELIMINARY DECISION. Sanger Laguna Azure LLC and James N. Horn, 2101 Cedar Springs Road, Suite 700, Dallas, Texas 75201, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016624001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 950,000 gallons per day. TCEQ received this application on September 16, 2024.

The facility will be located approximately 0.77 miles northwest of the intersection of Farm-to-Market Road 2153 and Farm-to-Market Road 2164, near the City of Sanger, Denton County, Texas 76266. The treated effluent will be discharged to an unnamed tributary, thence to another unnamed tributary, thence to Clear Creek, thence to Lewisville Lake in Segment No. 0823 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the first unnamed tributary, limited aquatic life use for the second unnamed tributary, and high aquatic life use for Clear Creek. The designated uses for Segment No. 0823 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality

is expected in Clear Creek, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.131388,33.345&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Sanger Public Library, 501 Bolivar Street, Sanger, in Denton County, Texas. The application, including any updates, and associated notices are available electronically at the following webpage: <https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments about this application. The TCEQ will hold a public meeting on this application because it was requested by a local legislator.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, August 14, 2025 at 7:00 p.m.

Denton Civic Center (Rotunda)

321 E. McKinney Street

Denton, Texas 76201

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300

or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas

78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice, or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Sanger Laguna Azure LLC and James N. Horn at the address stated above or by calling Mr. Dallas Wendling, P.E., LJA Engineering, Inc., at (214) 620-2772.

Issuance Date: July 1, 2025

TRD-202502203

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Enforcement Orders

An agreed order was adopted regarding Elias D. Garcia and Mauricia Tamez, Docket No. 2021-1601-PST-E on June 17, 2025 assessing \$1,250 in administrative penalties with \$250 deferred. Information concerning any aspect of this order may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding James W. Jeffcoat dba Lakeshore Sites Water, Docket No. 2022-1296-PWS-E on June 17, 2025 assessing \$250 in administrative penalties with \$50 deferred. Information concerning any aspect of this order may be obtained by contacting Hilda Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Occidental Permian Ltd., Docket No. 2023-0138-AIR-E on June 17, 2025 assessing \$255 in administrative penalties with \$51 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cross Country Water Supply Corporation, Docket No. 2023-0378-PWS-E on June 17, 2025 assessing \$3,315 in administrative penalties with \$663 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Wildorado Water Supply Corporation, Docket No. 2023-0416-PWS-E on June 17, 2025 assess-

ing \$4,650 in administrative penalties with \$930 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ash Grove Cement Company, Docket No. 2023-0491-PWS-E on June 17, 2025 assessing \$710 in administrative penalties with \$142 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Parks and Wildlife Department, Docket No. 2023-0713-PWS-E on June 17, 2025 assessing \$1,785 in administrative penalties with \$357 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Parks and Wildlife Department, Docket No. 2023-0840-PWS-E on June 17, 2025 assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SHAHZ BROTHERS INC. dba K-2 Food Mart, Docket No. 2023-1016-PST-E on June 17, 2025 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Celicia Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Nelson Gardens Energy, LLC, Docket No. 2023-1087-AIR-E on June 17, 2025 assessing \$4,000 in administrative penalties with \$800 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TOR Texas, LLC, Docket No. 2023-1116-MSW-E on June 17, 2025 assessing \$4,688 in administrative penalties with \$937 deferred. Information concerning any aspect of this order may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jose Manuel Sanchez AKA Jose M. Sanchez-Rodriguez, Docket No. 2023-1132-PWS-E on June 17, 2025 assessing \$3,025 in administrative penalties with \$605 deferred. Information concerning any aspect of this order may be obtained by contacting Daphne Greene, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding S. P. J. S. T. Senior Living, Docket No. 2023-1404-PWS-E on June 17, 2025 assessing \$1,147 in administrative penalties with \$229 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding COLUMBIA HOSPITAL AT MEDICAL CITY DALLAS SUBSIDIARY, L.P. dba Medical City Dallas Hospital, Docket No. 2023-1655-MSW-E on June 17, 2025 assess-

ing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BEACH RV PARTNERSHIP, LTD, Docket No. 2024-0208-PWS-E on June 17, 2025 assessing \$1,905 in administrative penalties with \$381 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ETC Texas Pipeline Ltd., Docket No. 2024-0291-AIR-E on June 17, 2025 assessing \$ 3,938 in administrative penalties with \$787 deferred. Information concerning any aspect of this order may be obtained by contacting Morgan Kopcho, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Southmayd, Docket No. 2024-0557-MLM-E on June 17, 2025 assessing \$1,322 in administrative penalties with \$264 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Sabinal, Docket No. 2024-0908-MWD-E on June 17, 2025 assessing \$4,125 in administrative penalties with \$825 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Petroleum Distribution Transportation, LLC, Docket No. 2024-1084-PST-E on June 17, 2025 assessing \$9,170 in administrative penalties with \$1,834 deferred. Information concerning any aspect of this order may be obtained by contacting Faye Renfro, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding EPIC Y-Grade Logistics, LP, Docket No. 2024-1209-AIR-E on June 17, 2025 assessing \$4,738 in administrative penalties with \$947 deferred. Information concerning any aspect of this order may be obtained by contacting Morgan Kopcho, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 3L Energy Solutions LLC, Docket No. 2024-1440-PST-E on June 17, 2025 assessing \$4,521 in administrative penalties with \$904 deferred. Information concerning any aspect of this order may be obtained by contacting Leah Johns, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Mathis, Docket No. 2024-1443-PWS-E on June 17, 2025 assessing \$2,626 in administrative penalties with \$525 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Han K. Park dba CrossFit Tierra, Docket No. 2024-1444-PWS-E on June 17, 2025 assessing \$1,250 in administrative penalties with \$250 deferred. Information concerning any aspect of this order may be obtained by contacting

Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lohn Water Supply Corporation, Docket No. 2024-1598-PWS-E on June 17, 2025 assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Deshaune Blake, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Fresh Water Supply District 1-B, Docket No. 2024-1603-PWS-E on June 17, 2025 assessing \$1,837 in administrative penalties with \$1,417 deferred. Information concerning any aspect of this order may be obtained by contacting Iliia Perez-Ramirez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jones Elizabeth S Lving Trust, Docket No. 2024-1673-OSS-E on June 17, 2025 assessing \$450 in administrative penalties with \$90 deferred. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MHBA CB, L.L.L.P., Docket No. 2024-1824-AIR-E on June 17, 2025 assessing \$6,300 in administrative penalties with \$1,260 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SA Varni Krupa LLC dba Goliad Express, Docket No. 2024-1849-PST-E on June 17, 2025 assessing \$3,118 in administrative penalties with \$623 deferred. Information concerning any aspect of this order may be obtained by contacting Leah Johns, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Fluid Daddy LLC, Docket No. 2025-0108-WQ-E on June 17, 2025 assessing \$2,500 in administrative penalties with \$500 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Deer Trail Water District, LLC, Docket No. 2025-0167-PWS-E on June 17, 2025 assessing \$460 in administrative penalties with \$92 deferred. Information concerning any aspect of this order may be obtained by contacting Mason Demasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Patriot Mining And Materials Llc, Docket No. 2025-0510-WQ-E on June 17, 2025 assessing \$875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202502205

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of an Amendment to a Certificate of Adjudication Application No. 14054

Notices Issued June 27, 2025

Bechtel Energy Inc. 3750 S. Gulfway Dr., Port Arthur, Texas 77640, Applicant, seeks a temporary water use permit to divert and use not to exceed 250 acre-feet of water, within a period of three years, from a diversion reach on the Sabine-Neches Canal, Neches-Trinity Coastal Basin, at a maximum combined diversion rate of 7.798 cfs (3,500 gpm), for industrial purposes in Jefferson County. More information on the application and how to participate in the permitting process is given below.

The application was received on January 16, 2025 and fees were received on February 26, 2025. The application was declared administratively complete and filed with the Office of the Chief Clerk on March 10, 2025.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, the installation of a measuring device for diversions. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ webpage at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps.

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by July 14, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by July 14, 2025. The Executive Director can consider approval of the application unless a written request for a contested case hearing is filed by July 14, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 14054 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the

same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040.

General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202502197

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of an Amendment to a Certificate of Adjudication Application No. 14124

Notices Issued June 27, 2025

City of Corpus Christi, 1201 Leopard Street, Corpus Christi, Texas 78401, Applicant, seeks a temporary water use permit, for a period of three years, to authorize the use of the bed and banks of the Nueces River, Nueces River Basin to convey groundwater for subsequent diversion and use for municipal purposes in Atascosa, Aransas, Bee, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, Nueces, San Patricio, and Willacy counties. More information on the application and how to participate in the permitting process is given below.

The application and fees were received on May 12, 2025. Additional information was received on June 5 and June 9, 2025. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 11, 2025. Additional information was received on June 13, 2025.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, water quality and aquatic life monitoring. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ webpage at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by July 28, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by July 28, 2025. The Executive Director may approve the application unless a written request for a contested case hearing is filed by July 28, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns.

Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 14124 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al www.tceq.texas.gov.

TRD-202502198

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of District Petition - D-05292025-082

Notice issued June 25, 2025

TCEQ Internal Control No. D-05292025-082: Medina Valley Ranch, LP, a Texas limited partnership (Petitioner) filed a petition for creation of Medina Valley Ranch Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to and is the owner of a majority in value of the land to be included in the proposed District; (2) there are two lienholders, Schertz Bank & Trust, a Texas state bank, and LOQ Development, LLC, a Texas limited liability company, on the property to be included in the proposed District; (3) the proposed District will contain approximately 377.210 acres located within Medina County, Texas; and (4) the land within the proposed District is not currently located within the corporate limits or extraterritorial jurisdiction of any city in Texas. The petition further states that the general nature of the work proposed to be done by the proposed District, as contemplated at the present time, is the purchase, design, construction, acquisition, improvement, extension, ownership, operation, maintenance, repair, conveyance, financing, and issuance of bonds for: (i) an adequate and efficient water works for domestic purposes; (ii) works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District, and to control, abate, and amend local storm waters or other harmful excesses of waters; (iii) roads and improvements in aid of roads; and (iv) such other additional facilities, systems, plants, and enterprises as may be consistent with any or all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$9,105,000 (\$4,455,000 for water and drainage plus \$4,650,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202502195

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of District Petition - D-05292025-084

Notice issued July 2, 2025

TCEQ Internal Control No. D-05292025-084: DPEG Cut and Shoot, LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Montgomery County Municipal Utility District No. 246 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 105.2 acres located within Montgomery County, Texas; and (4) all of the land within the proposed District is within the extraterritorial jurisdiction of the City of Cut and Shoot. By Resolution No. 108, passed and approved on May 8, 2025 the City of Cut and Shoot, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, extend, maintain and operate a waterworks and wastewater system for domestic and commercial purposes; (2) purchase, construct, acquire, improve, extend,

maintain and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; (4) purchase, construct, acquire, improve, extend, maintain and operate the improvements, facilities, and equipment for the purpose of providing recreational facilities; (5) pursuant to Section 54.234, Texas Water Code, as amended, the District may also exercise road powers and authority pursuant to applicable law, and pursuant to applicable law, the proposed District may also establish, finance, provide, operate, and maintain a fire department and/or fire-fighting services within the proposed District; and (6) acquire, finance, operate, and maintain such additional facilities, systems, plants, and enterprises as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$26,298,020 (\$18,813,415 for water, wastewater, and drainage and \$7,484,605 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202502207

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of District Petition - D-06022025-003

Notice issued June 26, 2025

TCEQ Internal Control No. D-06022025-003: Capistrano Farms, LLC, a Texas limited liability company (Petitioner) filed a petition for creation of Brazoria County Municipal Utility District No. 72 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 512.16 acres located within Brazoria County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city.

The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary wastewater system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate and amend local storm waters or other harmful excesses of waters; and, (4) such other purchase, construction, acquisition, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises, and road facilities and park and recreational facilities, as shall be consistent with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$133,150,000 (\$83,025,000 for water, wastewater, and drainage plus \$9,775,000 for recreation plus \$40,350,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Dis-

tricts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202502201

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of District Petition - D-06022025-010

Notice issued June 25, 2025

TCEQ Internal Control No. D-06022025-010: Gene McCutchin, Ltd. III, a Texas limited partnership, (Petitioner) filed a petition for creation of FM 1385 Municipal Utility District of Denton County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 552.592 acres located within Denton County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain, operate of such additional facilities, systems, plants and enterprises, and road facilities, as shall be consistent with all of the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$108,945,000 (\$69,900,000 for water, wastewater, and drainage plus \$ 39,045,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a con-

tested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202502200

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of District Petition - D-06032025-019

Notice issued July 2, 2025

TCEQ Internal Control No. D-06032025-019: Spencewood, Inc., a Texas corporation, and Hillwood Enterprises, L.P., (Petitioners) filed a petition for creation of Lockhart Municipal Utility District of Caldwell County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed; (3) the proposed District will contain approximately 889.3 acres located within Caldwell County, Texas; and (4) some of the land within the proposed District is within the extraterritorial jurisdiction of the City of Lockhart.

By Resolution No. 2025-08, passed and approved on February 18, 2025, the City of Lockhart, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code Section 54.016. The petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary wastewater system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate and amend local storm waters or other harmful excesses of waters; and, (4) such other purchase, construction, acquisition, ownership, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises, and road facilities, as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$187,990,000 (\$100,950,000 for water, wastewater, and drainage plus \$87,040,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown

at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202502206

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of District Petition - D-06092025-021

Notice issued June 25, 2025

TCEQ Internal Control No. D-06092025-021: Berry Creek Land Investment, LLC, (Petitioner) filed a petition for creation of Williamson County Municipal Utility District No. 68 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 158.040 acres located within Williamson County, Texas; and (4) some of the land within the proposed District is within the extraterritorial jurisdiction of City of Weir. By Resolution No. 2018-1201, passed and adopted on December 13, 2018, the City of Weir, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will purchase, construct, acquire, repair, extend, and improve land, easements, works, improvements, facilities, plants, equipment and appliances to: (1) provide a water supply for municipal uses, domestic uses and commercial purposes; (2) collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District; (4) design, acquire, con-

struct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; (5) purchase, construct, acquire, provide, operate, maintain, repair, improve, extend and develop park and recreation facilities for the inhabitants of the District; and (6) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is created and permitted under state law. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$48,500,000 (\$31,850,000 for water, wastewater, and drainage plus \$1,000,000 for recreation plus \$15,650,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202502199

Laurie Gharis
Chief Clerk

Texas Commission on Environmental Quality
Filed: July 2, 2025



Notice of Intent to Perform Removal Action at the (Tucker Oil Refinery/Clinton Manges Oil & Refining Company) Proposed State Superfund Site, (Tucker, Anderson County, Texas)

The executive director of the Texas Commission on Environmental Quality (TCEQ or commission) hereby issues public notice of intent to perform a removal action, as provided by Texas Health and Safety Code (THSC) §361.133, for the Tucker Oil Refinery/Clinton Manges Oil &

Refining Company state Superfund site (the site). The site, including all land, structures, appurtenances, and other improvements, occupies approximately 9.249 acres located between United States Highway 79 (US 79) and the Union Pacific Railroad in Tucker, Anderson County, Texas, approximately 1/4 mile north of the intersection of US 79 and County Road 2133 and approximately nine miles west of Palestine. An additional 2.2 acres of the site are located directly across US 79 to the west. The site also includes any areas where hazardous substances have come to be located as a result, either directly or indirectly of releases of hazardous substances from the site.

The site contains an inactive and dismantled oil refinery and previously was the location of operations including oil refining and scrap metal salvage that took place at the site from 1940 through 1995. The results of sampling events conducted at the site indicate that benzene-contaminated soils and a shallow vinyl chloride groundwater plume are present on-site, and a deeper 1,2-dichloroethane groundwater plume extends off-site. There are also light non-aqueous phase liquids present in the shallow and deeper groundwater-bearing units.

The site was proposed for listing on the state Superfund registry on November 3, 2000 (25 TexReg 11179), pursuant to THSC, Chapter 361, Subchapter F. In order to achieve long-term protectiveness of nearby residential and agricultural property, removal of soils containing hazardous substances is appropriate. The cleanup or removal can be completed without extensive investigation and planning and will achieve a significant cost reduction for the site.

Records

A portion of the record for this site is available for review during regular business hours at the Palestine Public Library, at 502 North Queen Street, Palestine, Texas 75801, phone number (903) 729-4121.

Agency records for this site may be accessible for inspection (viewing) or copying by contacting the TCEQ Central File Room (CFR) Viewing Area, Building E, North Entrance, at 12100 Park 35 Circle, Austin, Texas 78753, by contacting CFR at cfrreq@tceq.texas.gov or phone at (512) 239-0171 to request an appointment (Appointments are necessary for in-person viewing). CFR staff will assist with providing program area contacts for records not maintained in the CFR. Fees are charged for photocopying file information. Additionally, some CFR records are available electronically and accessible online: at Access Records from our Central File Room - Texas Commission on Environmental Quality - www.tceq.texas.gov or <https://www.tceq.texas.gov/agency/data/records-services>. Parking for persons with disabilities is available on the east side of Building D, convenient to access ramps that are between Buildings D and E. Information is also available about the state Superfund program at <https://www.tceq.texas.gov/remediation/superfund/sites>.

For further information, please contact Makenzie Vessely, P.G., TCEQ Project Manager, Remediation Division, at (512) 239-2208, or Crystal Taylor, TCEQ Community Relations Liaison at (512) 239-3844 or (800) 633-9363.

TRD-202502143

Gitanjali Yadav

Deputy Director, Litigation Division
Texas Commission on Environmental Quality

Filed: June 27, 2025



Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on

the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 11, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on August 11, 2025**. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: PUNJ ENTERPRISE INC dba Domino Truck Stop; DOCKET NUMBER: 2021-0667-PST-E; TCEQ ID NUMBER: RN102780525; LOCATION: 22263 US Highway 59 North, Queen City, Cass County; TYPE OF FACILITY: an underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a)(1), by failing to provide corrosion protection for the UST system; TWC, §26.3475(e)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every 30 days; TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; PENALTY: \$9,300; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202502184

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 1, 2025



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests

a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 11, 2025**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on August 11, 2025**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: David Holy; DOCKET NUMBER: 2022-0447-WQ-E; TCEQ ID NUMBER: RN110001765; LOCATION: 1.3 miles west of Farm-to-Market Road 933 on Highway Contract Route 2203, Aquilla, Hill County; TYPE OF FACILITY: an aggregate production operation; RULES VIOLATED: TWC, §26.121, 30 TAC §281.25(a)(4), and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities; PENALTY: \$2,500; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: G4J Materials LLC; DOCKET NUMBER: 2023-0606-WQ-E; TCEQ ID NUMBER: RN107135113; LOCATION: 550 Old Brock Road, Weatherford, Parker County; TYPE OF FACILITY: a construction sand and gravel quarry; RULES VIOLATED: 30 TAC §305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System General Permit Number TXG500013, Part X, Section G, Standard Monitoring and Reporting Requirements Number 7, by failing to submit effluent monitoring results at the intervals specified in the permit; PENALTY: \$36,000; STAFF ATTORNEY: Taylor Pack Ellis, Litigation, MC 175, (512) 239-6860; REGIONAL OFFICE: Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202502186

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 1, 2025



Notice of Opportunity to Request a Public Meeting for a Development Permit Application for Construction Over a Closed Municipal Solid Waste Landfill Proposed Permit No. 62058

Application. Favorite Venture Real Estate, LLC has applied to the Texas Commission on Environmental Quality (TCEQ) for construction over a closed municipal solid waste landfill. The proposed development concerns a tract of land of approximately 0.92 acres located at 957 W Cartwright Road, Mesquite, Texas 75149 in Dallas County. The proposed development includes a commercial retail center, with one building, driveways, a parking lot, and utilities. The development permit application is available for viewing and copying at Mesquite Public Library, 300 W Grubb Drive, Mesquite, Texas 75149. The application, including updates, is also available electronically at the following webpage: www.tceq.texas.gov/goto/wasteapps. The following link to an electronic map of the general location of the site or facility is provided as a public courtesy and is not part of the application or notice: <https://arcg.is/0GXFT90>. For the exact location, refer to the application.

Alternative Language Notice / Aviso en idioma alternativo. Alternative language notice in Spanish is available at www.tceq.texas.gov/goto/wasteapps. El aviso en idioma alternativo en español está disponible en www.tceq.texas.gov/goto/wasteapps.

Public Comment / Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing. The Executive Director will review and consider all timely comments and requests for a public meeting submitted during the comment period. The comment period will end 30 calendar days after this notice is published unless a public meeting is scheduled, in which case it will be extended to the date and time the public meeting closes. The Executive Director is not required to file a response to comments.

Executive Director Action. The Executive Director will review the application and issue a decision. If the Executive Director acts on an application, the Chief Clerk will mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion to overturn the Executive Director's decision.

Mailing List. If you submit public comments, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s), and send your request to TCEQ Office of the Chief Clerk at the address below.

Information Available Online. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments, requests, and petitions must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/ or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address, and physical address, will become part of the agency's public record.

For questions about the permitting process, please visit <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation> or contact the TCEQ's Public Education Program by

email at pep@tceq.texas.gov or by phone, toll free, at (800) 687-4040. Para información en español, favor de llamar al (800) 687-4040.

For More Information. Further information may also be obtained by writing to the applicant's representative at Mr. Pervez Bhojani, Favorite Venture Real Estate, LLC, 4629 Bronco Blvd, Carrollton, Texas 75010 or by calling (469) 387-1383.

Issued Date: June 23, 2025

TRD-202502194

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of Public Meeting New Permit No. WQ0016503001

APPLICATION. South Central Water Company, P.O. Box 570177, Houston, Texas 77257, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016503001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day. TCEQ received this application on March 11, 2024.

The facility will be located approximately 0.36 miles northwest of the intersection of North Drive and Northwest Carlos G. Parker Boulevard, in Williamson County, Texas 76574. The treated effluent will be discharged to **Turkey Creek, thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin.** The unclassified receiving water use is limited aquatic life use for Turkey Creek. The designated uses for Segment No. 1244 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.435555,30.600833&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, August 11, 2025 at 7:00 p.m.

Jarrell Memorial Park Community Center

1651 County Road 305

Jarrell, Texas 76537

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our website at <https://www.tceq.texas.gov>.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Taylor Public Library, Reference Desk, 801 Vance Street, Taylor, in Williamson County, Texas. The application, including any updates, and associated notices are available electronically at the following webpage: <https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

Further information may also be obtained from South Central Water Company at the address stated above or by calling Mr. Jerry Ince, P.E., Senior Project Manager, Ward, Getz & Associates, LLP, at (832) 344-6604.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: June 27, 2025

TRD-202502202

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



Notice of Water Quality Application - Minor Amendment - WQ0010379001

The following notice was issued on June 23, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *TEXAS REGISTER*.

INFORMATION SECTION

The Texas Commission on Environmental Quality (TCEQ) has initiated a minor amendment of the Texas Pollutant Discharge Elimination System Permit No. WQ0010379001 issued to the City of Waxahachie, P.O. Box 757, Waxahachie, Texas 75168, to update a daily max limit for CBOD5, update the TCEQ revision 06/2020 boilerplate language, update chronic dilution series and critical dilution from the permit issued on June 10, 2024. Existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 8,000,000 gallons per day. The facility is located at 2301 Howard Road, in the City of Waxahachie, Ellis County, Texas 75165.

TRD-202502196

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 2, 2025



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of June 23, 2025 to June 27, 2025. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, July 4, 2025. The public comment period for this project will close at 5:00 p.m. on Sunday, August 3, 2025.

Federal Agency Activities:

Applicant: United States Army Corps of Engineers

Project Description: The applicant proposes to reissue 56 existing nationwide permits and issue one new nationwide permit authorizing activities associated with improving fish passage. One NWP (Finfish Mariculture Activities) is not proposed for reissuance. Nationwide permits authorize activities in wetlands and other waters that are regulated by Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. The USACE comment period ends July 18, 2025. More information on the reissuance may be found here: Nationwide Permit Renewal and Tx Regional Conditions > Galveston District > Public Notices,

Type of Application: Nationwide Permits, General Conditions and Texas Regional Conditions Reissuance.

CMP Project No: 25-1232-F2

Applicant: Bureau of Ocean Energy Management (BOEM)

Location: The Gulf of America Region (GOAR) Outer Continental Shelf (OCS)

Project Description: For BOEM GOAR Lease Sale 262, which is tentatively scheduled for December 10, 2025, BOEM is proposing to offer for lease all available unleased blocks in the Western Planning Area (WPA), Central Planning Area (CPA), and Eastern Planning Area (EPA) not currently under Presidential withdrawal with the additional exclusions listed below.

- whole and partial blocks currently under Presidential withdrawal (The White House 2020);

- blocks that are adjacent to or beyond the United States' Exclusive Economic Zone (Extended Continental Shelf Area); and

- whole and partial blocks within the boundaries of the Flower Garden Banks National Marine Sanctuary as of the July 2008 Presidential Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition" (The White House 2008)

The final decision on how to proceed with the lease sale and the lease blocks available for leasing will be announced in the Record of Decision and, if the decision is to proceed, a Final Notice of Sale. BOEM reserves the right to modify the lease sale area in the Final Notice of Sale. More information on the available unleased blocks can be found in the Proposed Notice of Sale for GOAR Lease Sale 262, which is available at <https://www.boem.gov/oil-gas-energy/leasing/lease-sale-262>. The proposed lease sale area includes approximately 14,937 available blocks covering approximately 80 million acres.

Type of Application: Notice of Availability of the Proposed Notice of Sale for Gulf of America Outer Continental Shelf Oil and Gas Lease Sale 262

CMP Project No: 25-1238-F2

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202502187

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: July 1, 2025



Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Updates to Medicaid Payment Rates

July 22, 2025 9:00 a.m.

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing to receive public comments on proposed Medicaid payment Rates for the 89th Legislative Session: Rural Hospi-

tal Inpatient Rates, Rural Hospital Outpatient Rates, and Rural Hospital Obstetrics-Gynecology (OB-GYN) Standard Dollar Amount (SDA) Add-On. Proposed legislative rate actions are based on direction provided by the 2026-27 General Appropriations Act (GAA), Senate Bill 1, 89th Legislature, Regular Session, 2025 (Article II, Health and Human Services Commission, Rider 8(h)) and the Rural Health Stabilization and Innovation Act, House Bill 18, 89th Legislature, Regular Session, 2025 (Section 532.0155(g)).

This hearing will be conducted both in person and online. Register for the hearing in advance using the following link to join the hearing from your computer, tablet, or smartphone:

Registration URL:

<https://attendeegotowebinar.com/register/5557701872703081559>

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing in by phone will be provided after you register.

If you are new to GoToWebinar, please download the GoToMeeting app at <https://global.gotomeeting.com/install/626873213> before the hearing starts.

Members of the public may attend the rate hearing in person, which will be held in the Public Hearing Rooms 1.401, 1.402, 1.403, and 1.404 in the North Austin Complex located at 4601 W. Guadalupe St., Austin, Texas. HHSC will also broadcast the public hearing. The live stream of the meeting can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. For the live stream, select the "North Austin Complex Live" tab. A recording of the hearing will be archived and accessible on demand at the same website under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Any updates to the hearing details will be posted on the HHSC website at <https://www.hhs.texas.gov/about/meetings-events>.

Proposal. The rate actions for the following services are proposed to be effective September 1, 2025:

Legislative Rate Updates

A(1) Rural Hospitals Inpatient Rate Updates

A(2) Rural Hospitals Outpatient Rate Updates

A(3) Rural Hospital OB-GYN SDA Add-on

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

Section 355.8052 -Inpatient Hospital Reimbursement; and

Section 355.8061 -Outpatient Hospital Reimbursement.

Rate Hearing Packet. A briefing packet describing the proposed updates will be made available at <https://pfd.hhs.texas.gov/rate-packets> on July 8, 2025. Interested parties may obtain a copy of the briefing packet on or after that date by contacting the Provider Finance Department by telephone at (512) 730-7401, fax at (512) 730-7475, or email at PFD_Hospitals@hhs.state.tx.us.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail, overnight mail, special delivery mail, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400
P.O. Box 149030
Austin, Texas 78714-9030
Overnight mail or special delivery mail
Texas Health and Human Services Commission
Attention: Provider Finance, Mail Code H-400
North Austin Complex
4601 W Guadalupe St.
Austin, Texas 78751
Telephone
(737) 867-7817

Fax
Attention: Provider Finance at (512) 730-7475
Email
PFD_Hospitals@hhsc.state.tx.us

Preferred Communication. If possible, please use email or phone to communicate with HHSC regarding this rate hearing for the quickest response.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202502175
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: June 30, 2025



Public Notice: Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendment, transmittal number 25-0028, to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective September 1, 2025.

The purpose of the amendment is to implement the Patient Driven Payment Model for Long Term Care (PDPM LTC) rate methodology and payment rates for Nursing Facilities (NF). HHSC is making these changes in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 25), which provides appropriations for HHSC to develop and implement a Texas version of the PDPM reimbursement methodology to improve care in long-term stay nursing facility services in the Medicaid program.

The proposal also implements General Appropriations Act (GAA), Senate Bill (S.B) 1, 89th Legislature, Regular Session, 2025 (Article II, HHSC, Rider 25), and S.B. 457, 89th Legislature, Regular Session, 2025, which provides additional appropriations to fund dietary and administrative costs for nursing facilities. The proposal modifies reimbursement methodology to support the implementation of Rider 25 and S.B. 457. The proposal also discontinues the Direct Care Staff Enhancement program and direct care spending requirements and

implements the annual patient care expense ratio in accordance with S.B. 457. The proposed amendment also deletes information that is no longer applicable to the NF program from the state plan pages. The proposed amendment corrects inconsistencies in page numbering and improves the clarity of the NF section. The proposed amendment is effective September 1, 2025.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$4,461,453 for federal fiscal year 2025, consisting of \$2,676,872 in federal funds and \$1,784,581 in state general revenue. For federal fiscal year 2026, the estimated annual aggregate fee-for-service expenditure is \$51,505,183, consisting of \$30,815,551 in federal funds and \$20,689,632 in state general revenue. For federal fiscal year 2027, the estimated annual aggregate fee-for-service expenditure is \$53,518,527, consisting of \$32,009,431 in federal funds \$21,509,096 in state general revenue.

Further details on specific reimbursement rate changes are available on the HHSC Provider Finance Department (PFD) website under the proposed effective date at <http://pfd.hhs.texas.gov/rate-packets>.

Rate Hearing. A rate hearing will be held on July 16, 2025, at 2:00 p.m. in Austin, Texas. The hearing will be held in the HHSC John H. Winters Building, Public Hearing Room 125, first floor, at 701 W. 51st Street, Austin, Texas 78751. Information and updates about the proposed rate change(s) will be made available at <https://pfd.hhs.texas.gov/rate-packets>.

Copy of Proposed Amendment(s). To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by email at medicaid_Chip_SPA_inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments. Written comments and requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission
Attention: Provider Finance Department, Mail Code H-400
P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission
Attention: Provider Finance Department, Mail Code H-400

North Austin Complex
4601 West Guadalupe Street

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFD-LTSS@hhs.texas.gov

Preferred Communication. Please use email or phone, if possible, to communicate with HHSC about this state plan amendment for the quickest response.

TRD-202502188

Karen Ray

Chief Counsel, Office of Chief Counsel

Health and Human Services Commission

Filed: July 1, 2025



Public Notice: Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit the amendment, transmittal number 25-0024, to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective September 1, 2025.

The purpose of the amendment is to implement the 2026-27 General Appropriations Act (GAA), Senate Bill 1, 89th Legislature, Regular Session, 2025 (Article II, HHSC, Rider 31). Rider 31 provides appropriations for HHSC to implement a new payment methodology for a new special reimbursement class to achieve improved care for long-term stay nursing facilities (NF) serving residents with intellectual and developmental disabilities (IDD).

HHSC proposes to establish the rate methodology to equal the skilled nursing facility Medicare rate without therapy components, adjusted using the highest case-mix index. The requested effective date for the proposed amendment is September 1, 2025.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$8,500 for federal fiscal year 2025, consisting of \$5,100 in federal funds and \$3,400 in state general revenue. For federal fiscal year 2026, the estimated annual aggregate fee-for-service expenditure is \$106,085, consisting of \$63,471 in federal funds and \$42,614 in state general revenue. For federal fiscal year 2027, the estimated annual aggregate fee-for-service expenditure is \$112,289, consisting of \$67,160 in federal funds and \$45,129 in state general revenue.

Further details on specific reimbursement rate changes are available on the HHSC Provider Finance Department (PFD) website under the Proposed Effective Date of September 1, 2025 at <http://pfd.hhs.texas.gov/rate-packets>.

Rate Hearing. A rate hearing will be held on July 16, 2025, at 1:00 p.m. in Austin, Texas. The hearing will be held in the HHSC John H. Winters Building, Public Hearing Room 125, first floor, at 701 W. 51st Street, Austin, Texas 78751. Information about the proposed rate and hearing can be found in this issue of the *Texas Register*. Archived recordings of the hearing can be found at <https://www.hhs.texas.gov/about/meetings-events>.

Copy of Proposed Amendment. To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by email at Medicaid_Chip_SPA_Inquiries@hhs.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments. Written comments and requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 West Guadalupe Street

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFD-LTSS@hhs.texas.gov

Preferred Communication. Please use email or phone, if possible, to communicate with HHSC about this state plan amendment for the quickest response.

TRD-202502189

Karen Ray

Chief Counsel, Office of Chief Counsel

Health and Human Services Commission

Filed: July 1, 2025



Texas Higher Education Coordinating Board

Notice of Opportunity for Informal Comment on Proposed Changes to Off-Campus Education Policy and Approvals

The Texas Higher Education Coordinating Board (Coordinating Board) seeks informal input from public institutions of higher education on proposed policy and approval process changes related to delivery of off-campus education. A summary of the proposed changes can be found below. Formal proposed rules will be posted in the *Texas Register* after initial feedback is collected.

The intent of the new rules is to consolidate processes related to off-campus approvals and notifications, reduce the volume of notifications and approval required, and require similar approvals and notifications regardless of institution type unless otherwise mandated by statute.

For community and technical colleges, off-campus is anything outside of the college's service area. For universities and health-related institutions, off-campus is anything away from the main campus.

Proposed changes to notification of off-campus educational sites include the following:

For teaching sites and centers at public institutions, the institution must notify the Coordinating Board of the site's location (and name if applicable) prior to delivery of a course, certificate, or a portion of a degree program totaling less than 50%, if the site is not yet listed in the Coordinating Board's distance education inventory.

For establishment of branch campuses at public junior colleges, as permitted by Texas Education Code 130.251, the board of trustees of a junior college district may establish and operate branch campuses within the junior college district's service area. Courses and programs offered at a branch campus within the institution's junior college district are not considered off-campus.

For establishment of branch campuses at universities and health-related institutions not less than three years prior to enrollment of students at a formal branch campus, institutions would provide a report to the Coordinating Board outlining the date the institution intends to enroll students under the branch campus, the off-campus institutional accreditation timeline, the proposed programs to be offered, an assessment of unmet labor market need and any potential duplication of programs, and if applicable, a summary of programs and enrollments at the site where the institution intends to open a branch campus.

Notification of off-campus educational sites would not be required for internship sites or courses.

Texas State Technical College would continue to request approval of off-campus programs and courses in accordance with Texas Education Code, Chapter 135, and Texas Administrative Code, Chapter 11, of Coordinating Board rules.

Proposed changes to approval of programs at off-campus locations:

The definition of an off-campus program would change slightly from more than 50% of a program offered at the location to 50% or more of the program offered at the location.

Each spring, institutions would submit an off-campus instructional plan (OCIP) to the Higher Education Regional Councils (HERCs) for an annual review of all lower and upper division off-campus programs to be delivered in the upcoming academic year. The HERCs would convene to review and attempt to address any concerns about the proposed program locations. Any concerns that cannot be resolved by the HERCs will be submitted to the Coordinating Board for review. Once the HERC review is completed, the HERC chairs will submit all OCIPs to the Coordinating Board with a recommendation for approval or denial to the Assistant Commissioner. Once an approval decision is completed, the institution will be notified. If the institution disagrees with the decision, it may be appealed to the Commissioner of Higher Education. This change is designed to consolidate and streamline approvals for an upcoming academic year, without the need to submit additional individual requests to the Coordinating Board.

If an institution needs to close a site or program in the middle of the academic year, they shall notify the Coordinating Board and the institution's OCIP will be updated accordingly.

A list of off-campus sites and programs will be posted and maintained on the Coordinating Board website.

Approval of "Employer-Requested Off-Campus Career and Technical Education Programs" will follow required Texas Education Code, §51.981.

Proposed changes to approval of off-campus courses, certificates or less than 50% of a degree program:

No prior approval or notification required for individual courses, certificates, or less than 50% of a degree program beyond notification of the site, as described above, with the exception of courses under Texas Education Code 130.006, which shall be included in a public junior college's OCIP.

Written comments about the proposed changes can be sent to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via email to ahacomment@highered.texas.gov. Comments will be accepted until 5:00 p.m., July 24, 2025.

TRD-202502144

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: June 27, 2025

◆ ◆ ◆

Texas Lottery Commission

Scratch Ticket Game Number 2668 "\$250,000 50X CASHWORD"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2668 is "\$250,000 50X CASHWORD". The play style is "crossword".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2668 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2668.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol- The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, BLACKENED SQUARE SYMBOL, 2X SYMBOL, 3X SYMBOL, 5X SYMBOL, 10X SYMBOL and 50X SYMBOL.

D. Play Symbol Caption- The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2668 - 1.2D

PLAY SYMBOL	CAPTION
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	
N	
O	
P	
Q	
R	
S	
T	
U	
V	
W	
X	
Y	
Z	
BLACKENED SQUARE SYMBOL	

2X SYMBOL	DBL
3X SYMBOL	TRP
5X SYMBOL	WINX5
10X SYMBOL	WINX10
50X SYMBOL	WINX50

E. Serial Number- A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2668), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2668-0000001-001.

H. Pack - A Pack of the "\$250,000 50X CASHWORD" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket back 001 and 050 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$250,000 50X CASHWORD" Scratch Ticket Game No. 2668.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$250,000 50X CASHWORD" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose the Play Symbols as indicated per the game instructions from the total of three hundred thirteen (313) Play Symbols. \$250,000 50X CASHWORD PLAY INSTRUCTIONS: The player completely scratches all of the YOUR 20 LETTERS Play Symbols. The player then scratches all the letters found in GAME 1, GAME 2 and GAME 3 that exactly match the YOUR 20 LETTERS Play Symbols. If the player has scratched at least 2 complete WORDS within a GAME, the player wins the prize found in the corresponding PRIZE LEGEND. WORDS revealed in one GAME cannot be combined with WORDS revealed in another GAME. Each GAME is played separately. Only 1 prize paid per GAME. Only letters within the same GAME that are matched with the YOUR 20 LETTERS Play Symbols can be used to form a complete WORD. In each GAME, every lettered square within an unbroken horizontal (left to right) or vertical (top to bottom) sequence must be matched with the YOUR 20

LETTERS Play Symbols to be considered a complete WORD. Words revealed in a diagonal sequence are not considered valid WORDS. Words within WORDS are not eligible for a prize. Words that are spelled from right to left or bottom to top are not eligible for a prize. A complete WORD must contain at least 3 letters. GAME 1 and GAME 2 can win by revealing 2 to 11 complete WORDS on each GAME. GAME 3 can win by revealing 2 to 9 complete WORDS. MULTIPLIER: The player scratches the 2 MULTIPLIER SYMBOLS. If the player reveals 2 matching MULTIPLIER SYMBOLS, the player multiplies the total prize won in GAMES 1, 2 and 3 by that multiplier and wins that amount. For example, revealing 2 "50X" MULTIPLIER SYMBOLS will multiply the total prize won by 50 TIMES. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly three hundred thirteen (313) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption. Crossword and Bingo style games do not typically have Play Symbol captions;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly three hundred thirteen (313) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the three hundred thirteen (313) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the three hundred thirteen (313) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols.

B. GENERAL: There is no correlation between any exposed data on a Ticket and its status as a winner or non-winner.

C. CROSSWORD GAMES: Each grid from GAME 1 and GAME 2 will contain exactly the same number of letters.

D. CROSSWORD GAMES: Each grid from GAME 1 and GAME 2 will contain exactly the same number of words.

E. CROSSWORD GAMES: There will be no matching words on a Ticket.

F. CROSSWORD GAMES: All words used will be from the TX APPROVED WORDS v.2.042321, dated April 23, 2021.

G. CROSSWORD GAMES: All words will contain a minimum of three (3) letters.

H. CROSSWORD GAMES: All words will contain a maximum of nine (9) letters.

I. CROSSWORD GAMES: There will be a minimum of three (3) vowels in the YOUR 20 LETTERS play area. Vowels are considered to be A, E, I, O, U.

J. CROSSWORD GAMES: No consonant will appear more than nine (9) times, and no vowel will appear more than fourteen (14) times in GAME 1 and GAME 2.

K. CROSSWORD GAMES: No consonant will appear more than seven (7) times, and no vowel will appear more than ten (10) times in GAME 3.

L. CROSSWORD GAMES: There will be no matching Play Symbols in the YOUR 20 LETTERS play area.

M. CROSSWORD GAMES: At least fifteen (15) of the letters in the YOUR 20 LETTERS play area will open at least one (1) letter in GAME 1 (11x11), GAME 2 (11x11) and GAME 3 (7x7) crossword grids combinations.

N. CROSSWORD GAMES: The presence or absence of any letter or combination of letters in the YOUR 20 LETTERS play area will not be indicative of a winning or Non-Winning Ticket.

O. CROSSWORD GAMES: Words from the TX PROHIBITED WORDS v.2.042321, dated April 23, 2021, will not appear horizontally in the YOUR 20 LETTERS play area when read left to right or right to left.

P. CROSSWORD GAMES: On Non-Winning Tickets, there will be one (1) completed word in GAME 1 and one (1) completed word in GAME 2.

Q. CROSSWORD GAMES: GAME 1 and GAME 2 will have no more than eleven (11) complete words per grid.

R. CROSSWORD GAMES: GAME 3 will have no more than nine (9) complete words.

S. CROSSWORD GAMES: A Ticket can only win one (1) time per GAME and a total of up to three (3) times per Ticket in accordance with the prize structure.

T. CROSSWORD GAMES: Each Ticket in a Pack will have unique GAMES.

U. MULTIPLIER: Two (2) matching MULTIPLIER SYMBOLS Play Symbols of "2X" (DBL), "3X" (TRP), "5X" (WINX5), "10X" (WINX10) or "50X" (WINX50) will only appear on winning Tickets, as dictated by the prize structure.

V. MULTIPLIER: Tickets that do not win in the "MULTIPLIER" play area will display two (2) different MULTIPLIER SYMBOLS Play Symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$250,000 50X CASHWORD" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$80.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$80.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a

claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$250,000 50X CASHWORD" Scratch Ticket Game prize of \$1,000, \$10,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$250,000 50X CASHWORD" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$250,000 50X CASHWORD" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$250,000 50X CASHWORD" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 22,080,000 Scratch Tickets in Scratch Ticket Game No. 2668. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2668 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	2,428,800	9.09
\$20.00	1,545,600	14.29
\$30.00	1,545,600	14.29
\$50.00	441,600	50.00
\$80.00	82,800	266.67
\$100	133,400	165.52
\$200	21,896	1,008.40
\$500	3,680	6,000.00
\$1,000	2,024	10,909.09
\$10,000	30	736,000.00
\$250,000	10	2,208,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.56. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2668 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2668, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202502183
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 1, 2025



Public Utility Commission of Texas

Notice of Application to Amend Designation as an Eligible Telecommunications Carrier

Notice is given to the public of an application filed with the Public Utility Commission of Texas on June 19, 2025, to amend its eligible telecommunications carrier designation.

Docket Title and Number: Application of Air Voice Wireless, LLC dba Air Talk Wireless to Amend Its Eligible Telecommunications Carrier Designation, Docket Number 58280.

The Application: Air Voice Wireless requests that its ETC designation be amended to include additional wire centers for Lifeline service only.

Persons who wish to comment on this application should notify the Public Utility Commission by July 31, 2025. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the PUCT Consumer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals may contact the commission through Relay Texas at (800) 735-2989. All comments should reference Docket Number 58280.

TRD-202502145

Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: June 27, 2025

◆ ◆ ◆
Notice of Proceeding for 2025 Annual State Certification
for Designation of Common Carriers as Eligible
Telecommunications Carriers to Receive Federal Universal
Service Funds

◆ ◆ ◆
Notice of Proceeding for 2025 Annual Compliance Affidavit
Attesting to the Proper Use of Texas Universal Service Fund

Notice is given to the public of the 2025 certification proceeding initiated by the Public Utility Commission of Texas (commission) for state certification of common carriers as eligible telecommunications carriers to receive federal universal service funds.

Notice is given to the public of the 2025 compliance proceeding initiated by the Public Utility Commission of Texas (commission) for eligible telecommunications providers (ETP) and resale eligible telecommunications providers (RETP) to attest to the proper use of Texas universal service funds (TUSF).

Project Title and Number: Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds. Project Number 24481.

Project Title and Number: Annual Compliance Affidavit Attesting to Proper Use of Texas Universal Service Fund Pursuant to PURA § 56.030. Project Number 32567.

Under 47 Code of Federal Regulations § 54.314, the commission annually certifies that all federal high-cost support provided to carriers in Texas was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The commission must file the certification with the Federal Communications Commission and the Universal Service Administrative Company by October 1 each year in order for ETCs to receive federal high-cost support. Without certification, carriers will not receive federal high-cost support.

The commission initiated this proceeding under Public Utility Regulatory Act (PURA) § 56.030 and 16 Texas Administrative Code (TAC) §26.417 and §26.419. PURA § 56.030 requires that on or before September 1 of each year, a telecommunications provider that receives disbursements from the TUSF file with the commission an affidavit certifying that the telecommunications provider complies with the requirements for receiving money from the TUSF and requirements regarding the use of money from the universal service fund program for which the telecommunications provider receives disbursements.

The certification requirement applies to all incumbent local exchange carriers and competitive eligible telecommunications carriers seeking federal high-cost support. Under 16 Texas Administrative Code §26.418(k), each carrier must provide the commission with a sworn affidavit certifying that the carrier complies with federal requirements for receiving federal high-cost support. All carriers in Texas requesting certification by the commission must submit an affidavit by September 2, 2025.

This certification requirement applies to every ETP and RETP receiving support from the TUSF. In accordance with PURA § 56.030 and 16 TAC §26.417 and §26.419, each ETP and RETP receiving TUSF support must file with the commission a sworn affidavit (using the commission prescribed form) certifying that the provider complies with the requirements for receiving money from the TUSF and the requirements regarding the use of money from each TUSF program for which the provider receives funds. All carriers in Texas requesting certification by the commission must submit an affidavit by September 2, 2025.

Carriers seeking to be certified may contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. Persons contacting the commission regarding this proceeding should refer to Project Number 24481.

Carriers designated as ETPs and RETPs may contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. Persons contacting the commission regarding this proceeding should refer to Project Number 32567.

TRD-202502182
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: July 1, 2025

TRD-202502181
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: July 1, 2025

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 50 (2025) is cited as follows: 50 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "50 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 50 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <https://www.sos.texas.gov>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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