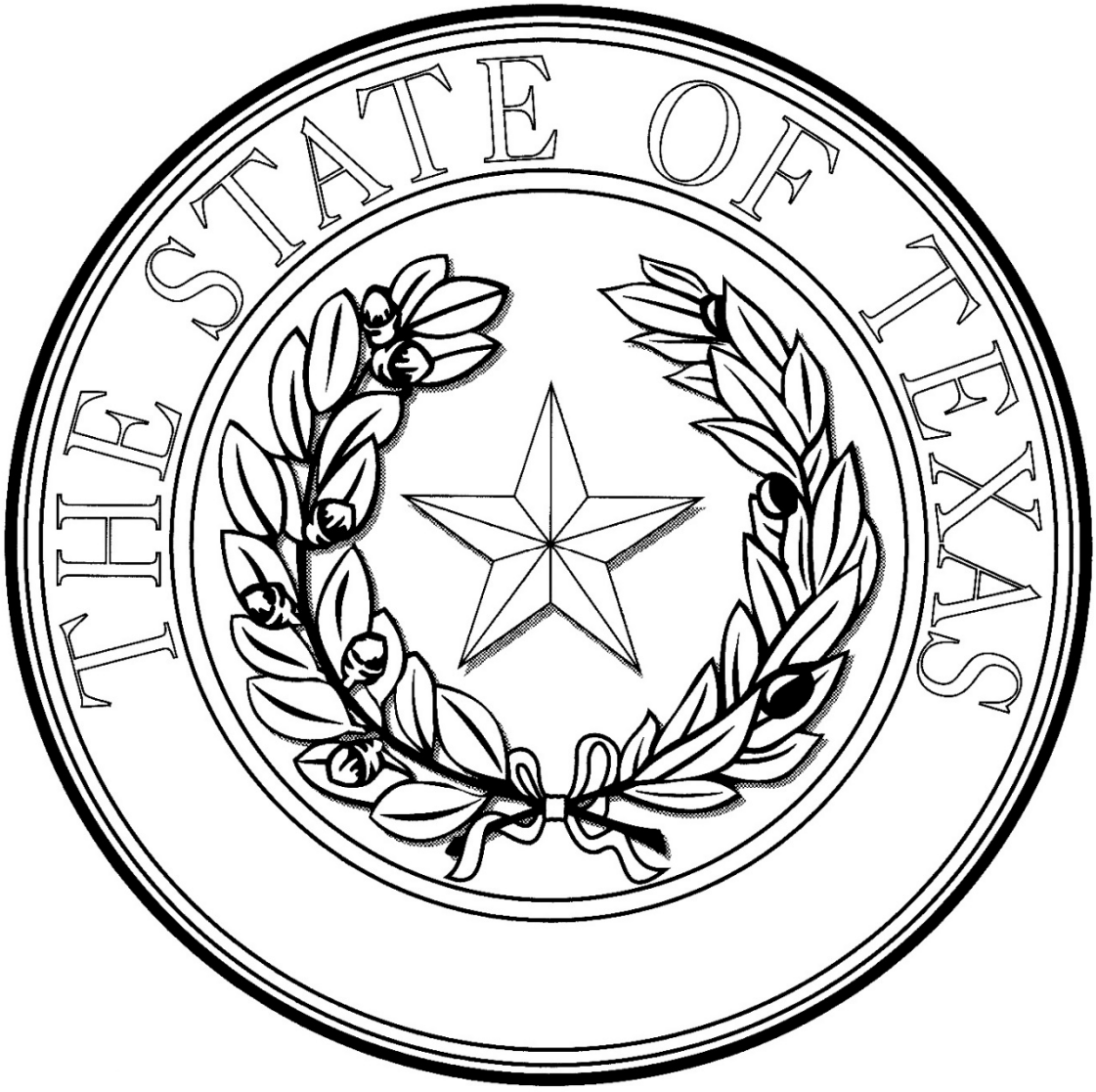
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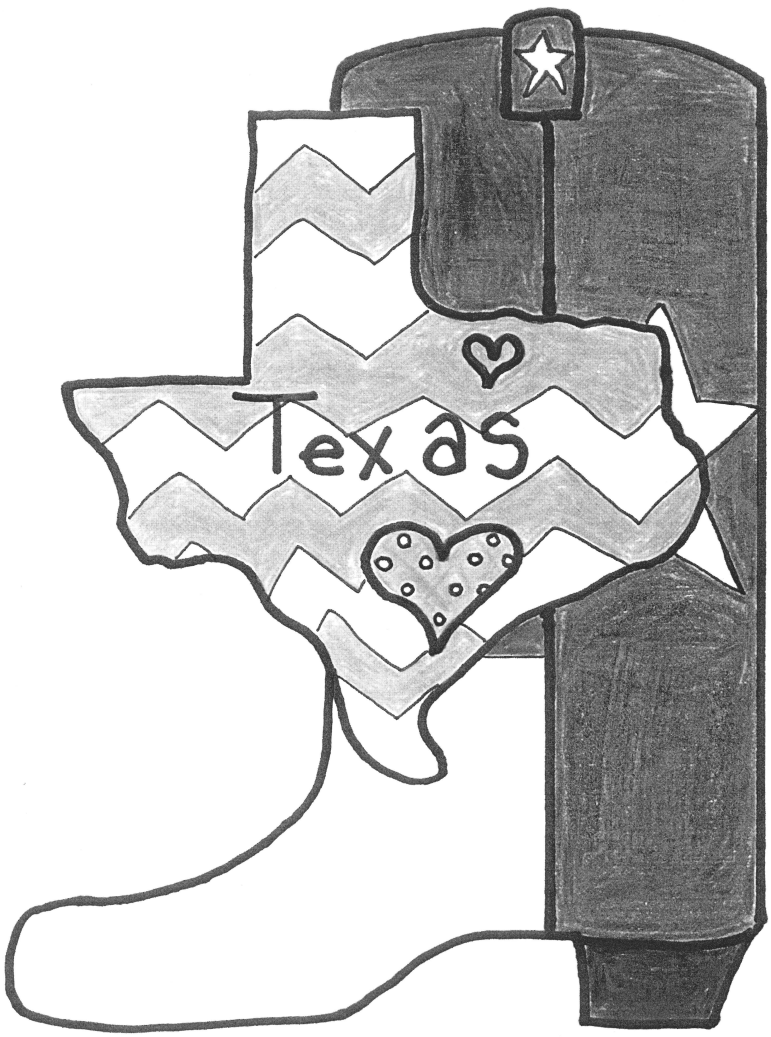
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THE GOVERNOR

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 August 20, 2026

Appointed to the Texas State Board of Plumbing Examiners for a term to expire September 5, 2031, Julia A. Hayes of Beaumont, Texas (replacing Frank S. Denton of Conroe whose term expired).

Appointed to the Texas State Board of Plumbing Examiners for a term to expire September 5, 2031, David A. "Dave" Yelovich of Friendswood, Texas (Mr. Yelovich is being reappointed).

Appointments for August 21, 2026

Appointed to the Lower Neches Valley Authority Board of Directors for a term to expire July 28, 2027, Justin R. Gray of Lumberton, Texas (replacing Juanita "Jeanie" Turk of Sour Lake who resigned).

Appointments for August 24, 2026

Appointed as Judge of the 425th Judicial District, Williamson County for a term to expire December 31, 2028, Jason T. Bramow of Round Rock, Texas (replacing Judge Betsy F. Lambeth of Round Rock who resigned).

Appointed as Judge of the 492nd Judicial District, Colorado and Lavaca Counties for a term to expire December 31, 2028, Leonard E. Peters of Columbus, Texas.

Appointed to the State Board of Education, District 4 for a term to expire December 31, 2026, Tammie W. Nielsen of Pasadena, Texas (replacing Staci Childs Davis of Houston who resigned).

Appointments for August 25, 2026

Appointed as Judge of the 514th Judicial District, Harris County for a term to expire December 31, 2028, Michael L. Landrum of Houston, Texas.

Appointed as Judge of the 515th Judicial District, Harris County for a term to expire December 31, 2028, Shawn Nicole Thierry of Houston, Texas.

Appointed to the Texas State Board of Examiners of Marriage and Family Therapists for a term to expire February 1, 2029, Misti K. Nielsen of Houston, Texas (replacing Lisa V. Merchant, Ph.D. of Clyde who resigned).

Appointments for August 26, 2026

Appointed as Judge of the 490th Judicial District, Brazoria County for a term to expire December 31, 2028, Cynthia S. "Cindy" Pulcher Bridges of Rosharon, Texas.

Appointed to the Private Sector Advisory Council for a term to expire at the pleasure of the Governor, Jay D. Bodnar of Richmond, Texas (replacing Michael R. "Mike" McNally of Granbury).

Greg Abbott, Governor

TRD-202603745

♦ ♦ ♦

Proclamation 41-4308

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the resignation of the Honorable Nate Schatzline, and its acceptance, have caused a vacancy to exist in Texas House of Representatives District No. 93, which is wholly contained within Tarrant County; and

WHEREAS, Article III, Section 13(a) 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

WHEREAS, 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 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 3, 2026;

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 House of Representatives District No. 93 on Tuesday, November 3, 2026, for the purpose of electing a state representative to serve out the unexpired term of the Honorable Nate Schatzline.

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 6:00 p.m. on Thursday, August 20, 2026, in accordance with Section 201.054(f) of the Texas Election Code.

Early voting by personal appearance shall begin on Monday, October 19, 2026, and end on Friday, October 30, 2026, in accordance with Section 85.00l(a) and (c) of the Texas Election Code.

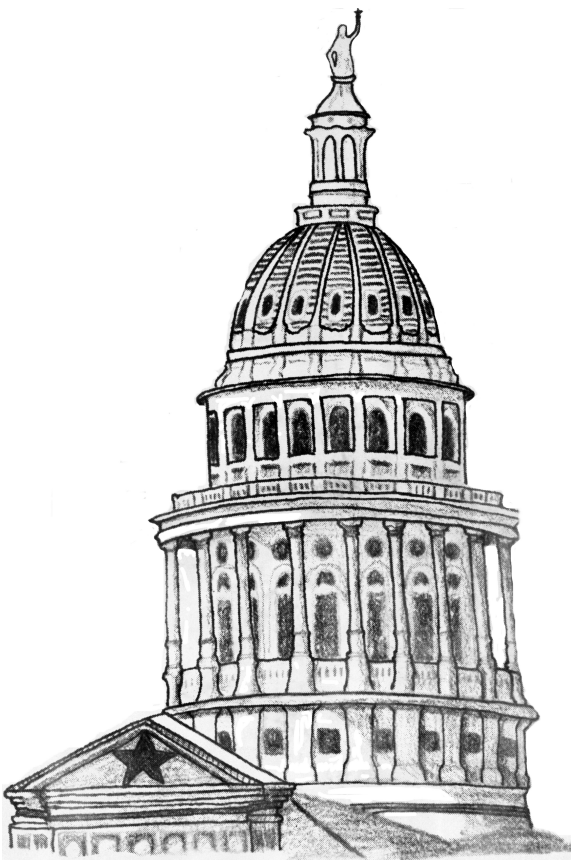
A copy of this order shall be mailed immediately to the Tarrant County Judge, who presides over the county within which Texas House of Representatives District No. 93 is wholly contained, and all appropriate writs shall be issued, and all proper proceedings shall be followed to the end that said special election may be held to fill the vacancy in Texas House of Representatives District No. 93 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 20th day of August, 2026.

Greg Abbott, Governor

TRD-202603659

♦ ♦ ♦



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 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 83. REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

SUBCHAPTER B. RULES FOR CREDIT ACCESS BUSINESSES

The Finance Commission of Texas (commission) proposes amendments to §83.3001 (relating to Definitions), §83.3002 (relating to Filing of New Application), §83.3003 (relating to Transfer of License; New License Application on Transfer of Ownership), §83.3006 (relating to Updating Application and Contact Information), §83.3007 (relating to Processing of Application), §83.3008 (relating to Relocation of Licensed Offices), §83.3009 (relating to License Inactivation or Voluntary Surrender), §83.3011 (relating to Applications and Notices as Public Records), §83.4002 (relating to License Term, Renewal, and Expiration), §83.4003 (relating to Denial, Suspension, or Revocation Based on Criminal History), and §83.5004 (relating to Files and Records Required); and proposes the repeal of §83.3004 (relating to Change in Form or Proportionate Ownership), §83.3005 (relating to Amendments to Pending Application), and §83.4001 (relating to License Display) in 7 TAC Chapter 83, concerning Regulated Lenders and Credit Access Businesses.

The rules in 7 TAC Chapter 83, Subchapter B govern credit access businesses. In general, the purposes of the proposed rule changes to 7 Chapter 83, Subchapter B are to implement the OCCC's transition to the NMLS licensing system for credit access businesses, to remove rule text that is no longer necessary, and to make other technical corrections and updates related to licensing and recordkeeping. The proposed rule changes also incorporate recommendations from the Texas Regulatory Efficiency Office.

Proposed amendments and repeals in §83.3001 through §83.4003 would implement the OCCC's transition to the NMLS system. The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. NMLS was created in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and states are increasingly using the system to license consumer finance companies. NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types, including credit access business licenses under Texas Finance Code, Chapter 393. The OCCC has begun a phased process of migrating license groups from ALECS (the OCCC's previous licensing platform) to NMLS. In 2026, a majority of licensed credit access businesses completed their transition to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Proposed amendments to §83.3001 would replace the term "principal party" with "key individual" to be consistent with the terminology in NMLS.

Proposed amendments to §83.3002 would streamline license application requirements and refer to instructions that the OCCC has published through NMLS. Currently, §83.3002 contains a detailed list of license application items, with requirements that differ based on the applicant's entity type (e.g., partnership, corporation, limited liability company). In addition to ensuring consistency with NMLS, the proposed amendments would significantly simplify §83.3002, and ensure that an applicant can easily read and understand the rule. A proposed amendment at §83.3002(d) explains that the OCCC may require additional, clarifying, or supplemental information to determine that the applicant meets statutory licensing requirements. A proposed amendment at §83.3002(e) explains that an applicant must immediately amend a pending application if any information changes requiring a materially different response, replacing language that would be removed from §83.3006(a), as explained later in this preamble.

Proposed amendments to §83.3003 would streamline and simplify requirements for transfer of ownership and license transfer to ensure consistency with NMLS. In §83.3003(b)(3), proposed amendments to the definition of "transfer of ownership" would streamline the definition of "transfer of ownership" while maintaining references to changes in management or control of a business, and also maintaining current exclusions relating to changes in proportionate ownership and relocations of transactions. Going forward in NMLS, the OCCC anticipates that changes to the identifies of a single company's owners will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §83.3006. A proposed amendment to §83.3003(c) would explain that to transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of owner-

ship. Other proposed amendments throughout §83.3003 would ensure consistency with this revised transfer process.

The proposal would repeal §83.3004, which currently requires licensees to notify the OCCC of changes to organizational form, mergers resulting in creation of a new or different surviving entity, and certain changes in proportionate ownership. Going forward in NMLS, the OCCC anticipates that these changes will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §83.3006. Therefore, §83.3004 will no longer be necessary.

The proposal would repeal §83.3005, which currently requires license applicants to provide supplemental information to the OCCC on request. Because of the proposed amendment at §83.3002(d) explaining the OCCC may require additional information, §83.3005 will no longer be necessary.

Proposed amendments to §83.3006 would consolidate and simplify the types of required notifications that a licensee must provide to the OCCC when a change occurs. In §83.3006(a), the proposed amendments would list advance change notices. NMLS uses the term "advance change notice" to refer to notifications that must be provided on or before the date of the change, in accordance with an agency's written instructions. As explained in the proposed amendments to §83.3006(a), this includes changes to the legal name of the entity, the legal status of the entity, names of key individuals, branch location addresses, and other listed items. In §83.3006(b), proposed amendments would list notifications that are required not later than 30 days after the licensee has knowledge of the information. These items include bankruptcies of the licensee or its direct owners, because a bankruptcy is a significant event that may impact the financial responsibilities of a licensee and its ability to address compliance issues. These items also include notifications of data breaches affecting at least 250 Texas residents. Data security is a crucial issue. The OCCC's 2027-2031 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The proposed notification amendments will help ensure that the OCCC can monitor this crucial issue.

Proposed amendments to §83.3007 would revise license application processing requirements to be consistent with NMLS and with the statute at Texas Finance Code, §393.607. A proposed amendment at §83.3007(d) would explain that a license application may be considered withdrawn if a complete application has not been filed within 30 days after a notice of deficiency has been sent to the applicant, consistent with how license applications are processed in NMLS. Proposed amendments at §83.3007(d) would specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §393.607(b). A proposed amendment would remove current §83.3007(f), regarding disposition of fees, because this language unnecessarily duplicates language in §83.3010 (regarding Fees). Proposed amendments to §83.3007(f) would clarify the 30-day target period to process a license application and the 30-day target period to set a requested hearing on an application denial, in accordance with Texas Finance Code, §393.607(c)-(d).

Proposed amendments to §83.3008 would revise requirements for notice of relocation of licensed offices. The proposal would remove current §83.3008(a), because the requirement to notify the OCCC of a branch office relocation will be moved to §83.3006(a) as an advance change notice, as discussed earlier in this preamble.

Proposed amendments to §83.3009 would revise requirements for license surrender. The proposed amendment would explain that a licensee may surrender a license by providing the information required by the OCCC's written instruction, in accordance with Texas Finance Code, §393.617, and that a surrender is effective when the OCCC approves the surrender.

Proposed amendments to §83.3011 would remove a sentence about the return of original documents filed with a license application. This sentence is no longer necessary because the OCCC no longer accepts original paper documents with a license application.

The proposal would repeal §83.4001, which describes the requirement to display a license. This section is unnecessary because it duplicates the statutory license display requirement at Texas Finance Code, §393.610. Going forward, licensees may comply with the statutory license display requirement by printing out company license information from NMLS.

Proposed amendments to §83.4002 would revise requirements for license renewal. A proposed amendment at §83.4002(b) would explain that a licensee must maintain an active account in NMLS (or a designated successor system) in order to maintain and renew a license, and that renewal may be unavailable to a licensee that fails to maintain an active account. A proposed amendment at §83.4002(d) would specify that the OCCC may send notice of delinquency of an annual assessment fee electronically through NMLS or by email to the primary company contact, removing current language that refers to a "master file" address under the OCCC's current system.

Proposed amendments to §83.4003 would revise criminal history review requirements to explain that the OCCC will obtain criminal history record information through NMLS and to use the term "key individual."

Proposed amendments to §83.5004 would update recordkeeping requirements for credit access businesses. Currently, provisions throughout §83.5004 refer to both paper and electronic recordkeeping systems. Proposed amendments throughout §83.5004 would simplify and rearrange this language to refer to electronic recordkeeping systems before referring to paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Proposed amendments at §83.5004(5) would merge provisions related to websites and advertising, and would include common language for the retention period, in order to make these provisions more concise and easier to understand. Additional proposed amendments to §83.5004 relate to data security recordkeeping. A proposed amendment at §83.5004(10)(A) specifies that licensees must maintain written policies and procedures for an information security program to protect consumers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another proposed amendment at §83.5004(10)(B) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. A proposed amendment at §83.5004(11) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. As discussed earlier in this

preamble, data security is a crucial issue. The proposed data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

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

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules. In particular, the rule changes governing the transition to the NMLS licensing system will better enable the OCCC use its existing authority under Texas Finance Code, §14.109, to use NMLS as a licensing system, resulting in an improved user experience, efficiency for multistate entities, and an improved ability for consumers to access data about business licenses. Transitioning to NMLS will help minimize the costs of updating the OCCC's legacy technological systems.

In general, the OCCC anticipates that any economic costs for persons required to comply with the proposed rule changes will be minimal. Following an NMLS transition period earlier in 2026, credit access business licensees have transitioned to NMLS. During the NMLS transition period, the OCCC attempted to minimize costs by requiring existing licensees to provide only a core set of information and documents. Regarding the proposed amendments related to information security programs and data breach notifications in §83.5004, licensees are required to develop this information by existing statutes and regulations outside of the proposed amendments, so any costs do not result from the proposed amendments.

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

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would both expand and limit current §83.3006 and §83.5004 by adding references to certain cybersecurity-related information and removing unnecessary rule text. The proposal would limit current §83.3002, §83.3003, §83.3008, and §83.3011 by simplifying and streamlining current requirements. The proposal would repeal current §83.3004, §83.3005, and §83.4001. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review. The OCCC received one precomment from an association of credit access businesses, which supported the proposed changes. The OCCC appreciates the thoughtful input of stakeholders.

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

DIVISION 3. APPLICATION PROCEDURES

7 TAC §§83.3001 - 83.3003, 83.3006 - 83.3009, 83.3011

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules to enforce and administer Texas Finance Code, Chapter 393, Subchapter G. In addition, the rule changes relating to the NMLS transition are proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 393. The rule changes relating to the NMLS transition are also proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 14, which includes Texas Finance Code, §14.109.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

§83.3001. Definitions.

Words and terms used in this chapter that are defined in Texas Finance Code, Chapter 393, have the same meanings as defined in Chapter 393. The following words and terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the lending business of an applicant or licensee. The following are key individuals:

(A) any individual who is a direct owner of 10% or more of an applicant or licensee;

(B) any individual who is a control person or executive officer of an applicant or licensee, including an individual who has the power to direct management or policies of a company (e.g., president, chief executive officer, general partner, managing member, vice president, treasurer, secretary, chief operating officer, chief financial officer); and

(C) an individual designated as a key individual where necessary to fairly assess the applicant or licensee's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly.

(2) [~~(1)~~] Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Un-

acceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit, notes receivable from an owner, property subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days. Debt that is either unsecured or secured by current assets may be subordinated to the net asset requirement pursuant to an agreement of the parties providing that the creditor forfeits its security priority and any rights it may have to current assets in the amount of $25,000. Debt subject to such a subordination agreement would not be an applicable liability for purposes of calculating net assets.

(3) NMLS--The Nationwide Multistate Licensing System.

[(2) Parent entity--A direct owner of a licensee or applicant.]

[(3) Principal party--An adult individual with a substantial relationship to the applicant by ownership of more than 10% of the applicant, or having control of the proposed credit access business of the applicant. The following individuals are principal parties:]

[(A) a proprietor;]

[(B) general partners;]

[(C) officers of privately held corporations, to include the chief executive officer or president, the chief operating officer or vice president of operations, the chief financial officer or treasurer, and those with substantial management responsibility for credit access operations or compliance with Texas Finance Code, Chapter 393;]

[(D) directors of privately held corporations;]

[(E) individuals associated with publicly held corporations designated by the applicant as follows:]

[(i) officers as provided by subparagraph (C) of this paragraph (as if the corporation were privately held); or]

[(ii) three officers or similar employees with significant involvement in the corporation's activities governed by Texas Finance Code, Chapter 393. One of the persons designated must be responsible for assembling and providing the information required on behalf of the applicant and must sign the application for the applicant;]

[(F) managers or voting members of a limited liability company;]

[(G) trustees and executors; and]

[(H) individuals designated as principal parties where necessary to fairly assess the applicant's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly as required by the commissioner.]

§83.3002. Filing of New Application.

(a) NMLS. In order to submit a credit access business license application, an applicant must submit a complete, accurate, and truthful license application through NMLS (or a successor system designated by the OCCC), using the current form prescribed by the OCCC. An application is complete when it conforms to the OCCC's written instructions and necessary fees have been paid. The OCCC has made application checklists available through NMLS, outlining the necessary information for a license application. [An application for issuance of a new credit access business license must be submitted in a format prescribed by the commissioner at the date of filing and in accordance with the commissioner's instructions. The commissioner may accept the use of prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. Appropriate fees must be filed with the application and the application must include the following:]

[(1) Required application information. All questions must be answered.]

[(A) Application for license.]

[(i) Location information. A physical street address must be listed for the applicant's proposed address, or if the applicant will have no such location, a statement to that effect must be provided. For applicants with a proposed location in Texas, a post office box or a mail box location at a private mail-receiving service generally may not be used. If the address has not yet been determined or if the application is for an inactive license, then the application must so indicate.]

[(ii) Compliance officer. The application must list a compliance officer. The compliance officer must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC.]

[(iii) Registered agent. The registered agent must be provided by each applicant. The registered agent is the person or entity to whom any legal notice may be delivered. The agent must be a Texas resident and list an address for legal service. If the registered agent is a natural person, the address must be a different address than the licensed location address. If the applicant is a corporation or a limited liability company, the registered agent should be the one on file with the Office of the Texas Secretary of State. If the registered agent is not the same as the agent filed with the Office of the Texas Secretary of State, then the applicant must submit a certification from the secretary of the company identifying the registered agent.]

[(iv) Owners and principal parties.]

[(I) Proprietorships. The applicant must disclose the name of any individual holding an ownership interest in the business and the name of any individual responsible for operating the business. If requested, the applicant must also disclose the names of the spouses of these individuals.]

[(II) General partnerships. Each partner must be listed and the percentage of ownership stated. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided. General partnerships that register as limited liability partnerships should provide the same information as that required for general partnerships.]

[(III) Limited partnerships. Each partner, general and limited, fulfilling the requirements of items (-a-) - (-c-) of this subclause must be listed and the percentage of ownership stated.]

[(-a-) General partners. The applicant should provide the complete ownership, regardless of percentage owned, for all general partners. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided.]

[(-b-) Limited partners. The applicant should provide a complete list of all limited partners owning 10% or more of the partnership.]

[(-c-) Limited partnerships that register as limited liability partnerships. The applicant should provide the same information as that required for limited partnerships.]

[(IV) Corporations. Each officer and director must be named. Each shareholder holding 10% or more of the voting stock must be named if the corporation is privately held. If a parent corporation is the sole or part owner of the proposed business, a narrative or diagram must be included that describes each level of ownership of 10% or greater.]

[(V) Limited liability companies. Each "manager," "officer," and "member" owning 10% or more of the company, as those terms are defined in Texas Business Organizations Code, §1.002, and each agent owning 10% or more of the company must be listed. If a member is a legal entity and not a natural person, a narrative or diagram must be included that describes each level of ownership of 10% or greater.]

[(VI) Trusts or estates. Each trustee or executor, as appropriate, must be listed.]

[(B) Disclosure questions. All applicable questions must be answered. Questions requiring a "yes" answer must be accompanied by an explanatory statement and any appropriate documentation requested.]

[(C) Personal information.]

[(i) Personal affidavit. Each individual meeting the definition of "principal party" as defined in §83.3001 of this title (relating to Definitions) or who is a person responsible for day-to-day operations must provide a personal affidavit. All requested information must be provided.]

[(ii) Personal questionnaire. Each individual meeting the definition of "principal party" as defined in §83.3001 of this title or who is a person responsible for day-to-day operations must provide a personal questionnaire. Each question must be answered. If any question, except question 1, is answered "yes," an explanation must be provided.]

[(iii) Employment history. Each individual meeting the definition of "principal party" as defined in §83.3001 of this title or who is a person responsible for day-to-day operations must provide an employment history. Each principal party should provide a continuous 10-year history, accounting for time spent as a student, unemployed, or retired. The employment history must also include the individual's association with the entity applying for the license.]

[(D) Additional requirements.]

[(i) Statement of experience. Each applicant should provide a statement setting forth the details of the applicant's prior experience in the credit access business. If the applicant or its principal parties do not have significant experience in the same type of credit access business as planned for the prospective licensee, the applicant must provide a written statement explaining the applicant's relevant business experience or education, why the commissioner should find that the applicant has the requisite experience, and how the applicant plans to obtain the necessary knowledge to operate lawfully and fairly.]

[(ii) Business operating plan. Each applicant must provide a brief narrative to the application explaining the type of operation that is planned. This narrative should discuss each of the following topics:]

[(I) the source of customers;]

[(II) the purpose(s) of the extensions of consumer credit;]

[(III) the size of the extensions of consumer credit;]

[(IV) the source of working capital for planned operations;]

[(V) the types of consumer credit products to be extended to consumers, as advertised by the business; and]

[(VI) the contractual loan term, in days, of each consumer credit product to be offered to consumers.]

[(iii) Statement of records. Each applicant must provide a statement of where records of Texas transactions will be maintained. If these records will be maintained at a location outside of Texas, the applicant must acknowledge responsibility for the travel cost associated with examinations in addition to the assessment fees or agree to make all records available for examination in Texas.]

[(E) Consent form. Each applicant must submit a consent form signed by an authorized individual. Electronic signatures will be accepted in a manner approved by the commissioner. The following are authorized individuals:]

[(i) If the applicant is a proprietor, the owner must sign.]

[(ii) If the applicant is a partnership, one general partner must sign.]

[(iii) If the applicant is a corporation, an authorized officer must sign.]

[(iv) If the applicant is a limited liability company, an authorized member or manager must sign.]

[(v) If the applicant is a trust or estate, the trustee or executor, as appropriate, must sign.]

[(2) Other required filings.]

[(A) Fingerprints.]

[(i) For all persons meeting the definition of "principal party" as defined in §83.3001 of this title, a complete set of legible fingerprints must be provided. All fingerprints should be submitted in a format prescribed by the OCCC and approved by the Texas Department of Public Safety and the Federal Bureau of Investigation.]

[(ii) For limited partnerships, if the owners and principal parties under paragraph (1)(A)(iv)(III)(-a-) of this section does not produce a natural person, the applicant must provide a complete set of legible fingerprints for individuals who are associated with the general partner as principal parties.]

[(iii) For entities with complex ownership structures that result in the identification of individuals to be fingerprinted who do not have a substantial relationship to the proposed applicant, the applicant may submit a request to fingerprint three officers or similar employees with significant involvement in the proposed business. The request should describe the relationship and significant involvement of the individuals in the proposed business. The OCCC may approve the request, seek alternative appropriate individuals, or deny the request.]

[(iv) For individuals who have previously been licensed by the OCCC and are principal parties of entities currently licensed, fingerprints are generally not required if the fingerprints are on record with the OCCC, are less than 10 years old, and have been processed by both the Texas Department of Public Safety and the Federal Bureau of Investigation. Upon request, individuals and principal parties previously licensed by the OCCC may be required to submit a new set of fingerprints in order to complete the OCCC's records.]

[(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings

and Mortgage Lending), fingerprints are still required to be submitted under Texas Finance Code, §14.152. Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.]

[(B) Entity documents.]

[(i) Partnerships. A partnership applicant must submit a complete and executed copy of the partnership agreement. This copy must be signed and dated by all partners. If the applicant is a limited partnership or a limited liability partnership, provide evidence of filing with the Office of the Texas Secretary of State.]

[(ii) Corporations. A corporate applicant, domestic or foreign, must provide the following documents:]

[(I) a complete copy of the certificate of formation or articles of incorporation, with any amendments;]

[(II) a certification from the secretary of the corporation identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;]

[(III) if the registered agent is not the same as the agent on file with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent;]

[(IV) if requested, a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation;]

[(V) if requested, a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form.]

[(iii) Publicly held corporations. In addition to the items required for corporations, a publicly held corporation must file the most recent 10K or 10Q for the applicant or for the parent company.]

[(iv) Limited liability companies. A limited liability company applicant, domestic or foreign, must provide the following documents:]

[(I) a complete copy of the articles of organization;]

[(II) a certification from the secretary of the company identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;]

[(III) if the registered agent is not the same as the agent on file with the Office of the Texas Secretary of State, a certification from the secretary of the company identifying the registered agent;]

[(IV) if requested, a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations;]

[(V) if requested, a copy of the minutes of company meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form.]

[(v) Trusts. A copy of the relevant portions of the instrument that created the trust addressing management of the trust and operations of the applicant must be filed with the application.]

[(vi) Estates. A copy of the instrument establishing the estate must be filed with the application.]

[(vii) Foreign entities. In addition to the items required by this section, a foreign entity must provide a certificate of authority to do business in Texas, if applicable.]

[(C) Financial statement and supporting financial information.]

[(i) All entity types. The financial statement must be dated no earlier than 90 days prior to the date of application. Applicants may also submit audited financial statements dated within one year prior to the application date in lieu of completing the Supporting Financial Information. All financial statements must be certified as true, correct, and complete, and must comply with generally accepted accounting principles (GAAP).]

[(ii) Sole proprietorships. Sole proprietors must complete all sections of the Personal Financial Statement and the Supporting Financial Information, or provide a personal financial statement that contains all of the same information requested by the Personal Financial Statement and the Supporting Financial Information. The Personal Financial Statement and Supporting Financial Information must be as of the same date.]

[(iii) Partnerships. A balance sheet for the partnership itself as well as each general partner must be submitted. In addition, the information requested in the Supporting Financial Information must be submitted for the partnership itself and each general partner. All of the balance sheets and Supporting Financial Information documents for the partnership and all general partners must be as of the same date.]

[(iv) Corporations and limited liability companies. Corporations and limited liability companies must file a balance sheet. The information requested in the Supporting Financial Information must be submitted. The balance sheet and Supporting Financial Information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the corporate or limited liability company applicant should contain no personal financial information.]

[(v) Trusts and estates. Trusts and estates must file a balance sheet. The information requested in the Supporting Financial Information must be submitted. The balance sheet and Supporting Financial Information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the trust or estate applicant should contain no personal financial information.]

[(D) Assumed name certificates. For any applicant that does business under an "assumed name" as that term is defined in Texas Business and Commerce Code, §71.002, an Assumed Name Certificate must be filed as provided in this subparagraph.]

[(i) Unincorporated applicants. Unincorporated applicants using or planning to use an assumed name must file an assumed name certificate with the county clerk of the county where the proposed business is located in compliance with Texas Business and Commerce Code, Chapter 71. An applicant must provide a copy of the assumed name certificate that shows the filing stamp of the county clerk or, alternatively, a certified copy.]

[(ii) Incorporated applicants. Incorporated applicants using or planning to use an assumed name must file an assumed name certificate in compliance with Texas Business and Commerce Code, Chapter 71. Evidence of the filing bearing the filing stamp of the Office of the Texas Secretary of State must be submitted or, alternatively, a certified copy.]

[(E) Third-party lender organizations. As required by Texas Finance Code, §393.604(a)(4), each applicant must provide the names, physical addresses, and telephone numbers of the third-party lender organizations with which the business contracts to provide services or from which the business arranges extensions of consumer credit.]

[(F) Bond. The commissioner may require a bond under Texas Finance Code, §393.605, if the commissioner finds that this would serve the public interest. If a bond is required, the commissioner will give written notice to the applicant. Should a bond not be submitted within 40 calendar days of the date of the commissioner's notice, any pending application may be denied.]

[(3) Subsequent applications for branch offices.]

[(A) Branch applications received after 90 days from last new or transfer license approval. If the applicant is currently licensed and filing an application for a new office after 90 days from its last new or transfer license approval, the applicant must submit a new application as provided by this section. Required information need not be resubmitted if the information on file with the OCCC is current and valid. All fees for new licenses required by §83.3010(a) of this title (relating to Fees) must be paid for each new branch location.]

[(B) Branch applications received within 90 days from last new or transfer license approval. If the applicant is currently licensed and filing an application for a new office within 90 days from its last new or transfer license approval, and no action, fact, or information has changed that would require a materially different answer than that given in the last new or transfer license application, the applicant must provide the following information:]

[(i) the branch consent form verifying that there have been no changes from the last application, signed by an authorized individual as provided by paragraph (1)(E) of this section;]

[(ii) the location information and responsible person for each new branch location, as provided by paragraph (1)(A)(i) and (ii) of this section;]

[(iii) the fees required by §83.3010(a) of this title must be paid for each new branch location, with the exception of the $200 investigation fee;]

[(iv) if requested, a new financial statement as provided in paragraph (2)(C) of this section; and]

[(v) if requested, any other information required by the commissioner that may be necessary to process the branch application.]

[(C) Last new or transfer license approval. For purposes of this section, a subsequent branch application filed under subparagraph (B) of this paragraph does not qualify as the "last new or transfer license approval."]

(b) Company license application. A company license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A company form including the name of the applicant entity, contact information, registered agent, location of books and records, bank account information, legal status, and responses to disclosure questions.

(2) An individual form for each key individual, including name, contact information, and responses to disclosure questions.

(3) A business operating plan describing the source of consumers, purpose of loans, types of loans offered, size of loans, contractual loan term (in days) of each type of loan offered, and source of working capital.

(4) A management chart showing the applicant's divisions, officers, and managers.

(5) An organizational chart if the applicant is owned by another entity or entities, or has subsidiaries or affiliated entities.

(6) A statement of experience detailing prior experience relevant to the license sought.

(7) A certificate of formation or other formation document.

(8) Any assumed names or other trade names that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(9) Franchise tax account information showing that the applicant entity is authorized to do business in Texas.

(10) Financial statement and supporting financial information complying with generally accepted accounting principles (GAAP). The OCCC may require a bank confirmation to confirm account balance information with financial institutions.

(A) If a financial statement is unaudited, then it should be dated no earlier than 90 days before the application date.

(B) If a financial statement is audited, then it should be dated no earlier than one year before the application date.

(11) The applicant's credit services organization certificate issued by the Texas Secretary of State.

(12) The name, physical address, and phone number of each third-party lender organization with which the applicant contracts to provide services or from which the business arranges extensions of consumer credit, as described by Texas Finance Code, §393.604(a)(4).

(13) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §83.303 of this title (relating to Transfer of License; New License Application on Transfer of Ownership).

(c) Branch license application. A branch license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A branch form including the address of the branch, contact details, and business activities.

(2) Any assumed name or other trade name that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(3) A financial statement and supporting financial information, as described by subsection (b)(10) of this section.

(4) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §83.303 of this title

(d) Supplemental information. The OCCC may require additional, clarifying, or supplemental information or documentation as necessary or appropriate to determine that an applicant meets the licensing requirements of Texas Finance Code, Chapter 393.

(e) Amendments to pending application. An applicant must immediately amend a pending application if any information changes requiring a materially different response from information provided in the original application.

§83.3003. Transfer of License; New License Application on Transfer of Ownership.

(a) Purpose. This section describes the license application requirements when a licensed entity transfers [~~its license or~~] ownership of the entity. If a transfer of ownership occurs, the transferee must submit [~~either a license transfer application or~~] a new license application on transfer of ownership under this section.

(b) Definitions. The following words and terms, when used in this section, will have the following meanings:

(1) License transfer--A sale, assignment, or transfer of a credit access business license.

(2) Permission to operate--A temporary authorization from the OCCC, allowing a transferee to operate under a transferor's license while final approval is pending for a license transfer application or a new license application on transfer of ownership.

(3) Transfer of ownership--Any purchase or acquisition of control of a licensed entity (including acquisition by gift, devise, or descent), or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs. The term does not include a change in proportionate ownership that results in the exact same owners still owning the business (unless an owner that previously held less than 10% obtains an interest of 10% or more) [~~as defined in §83.3004 of this title (relating to Change in Form or Proportionate Ownership)~~]. Transfer of ownership includes the following:

(A) an existing owner of a sole proprietorship relinquishes that owner's entire interest in a license or an entirely new entity has obtained an ownership interest in a sole proprietorship license;

[~~(B) any purchase or acquisition of control of a licensed general partnership, in which a partner relinquishes that owner's entire interest or a new general partner obtains an ownership interest;~~]

[~~(C) any change in ownership of a licensed limited partnership interest in which:~~]

~~*(i)* a limited partner owning 10% or more relinquishes that owner's entire interest;~~]

~~*(ii)* a new limited partner obtains an ownership interest of 10% or more;~~]

~~*(iii)* a general partner relinquishes that owner's entire interest; or~~]

~~*(iv)* a new general partner obtains an ownership interest (transfer of ownership occurs regardless of the percentage of ownership exchanged of the general partner);~~]

[~~(D) any change in ownership of a licensed corporation in which:~~]

~~*(i)* a new stockholder obtains 10% or more of the outstanding voting stock in a privately held corporation;~~]

~~*(ii)* an existing stockholder owning 10% or more relinquishes that owner's entire interest in a privately held corporation;~~]

~~*(iii)* any purchase or acquisition of control of 51% or more of a company that is the parent or controlling stockholder of a licensed privately held corporation occurs; or~~]

~~*(iv)* any stock ownership changes that result in a change of control (i.e., 51% or more) for a licensed publicly held corporation occur;~~]

[~~(E) any change in the membership interest of a licensed limited liability company:~~]

~~*(i)* in which a new member obtains an ownership interest of 10% or more;~~]

~~*(ii)* in which an existing member owning 10% or more relinquishes that member's entire interest; or~~]

~~*(iii)* in which a purchase or acquisition of control of 51% or more of any company that is the parent or controlling member of a licensed limited liability company occurs;~~]

(B) [~~(F)~~] any transfer of a substantial portion of the assets of a licensed entity under which a new entity controls business at a licensed location; and

(C) [~~(G)~~] any other purchase or acquisition of control of a licensed entity, or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs.

(4) Transferee--The entity that controls business at a licensed location after a transfer of ownership.

(5) Transferor--The licensed entity that controls business at a licensed location before a transfer of ownership.

(c) License transfer approval. No credit access business license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas Finance Code, §393.620. To transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. A license transfer is complete [~~approved~~] when the OCCC has approved the transferee's new license application and the transferor's license surrender [~~issues its final written approval of a license transfer application~~].

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete [~~license transfer application or~~] new license application on transfer of ownership in accordance with subsection (e) of this section. A transferee may file an application before this date.

(e) Application requirements.

(1) Generally. This subsection describes the application requirements for [~~a license transfer application or~~] a new license application on transfer of ownership. A transferee must submit the application in a format prescribed by the OCCC. The OCCC may accept prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. The transferee must pay appropriate fees in connection with the application.

(2) Documentation of transfer of ownership. The application must include documentation evidencing the transfer of ownership. The documentation should include one or more of the following:

(A) a copy of the asset purchase agreement when only the assets have been purchased;

(B) a copy of the purchase agreement or other evidence relating to the acquisition of the equity interest of a licensee that has been purchased or otherwise acquired;

(C) any document that transferred ownership by gift, devise, or descent, such as a probated will or a court order; or

(D) any other documentation evidencing the transfer event.

(3) Application information for new licensee. If the transferee does not hold a credit access business license at the time of the application, then the application must include the information required for new license applications under §83.3002 of this title (relating to

Filing of New Application). The instructions in §83.3002 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a credit access business license at the time of the application, then the application must include amendments to the transferee's original license application describing the information that is unique to the transfer event, including disclosure questions, owners and principal parties, and a new financial statement, as provided in §83.3002 of this title. The instructions in §83.3002 of this title apply to these filings. The responsible person at the new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by §83.3002 of this title need not be filed if the information on file with the OCCC is current and valid.

(5) Request for permission to operate. The application may include a request for permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) of this section includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies may not simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e) of this section.

(g) Transferee's authority to engage in business. If a transferee has filed a complete application including a request for permission to operate as described by subsection (e) of this section, by the deadline described by subsection (d) of this section, then the transferee may engage in business as a credit access business. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the transferee has a right to a hearing on the denial, as provided by §83.3007(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing credit access business activity under a license, the transferor is responsible to any consumer and to the OCCC for all credit access business activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing credit access business activity under a license before the OCCC's final approval of an application described by subsection (e) of this section, then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) Responsibility of transferee. After a transferee begins performing credit access business activity under a license, the transferee is responsible to any consumer and to the OCCC for all credit access business activity performed under the license. The transferee is responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility includes all activity performed under the license before the license transfer.

§83.3006. Required Notifications. [~~Updating Application and Contact Information.~~]

(a) Advance change notice. No later than the date of the change (or an earlier date specified in the OCCC's written instructions), a licensee must notify the OCCC of a change to any of the following information provided in the original license application: [~~Applicant's updates to license application information. Before a license application is approved, an applicant must report to the OCCC any information that would require a materially different answer than that given in the original license application and that relates to the qualifications for license within 10 calendar days after the person has knowledge of the information.~~]

(1) legal name of entity;

(2) any assumed names of entity;

(3) legal status of entity (e.g., change in organizational form from partnership to corporation); or

(4) names of direct owners or indirect owners;

(5) names of affiliates or subsidiaries;

(6) names of any key individuals;

(7) main address; or

(8) address of any branch location.

(b) Other required notifications. No later than 30 days after the licensee has knowledge of the information, a licensee must report the following information to the OCCC: [~~Licensee's updates to license application information. A licensee must report to the OCCC any information that would require a different answer than that given in the original license application within 30 calendar days after the licensee has knowledge of the information, if the information relates to any of the following:~~]

(1) any civil or regulatory actions against the licensee or key individuals that were not disclosed in the original application and would require a different answer than that given in the original license application [~~the names of principal parties~~];

(2) the names of third-party lender organizations;

(3) criminal history of the licensee or key individuals that was not disclosed in the original application;

(4) any bankruptcy of the licensee or a direct owner [~~actions by regulatory agencies~~]; or

(5) any breach of system security under Texas Business & Commerce Code, §521.053, affecting at least 250 residents of this state [~~court judgments~~].

(c) Contact information. Each applicant or licensee is responsible for ensuring that all contact information on file with the OCCC is current and correct, including all mailing addresses, all phone numbers, and all email [~~e-mail~~] addresses. The OCCC may send notices to

the mailing address or email address on file. It is a best practice for licensees to regularly review contact information on file with the OCCC to ensure that it is current and correct.

§83.3007. Processing of Application.

(a) Initial review. A response to an incomplete application will ordinarily be made within 14 calendar days of receipt stating that the application is incomplete and specifying the information required for acceptance.

(b) Complete application. An application is complete when:

(1) it conforms to the rules and published instructions;

(2) all fees have been paid; and

(3) all requests for additional information have been satisfied.

(c) Failure to complete application and deemed withdrawal. If a complete application has not been filed within 30 calendar days after notice of deficiency has been sent to the applicant, the application may be considered withdrawn [~~denied~~].

(d) Notice of intent to deny application. If an applicant files a complete license application but the OCCC does not find that the eligibility requirements for a license have been met, then the OCCC will send a notice of intent to deny the license application to the applicant.

(e) Hearing. An affected applicant has 30 calendar days from the date of the notice of intent to deny the license application to request in writing a hearing to contest the denial. This hearing will be conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the rules of procedure applicable under §9.1(a) of this title (relating to Application, Construction, and Definitions), before an administrative law judge who will recommend a decision to the commissioner. The commissioner will then issue a final decision after review of the recommended decision.

~~[(f) Denial. If an application has been denied, the assessment fee will be refunded to the applicant. The investigation fee and the fingerprint processing fee in §83.3010 of this title (relating to Fees) will be forfeited.]~~

(f) [~~(g)~~] Processing time.

(1) A license application will ordinarily be approved or denied within [~~a maximum of~~] 30 calendar days after the date of filing of a completed application.

(2) When a hearing is requested following an initial license application denial, the hearing will ordinarily be scheduled for a date [~~held~~] within 30 calendar days after a request for a hearing is made unless the parties agree to an extension of time. A final decision approving or denying the license application will be made after receipt of the proposal for decision from the administrative law judge.

(3) Exceptions. More time may be taken where good cause exists, as defined by Texas Government Code, §2005.004, for exceeding the established time periods in paragraphs (1) and (2) of this subsection.

§83.3008. Relocation of Licensed Offices.

~~[(a) Filing requirements. A licensee may move the licensed office from the licensed location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 30 calendar days prior to the anticipated moving date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the commissioner. The notice must include the contemplated new address of the licensed office, the approximate date of relocation, a copy of the notice to consumers, and the applicable fee as outlined in §83.3010 of this title (relating to Fees).]~~

(a) [~~(b)~~] Notice to consumers. Written notice of a relocation of an office, or of transactions as outlined in subsection (b) [~~(c)~~] of this section, must be mailed to all consumers with active accounts at least five calendar days prior to the date of relocation. Notices must identify the licensee, provide both old and new addresses, provide both old and new telephone numbers, and state the date relocation is effective. The notice to consumers can be waived or modified by the commissioner when it is in the public interest. A request for waiver or modification must be submitted in writing for approval. In lieu of notification by mail, a licensee may provide notice to a consumer by reasonable signage, electronic mail, text messaging, or other electronic means if a consumer has approved electronic notices, or by any other means the commissioner may approve.

(b) [~~(c)~~] Relocation of transactions. If the licensee is only relocating or transferring transactions from one licensed location to another licensed location, the licensee must comply with subsection (a) [~~(b)~~] of this section and provide, if transferred to more than one location, a list of transactions relocated or transferred. This list of relocated or transferred transactions must include the contract number and the full name of the consumer.

§83.3009. License Inactivation or Voluntary Surrender.

(a) Inactivation of active license. A licensee may cease operating under a credit access business license and choose to inactivate the license. A license may be inactivated by giving notice of the cessation of operations not less than 30 calendar days prior to the anticipated inactivation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must continue to pay the yearly renewal fees for an inactive license as outlined in §83.3010 of this title (relating to Fees), or the license will expire as described by §83.4002 of this title (relating to License Term and Annual Renewal).

(b) Activation of inactive license. A licensee may activate an inactive license by giving notice of the intended activation not less than 30 calendar days prior to the anticipated activation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC. The notice must include the contemplated new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §83.3010 of this title.

(c) Voluntary surrender of license. Subject to §83.4005(b) of this title (relating to Effect of Revocation, Suspension, or Surrender of License), a licensee may request voluntary [~~voluntarily~~] surrender of a license by providing the information required by the OCCC's written instructions [~~written notice of the cessation of operations, a request to surrender the license, and by submitting the license certificate~~]. A surrender is effective when the OCCC approves the surrender. A voluntary surrender will result in cancellation of the license.

§83.3011. Applications and Notices as Public Records.

Once a license application or notice is filed with the OCCC, it becomes a "state record" under Texas Government Code, §441.180(11), and "public information" under Government Code, §552.002. Under Government Code, §441.190, §441.191 and §552.004, the original applications and notices must be preserved as "state records" and "public information" unless destroyed with the approval of the director and librarian of the State Archives and Library Commission under Government Code, §441.187. [~~Under Government Code, §441.191, the OCCC~~

~~may not return any original documents associated with a credit access business license application or notice to the applicant or licensee.~~] An individual may request copies of a state record under the authority of the Texas Public Information Act, Government Code, Chapter 552.

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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7 TAC §83.3004, §83.3005

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules to enforce and administer Texas Finance Code, Chapter 393, Subchapter G. In addition, the rule changes relating to the NMLS transition are proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 393. The rule changes relating to the NMLS transition are also proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 14, which includes Texas Finance Code, §14.109.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

§83.3004. Change in Form or Proportionate Ownership.

§83.3005. Amendments to Pending Application.

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

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DIVISION 4. LICENSE

7 TAC §83.4001

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules to enforce and administer Texas Finance Code, Chapter 393, Subchapter G. In addition, the rule changes relating to the NMLS transition are proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 393. The rule changes relating to the NMLS transition are also proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 14, which includes Texas Finance Code, §14.109.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

§83.4001. License Display.

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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7 TAC §83.4002, §83.4003

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules to enforce and administer Texas Finance Code, Chapter 393, Subchapter G. In addition, the rule changes relating to the NMLS transition are proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 393. The rule changes relating to the NMLS transition are also proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 14, which includes Texas Finance Code, §14.109.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

§83.4002. License Term, Renewal, and Expiration.

(a) License term and renewal. A new license is effective from the date of its issuance until December 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from January 1 to December 31.

(b) NMLS. To maintain and renew a license, a licensee must maintain an active account in NMLS (or a successor system designated by the OCCC). The OCCC may make renewal unavailable to a licensee that fails to maintain an active account.

(c) [~~(b)~~] Due date for annual assessment fee. The annual assessment fee is due by December 1 of each year.

(d) [~~(c)~~] Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice of delinquency is given when the OCCC sends the notice electronically through NMLS or by email to the primary company contact.[~~:~~]

[~~(1) by mail to the address on file with the OCCC as a master file address; or~~]

[~~(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.~~]

(e) [(d)] Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) December 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (d) [(e)] of this section.

§83.4003. Denial, Suspension, or Revocation Based on Criminal History.

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §83.3010 of this title (relating to Fees), the OCCC will investigate the applicant and its principal parties. The OCCC will obtain criminal history record information through NMLS [from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission]. The OCCC will continue to receive information on new criminal activity reported after the license application has [fingerprints have] been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its key individuals [principal parties];

(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation from prosecution, law enforcement, and correctional authorities;

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid or are current.

(c) (No change.)

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §393.607(a). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its key individuals [principal parties]. If the applicant or a key individual [principal party] has been convicted of an offense described by subsections (c)(1) or (f)(1) of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its key individuals [principal parties] if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(e) - (f) (No change.)

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DIVISION 5. OPERATIONAL REQUIREMENTS

7 TAC §83.5004

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules to enforce and administer Texas Finance Code, Chapter 393, Subchapter G. In addition, the rule changes relating to the NMLS transition are proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 393. The rule changes relating to the NMLS transition are also proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 14, which includes Texas Finance Code, §14.109.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

§83.5004. Files and Records Required.

A licensee must maintain records for each transaction under Texas Finance Code, Chapter 393, and make those records available to the OCCC for examination. The records required by this section may be maintained by using an electronic recordkeeping system, a paper or manual recordkeeping system, [electronic recordkeeping system, optically imaged recordkeeping system,] or a combination of these types of systems, unless otherwise specified. All records must be prepared and maintained in accordance with generally accepted accounting principles. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(1) (No change.)

(2) Consumer's transaction file. A licensee must maintain an electronic or [a] paper [or electronic] transaction file for each individual transaction under Texas Finance Code, Chapter 393, or be able to produce this information within a reasonable amount of time. The transaction file must contain documents that show the licensee's compliance with applicable state and federal law, including Texas Finance Code, Chapter 393. If a substantially equivalent electronic record for any of the following documents exists, a paper copy of the record does not have to be included in the transaction file if the electronic record can be accessed upon request.

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

(3) - (4) (No change.)

(5) Website, [and] online disclosures, and advertisements. [If a licensee maintains a website, it must make the website available to the OCCC for inspection. The website must include a fee schedule to show the licensee's compliance with §83.6003(b) of this title, and applicable consumer disclosures to show the licensee's compliance with §83.6007(f) of this title. If a licensee amends the website's fee schedule, consumer disclosures, or method of accessing the fee schedule or consumer disclosures, the licensee must maintain documentation of the previous version of the website to show compliance with §83.6003(b) of this title and §83.6007(f) of this title. This must include the home page, any pages used in accessing the fee schedule and disclosures, and copies of the previously used fee schedule and disclosures. The licensee must maintain this documentation for one year from the date of amendment or until the next examination by OCCC staff, whichever is later. This paragraph does not require a licensee to maintain previously used pages of the website that were not the home page or pages used in accessing the fee schedule and consumer disclosures. The licensee may maintain the documentation of previous versions of the website at a centralized location other than the licensed location or branch office. In this case, the documentation must be maintained for one year from the date of amendment or until the OCCC's next examination of the centralized location, whichever is later. However, upon the OCCC's request, the licensee must have the ability to promptly obtain or access copies of the complete documentation so that the OCCC can examine it.]

(A) If a licensee maintains a website, it must make the website available to the OCCC for inspection. The website must include a fee schedule to show the licensee's compliance with §83.6003(b) of this title (relating to Posting of Fee Schedule and Notices), and applicable consumer disclosures to show the licensee's compliance with §83.6007(f) of this title (relating to Consumer Disclosures).

(B) If a licensee amends a website's fee schedule, consumer disclosures, or method of accessing the fee schedule or consumer disclosures, the licensee must maintain documentation of the previous version of the website to show compliance with §83.6003(b) of this title and §83.6007(f) of this title. This must include the home page, any pages used in accessing the fee schedule and disclosures, and copies of the previously used fee schedule and disclosures.

(C) A licensee must maintain records of any advertisements and solicitations, including examples of all written and electronic communications soliciting transactions (including advertisements at the place of business, scripts of radio and television broadcasts, and reproductions of billboards and signs not at the licensed place of business). If any language other than English is used in any advertising material, a true and correct translation must be maintained along with the advertising material.

(D) Information described in subparagraphs (A) through (C) of this paragraph must be maintained for one year from the last date of the information's publication or issuance, or until the next examination by OCCC staff, whichever is later. A licensee may maintain the information at a centralized location that the licensee has designated for maintaining books and records. Upon the OCCC's request, the licensee must have the ability to promptly obtain or access copies of the complete documentation so that the OCCC can examine it.

[(6) Advertisements. A licensee must maintain advertising and solicitation records, including examples of all written and electronic communications soliciting transactions (including advertisements at the place of business, scripts of radio and television broadcasts, and reproductions of billboards and signs not at the licensed place of business) for one year from the date of use or until the next examination by OCCC staff, whichever is later. If any language other than English is used in any advertising material, a true and correct translation must be maintained along with the advertising material. The licensee may maintain the documentation of advertising at a centralized location other than the licensed location or branch office. In this case, the documentation must be maintained for one year from the date of amendment or until the OCCC's next examination of the centralized location, whichever is later. However, upon the OCCC's request, the licensee must have the ability to promptly obtain or access copies of the complete documentation so that the OCCC can examine it.]

(6) [(7)] Adverse action records. Each licensee must maintain adverse action records for all applications relating to Texas Finance Code, Chapter 393 transactions. Adverse action records must be maintained according to the record retention requirements in Regulation B, 12 C.F.R. §1002.12(b). The current retention period is 25 months for consumer credit. These records include the loan application, any written or recorded information used in evaluating the application, the adverse action notice (if required), the notice of incompleteness (if applicable), and counteroffer notice (if applicable).

(7) [(8)] Index of transfers, assignments, and sales. The licensee must maintain (or be able to produce within a reasonable period of time) an index of all loans transferred, assigned, or sold to or from another person, including a third-party lender, or to a different location of the licensee. Each record in the index must be retained for four years from the date of the transaction, or two years from the date of the final entry made on the consumer's account, whichever is later. (For transfers from the licensee, the date of transfer is the date of the final entry.)

(8) [(9)] Index of litigation, criminal charges, and repossessions. A licensee must maintain (or be able to produce within a reasonable period of time) an index of each litigation action and criminal charge or referral filed by or against the licensee, as well as each repossession initiated by the licensee. The index must show the consumer's name, account number, and date of action. Each record in the index must be retained for a period of four years from the date of the transaction, or two years from the date of the final entry made on the consumer's account, whichever is later.

(9) [(10)] Registration and surety bond records. A licensee must maintain documentation of its registration as a credit services organization with the Texas Secretary of State, including its registration statement and registration certificate, to show its compliance with Texas Finance Code, §393.101. A licensee must maintain complete documentation of any surety bond obtained by the licensee under Texas Finance Code, §393.401, and any surety bond required by the OCCC under Texas Finance Code, §393.605. If a registration or surety bond terminates, the licensee must maintain the documentation for one year after the date of termination or until the next examination by OCCC staff, whichever is later.

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

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

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

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

(A) the text of any data breach notification provided to consumers, including any notification under Texas Business & Com-

merce Code, §521.053, for a period of four years from the date of the notification; and

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

(12) [~~(11)~~] Official correspondence file. A licensee must maintain an official correspondence file, including all communications from the OCCC, copies of correspondence and reports addressed to the OCCC (including quarterly and annual reports), examination reports issued by the OCCC, and notices of relocation described by §83.3008 of this title (relating to Relocation of Licensed Office).

(13) [~~(12)~~] General business records. A licensee must maintain any other business records showing its compliance with applicable law, including accounting records showing that the licensee maintains net assets required by Texas Finance Code, §393.611, records used to compile quarterly and annual reports, records of disbursement of funds between the licensee and third-party lenders, receipts, bank statements, and any master insurance policies.

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS
SUBCHAPTER GG. COMMISSIONER'S RULES CONCERNING POSTSECONDARY PREPARATION PROGRAMS

19 TAC §102.1091

The Texas Education Agency (TEA) proposes an amendment to §102.1091, concerning college and career readiness school models. The proposed amendment would update Pathways in Technology Early College High School (P-TECH) programmatic requirements to align with the requirements of House Bill (HB) 2 and HB 120, 89th Texas Legislature, Regular Session, 2025, and would provide clarifications to existing statutory provisions.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 102.1091 defines college and career readiness school models terms and establishes requirements related to the application, operation, notification, evaluation, and authority of Early College High School (ECHS) programs and P-TECH programs. The proposed amendment would reflect updated College and Career Readiness School Models (CCRSM) programmatic guidance related to the new needs improvement process, which was implemented in the 2025-2026 school year, and would reflect updated CCRSM blueprints that were released in June 2026. Revisions would also reflect updated P-TECH Years 5 and 6 guidance aligned with the requirements in HB 2 and HB 120, 89th Texas Legislature, Regular Session, 2025. Specifically, the following provisions would be addressed.

Proposed new definitions in subsection (a) would include terms related to ECHS and P-TECH programs that had not previously been defined in the commissioner of education rule and updates to programmatic requirements of the new needs improvement process. Proposed changes in subsection (a) would update the definition of a "CCRSM campus" to a "CCRSM program" to clarify that a CCRSM may operate as a school-within-a-school model and serve a subset of the campus student population.

Proposed changes in subsection (b)(1)(A) would prohibit a school district from applying for a new CCRSM planning program on any campus with a designated needs improvement program to ensure adequate district and campus capacity to support a needs improvement program before adding a new CCRSM program.

Proposed changes in subsection (b)(1)(B) would require that programs entering the CCRSM network as a result of a grant opportunity must complete the Program Application Cycle (PAC) to align programmatic planning expectations across programs that enter the network with or without grant funding.

Proposed changes in subsection (b)(2)-(4) would require that planning, provisional, designated, and designated with distinction programs complete the PAC by the deadline to ensure adequate time for processing applications and determining designation status.

Proposed updates to subsection (c) would require that needs improvement programs complete the PAC and needs improvement progress reports by the deadlines and participate in technical assistance to maintain designation status. The proposed requirements would ensure needs improvement campuses participate in additional supports intended to improve outcomes-based measures [OBM] outcomes.

The updated format of proposed new subsection (d) would restructure the subsection for improved clarity.

Proposed changes to subsection (e) would add guidance and clarification on Public Education Information Management System (PEIMS) coding for CCRSM students to promote accurate reporting of data used to determine designation status, as established by CCRSM program blueprints.

Proposed changes to subsection (f) would update options available to approved CCRSM programs.

Proposed new subsection (g) would add guidance and requirements for P-TECH Years 5 and 6 programs related to eligibility criteria, PEIMS coding, dual credit benefits, and outcomes earned by Years 5 and 6 students, to align with new legislative requirements established by HB 2 and HB 120, 89th Texas Legislature, Regular Session, 2025.

Changes to proposed subsection (h) would provide additional clarity on the OBM data sources and reports used to evaluate CCRSM programs to align with designation requirements as established by CCRSM program blueprints.

Proposed new subsection (i) would establish a process and requirements for districts that discontinue CCRSM program operations including student transition support, coding requirements, and a mandatory wait period to rejoin the network to align with

the new needs improvement process and updated CCRSM program blueprints.

The proposed update to subsection (j) would provide notice that noncompliance with the PAC deadline could result in the revocation of designation status in alignment with CCRSM program blueprints and requirements.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by updating requirements related to programs in needs improvement status, clarifying P-TECH Years 5 and 6 guidance and establishing a process and requirements for districts that discontinue CCRSM program operations, and further clarifying the existing 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 limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez 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 providing school districts and charter schools operating CCRSM programs with updated guidance and additional clarity on program requirements and expectations. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal includes a new requirement for a P-TECH Years 5-6 program data collection to align with new P-TECH Years 5-6 benefits and requirements in included in HB 2 and HB 120, 89th Texas Legislature, Regular Session, 2025, and would have an impact on data and reporting. The proposed new data collection is outlined in proposed new subsection (g)(1) and would require that P-TECHs apply for participation in the P-TECH Years 5-6 program.

TEA currently asks P-TECH programs if they are interested in implementing a Years 5-6 program in the PAC but does not collect any other information about P-TECH Years 5-6 programming. The proposed new data collection, the P-TECH Years 5-6 Program Application, is intended to collect programmatic information about current P-TECH Years 5-6 programs, including how P-TECH Years 5-6 programs are implementing the program with fidelity to the P-TECH blueprint for program monitoring purposes. The proposed data collection would only impact P-TECH programs that opt to implement a Years 5-6 program.

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

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins September 4, 2026, and ends October 5, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on September 4, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/laws-and-rules/commissioner-rules-tac/proposed-commissioner-education-rules.

STATUTORY AUTHORITY. The amendment is proposed under TEC, §29.553, which requires the commissioner of education to establish and administer the P-TECH program; TEC, §29.557, which authorizes the commissioner to adopt rules as necessary to administer the P-TECH program; and TEC, §29.908, as amended by SB 1887, 88th Texas Legislature, Regular Session, 2023, establishes the Early College High School program. TEC, §29.908(g), permits the commissioner to adopt rules as necessary to administer the program.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§29.553; 29.557; and 29.908, as amended by SB 1887, 88th Texas Legislature, Regular Session, 2023.

§102.1091. College and Career Readiness School Models.

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

(1) Benchmarks--The standards for program implementation that are included in the blueprints.

(2) Blueprint--The document that outlines the College and Career Readiness School Models (CCRSM) requirements, including benchmarks, design elements, artifacts, and outcomes-based measures (OBM).

(3) Business or industry partner--Employers who enter into a formal agreement with a Pathways in Technology Early College High School (P-TECH) to support work-based learning (WBL).

(4) College and Career Readiness School Models (CCRSM)--Programs, including Early College High Schools and P-TECHs, that blend high school and college coursework to help

students develop technical skills, earn postsecondary credentials and degrees, and pursue in-demand career paths.

(5) [~~(4)~~] Design elements--The processes, structures, or services within each benchmark that a CCRSM program [~~campus~~] must fulfill.

(6) [~~(5)~~] Designated program [~~campus~~]--A CCRSM program [~~campus~~] with six or more years of implementation that has met OBMs [~~outcomes-based measures (OBMs)~~] necessary for designation.

(7) [~~(6)~~] Designated with Distinction program [~~campus~~]--A CCRSM program [~~campus~~] with seven or more years of implementation that has met Designated with Distinction OBMs.

(8) Designation--The process by which the Texas Education Agency (TEA) determines that a program is fully implementing the design elements of each benchmark and meeting OBMs.

(9) [~~(7)~~] Early College High School (ECHS)--A program [~~school~~] established under Texas Education Code (TEC), §29.908, that enables a student in Grade 9, 10, 11, or 12 who is at risk of dropping out of school, as defined by TEC, §29.081, or who wishes to accelerate completion of high school to combine high school courses and college-level courses. An ECHS program must provide for a course of study that, on or before the fifth anniversary of a student's first day of high school, enables a participating student to receive both a high school diploma and either an applied or academic associate degree, with a completed field of study curriculum, as defined by TEC, §61.823, that is transferable toward a baccalaureate degree at one or more general academic teaching institutions, as defined by TEC, §61.003.

(10) ECHS student--A student who is enrolled in the ECHS, is receiving ECHS services, and is coded with the ECHS student characteristic in the Texas Student Data System Public Education Information Management System (TSDS PEIMS).

(11) [~~(8)~~] Institution of higher education (IHE)--An institution of higher education has the meaning assigned by TEC, §61.003.

(12) [~~(9)~~] Needs improvement program [~~campus~~]--A CCRSM program [~~campus~~] with six or more years of implementation that has not met OBMs necessary for designation.

(13) [~~(10)~~] Optional Flexible School Day Program (OFSDP)--A program approved by the commissioner of education to provide flexible hours and days of attendance for eligible students in Grades 9-12, as defined in §129.1027 of this title (relating to Optional Flexible School Day Program).

(14) [~~(11)~~] Outcomes-based measures--The data indicators related to access, achievement, and attainment that a CCRSM program [~~campus~~] is required to meet to achieve a status of Designated or Designated with Distinction.

(15) [~~(12)~~] Pathways in Technology Early College High School--A program [~~school~~] established under TEC, §29.553, that enables a student in Grade 9, 10, 11, or 12 who is at risk of dropping out of school, as defined by TEC, §29.081, or who wishes to accelerate completion of high school to combine high school and postsecondary courses. A P-TECH program must be open enrollment and provide for a course of study that, on or before the sixth anniversary of a student's first day of high school, enables a participating student to receive both a high school diploma and an associate degree, a two-year postsecondary certificate, or an industry certification, and must include a work-based education program.

(16) [~~(13)~~] Planning program [~~campus~~]--A CCRSM [~~campus~~] with zero years of implementation.

(17) Program Application Cycle (PAC)--An annual, required application through which programs apply for designation status.

(18) Program Sunset Form--A form that districts must submit to discontinue CCRSM program operations.

(19) [~~(14)~~] Provisional program [~~campus~~]--A CCRSM [~~campus~~] with one to five years of implementation.

(20) P-TECH student--A student who is enrolled in the P-TECH, is receiving P-TECH services, and is coded with the P-TECH student characteristic in TSDS PEIMS.

(21) [~~(15)~~] School district--For the purposes of this section, the definition of school district includes an open- enrollment charter school.

(22) [~~(16)~~] Work-based education program--Practical, hands-on activities or experiences through which a learner interacts with industry professionals in a workplace that may be an in-person, virtual, or simulated setting. Learners prepare for employment or advancement along a career pathway by completing purposeful tasks that develop academic, technical, and employability skills. A work-based education program is also known as work-based learning.

(b) Conditions for approval of CCRSM status.

(1) Conditions for approval of a Planning program [~~campus~~].

(A) Applicant eligibility. Any school district may submit a separate application on behalf of each campus it requests to be considered as a Planning program [~~campus~~]. A school district may not apply for a new CCRSM program on any campus with a Designated--Needs Improvement program.

(B) Application process. A school district must submit each application in accordance with the program application cycle (PAC) requirements [~~procedures determined by the commissioner~~]. Programs that enter the CCRSM network through an agency grant opportunity are required to complete the PAC after district acceptance of grant award.

(C) Planning program [~~campus~~] timeline. A planning program [~~campus~~] shall be eligible to apply for Provisional program [~~campus~~] status after the mandatory planning year.

(2) Conditions for approval of a Provisional program [~~campus~~].

(A) Applicant eligibility. Any Planning program [~~campus~~] or approved provisional program [~~campus~~] may submit an application to be considered as a Provisional program [~~campus~~].

(B) Application process. Any Planning program [~~campus~~] or approved Provisional program [~~campus~~] must submit an [~~each~~] application in accordance with the PAC requirements [~~procedures determined by the commissioner~~]. Failure to complete the PAC by the deadline may lead to a revocation of designation status for the following school year.

(C) Provisional program [~~campus~~] timeline. A Provisional program [~~campus~~] shall be eligible to apply to renew its status as a Provisional program [~~campus~~] yearly for up to five years.

(3) Conditions for approval of a Designated program [~~campus~~].

(A) Applicant eligibility. A Provisional program [~~campus~~] entering its fifth year of operation may submit an application

on behalf of the program [~~campus~~] it requests to be considered as a Designated program [~~campus~~].

(B) Application process. A prospective Designated program [~~campus~~] must submit an [~~each~~] application in accordance with the PAC requirements [~~procedures determined by the commissioner~~]. Failure to complete the PAC by the deadline may lead to revocation of designation status for the following school year. Programs [~~Campuses~~] must meet access, achievement, and attainment OBM criteria and implement all design elements in order to receive CCRSM Designated status.

(C) Designated program [~~campus~~] timeline. A Designated program [~~campus~~] shall be eligible to apply to renew its status as a Designated program [~~campus~~] yearly.

(4) Conditions for approval of a Designated with Distinction program [~~campus~~].

(A) Applicant eligibility. A Designated program [~~campus~~] may qualify for Designated with Distinction status if the program meets [~~in one or more of the following~~] OBM distinction criteria in access, achievement, and attainment areas beginning in its seventh year of operation.[:]

~~[(i) access;]~~

~~[(ii) achievement; and]~~

~~[(iii) attainment.]~~

(B) Application process. A prospective Designated with Distinction program [~~campus~~] must submit an [~~each~~] application in accordance with the PAC requirements [~~procedures determined by the commissioner~~]. Failure to complete the PAC by the deadline may lead to a revocation in designation status for the following school year. The [~~campus application in the~~] PAC application will serve as the Designated with Distinction application. Programs [~~Campuses~~] must meet access, achievement, and attainment designated with distinction OBM criteria and implement all design elements in order to receive CCRSM Designated with Distinction status.

(C) Designated with Distinction program [~~campus~~] timeline. A Designated with Distinction program [~~campus~~] shall qualify to renew its status as a Designated with Distinction program [~~campus~~] yearly.

(c) Needs Improvement and revocation of CCRSM status.

(1) Determination of CCRSM Needs Improvement status. If the conditions of approval for CCRSM Designated status are not met, including failure to meet the required OBM designated criteria, the CCRSM program [~~campus~~] will be classified as a CCRSM Needs Improvement program [~~campus~~].

(2) Needs Improvement program [~~campus~~] timeline. A Needs Improvement program [~~campus~~] is required to remain in the Needs Improvement status for a minimum period of two school years and a maximum period of three school years following program [~~campus~~] notification of the Needs Improvement status. [~~During the three years of Needs Improvement status, the campus is required to complete the PAC for Needs Improvement progress reports.~~]

(3) Needs Improvement progress monitoring. During the period [~~three years~~] of Needs Improvement status, the program [~~campus~~] will receive targeted technical assistance at no cost to the CCRSM to improve OBMs.

(4) Needs Improvement requirements. During each year of Needs Improvement, the program is required to participate in technical assistance coaching, submit the PAC, and submit Needs Improvement progress reports. Failure to complete the PAC and Needs Improvement progress report by the deadlines may lead to a revocation in designation status for the following school year.

(5) [~~(4)~~] Fulfillment of CCRSM Needs Improvement requirements and designation criteria. Following completion of the two- or three-year Needs Improvement period and upon successfully meeting the OBM designation criteria, the CCRSM will move out of the Needs Improvement status and into the Designated or Designated with Distinction status.

(6) [~~(5)~~] Revocation of CCRSM status. Following completion of the period [~~mandatory three years~~] of Needs Improvement status, if a CCRSM does not successfully meet the OBM designation criteria, the authorization of the program [~~campus~~] as a CCRSM will be revoked and the program [~~campus~~] will be removed from the CCRSM network.

(d) Notification timeline. [~~TEA will notify each applicant of its selection or non-selection as a CCRSM Planning, Provisional, Designated, Designated with Distinction, or Needs Improvement campus. The designation notification will be sent no later than the summer following the submission of the campus application in the PAC. Campuses selected for Planning, Provisional, Designated, and Designated with Distinction status will be publicly identified on TEA's website and will be identified as such in designation status notification to the district and to the IHE partner listed in the CCRSM PAC. Campuses in Needs Improvement status will not be publicly identified but will be identified as Needs Improvement in the designation status notification sent to the district and to the IHE partner listed in the CCRSM PAC.~~]

(1) TEA will notify each applicant of its selection or non-selection as a CCRSM Planning, Provisional, Designated, Designated with Distinction, or Needs Improvement program no later than the summer following the submission of the PAC.

(2) Programs selected for Planning, Provisional, Designated, and Designated with Distinction status will be publicly identified on TEA's website. The status will be included in the designation status notification to the district and the IHE partner listed in the PAC.

(3) Programs in Needs Improvement status will not be publicly identified but will be identified as Needs Improvement in the designation status notification sent to the district and to the IHE partner listed in the PAC.

(e) Conditions of CCRSM program operation.

(1) As established under TEC, §29.908, an ECHS must:

(A) enable a student in Grade 9, 10, 11, or 12 who is at risk of dropping out of school, as defined by TEC, §29.081, or who wishes to accelerate completion of high school to provide for a course of study that enables a participating student to combine high school courses and college-level courses;

(B) allow ECHS [~~participating~~] students to complete high school and enroll in a program at an IHE that will enable a student to, on or before the fifth anniversary of a student's first day of high school, receive a high school diploma and either an applied or academic associate degree, with a completed field of study curriculum, as defined by TEC, §61.823, that is transferable toward a baccalaureate degree at one or more general academic teaching institutions, as defined by TEC, §61.003;

(C) include articulation agreements with colleges, universities, and technical schools in Texas to provide a participating student access to postsecondary educational and training opportunities at a college, university, or technical school; and

(D) provide a participating student flexibility in class scheduling and academic mentoring.

(2) As established under TEC, §29.553, a P-TECH must:

(A) be open enrollment and enable a student in Grade 9, 10, 11, or 12 who is at risk of dropping out of school, as defined by TEC, §29.081, or who wishes to accelerate completion of high school to combine high school courses and postsecondary courses;

(B) provide for a course of study that, on or before the sixth anniversary of a student's first day of high school, enables a participating student to receive both a high school diploma and an associate degree, a two-year postsecondary certificate, or an industry certification and complete work-based training;

(C) include articulation agreements with colleges, universities, and technical schools in Texas to provide a participating student access to postsecondary educational and training opportunities at a college, university, or technical school;

(D) include a memorandum of understanding with regional business or industry partners to provide a participating student access to work-based training;

(E) include in each memorandum of understanding with a regional business or industry partner an agreement that the regional business or industry partner will give to a student who receives work-based training from the partner under the P-TECH program first priority in interviewing for any jobs for which the student is qualified that are available on the students' completion of the program; and

(F) provide a participating student flexibility in class scheduling and academic mentoring.

(3) The CCRSM program must comply with all the requirements outlined in the CCRSM blueprints. [~~If a CCRSM chooses to discontinue CCRSM operations, the CCRSM must ensure previously enrolled CCRSM students will have the opportunity to complete their course of study. The CCRSM must notify TEA of its decision to discontinue operations and submit an official letter from the district superintendent with the district decision.~~]

(4) A school district operating a CCRSM program must comply with all assurances included in the [~~program application submitted through the~~] PAC. Failure to complete the PAC by the deadline may lead to a revocation in designation status. If the CCRSM changes the location of the CCRSM program[~~, the CCRSM model,~~] or the IHE partner after [~~outside of~~] the PAC deadline, the CCRSM must notify TEA of the change.

(5) CCRSM approval is valid for a maximum of one school year.

(6) The CCRSM program must be provided at no cost to CCRSM students. A student enrolled in a CCRSM program may not be required to pay for tuition, fees, or required textbooks for any coursework. The school district in which the student is enrolled shall pay for tuition, fees, and required textbooks, to the extent those charges are not waived by the IHE.

(7) The CCRSM program may only code ECHS or P-TECH students in PEIMS with the respective program indicator. CCRSM programs that operate as a school-within-a-school program may not code students who are enrolled in the comprehensive campus, but who are not ECHS or P-TECH students, with the ECHS or P-TECH indicator in PEIMS.

[~~(7) P-TECH Year 5 and 6 students are not counted for accountability purposes.~~]

(f) Options [~~Programs~~] available to an approved CCRSM.

(1) Approval as a CCRSM program will allow a program [~~campus~~] to access services [~~programs~~] available to CCRSM programs, such as technical assistance.

(2) An approved CCRSM program [~~campus~~] may access the OFSDP defined in §129.1027 of this title. An approved CCRSM program [~~campus~~] is eligible for OFSDP but must apply separately in accordance with TEC, §29.0822, and procedures established by the commissioner.

(3) Approval as a P-TECH program will allow the P-TECH program [~~a campus~~] to participate [~~access programs available to the P-TECH, including participation~~] in a Year 5 and Year 6 P-TECH program.

[~~(4) P-TECH Year 5 and 6 students are not counted for accountability purposes.~~]

(g) P-TECH Years 5 and 6 Program.

(1) A P-TECH program must apply for participation in the P-TECH Years 5-6 program and must be in the designated status before implementing Years 5-6 operations.

(2) The P-TECH Years 5-6 program is only available to students previously enrolled in the P-TECH program and coded with the P-TECH indicator prior to high school graduation.

(3) Students in Year 5 or 6 of a P-TECH program must be coded as high school graduates in PEIMS. For student monitoring and funding purposes, students in Year 5 or 6 of a P-TECH must be correctly coded in PEIMS with the appropriate indicators.

(4) Students in Year 5 or 6 of a P-TECH program are entitled to the benefits of dual credit as established by Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter D (relating to Dual Credit Partnerships between Secondary Schools and Texas Public Colleges).

(5) Outcomes earned by a student while in Year 5 or 6 of a P-TECH program are not counted for accountability or OBM purposes. Outcomes earned by a student only count for accountability, OBM, and outcomes-bonus purposes in the year that the student is coded as a high school graduate.

(h) [~~(g)~~] Evaluation of a CCRSM program. TEA will evaluate a [~~Evaluation of the~~] CCRSM program based on [~~will occur through~~] the PAC, [~~and using~~] self-reported data provided by the program, data provided by the Texas Higher Education Coordinating Board (THECB), and data provided by assessment vendors [~~campus~~] to generate OBM data. OBM data provided to districts through the TEA Login (TEAL) portal is final and cannot be amended. Progress monitoring will also occur at the program [~~campus~~] level through [~~campus~~] coaching provided through state-appointed technical assistance.

(i) Process to discontinue CCRSM operations.

(1) If a district chooses to discontinue CCRSM program operations, the district must:

(A) ensure previously enrolled CCRSM students will have the opportunity to complete their course of study; and

(B) notify TEA of its decision and submit a completed CCRSM Program Sunset Form.

(2) Following the date of discontinued operations, the district may not code students with the P-TECH or ECHS indicator in PEIMS.

(3) Following the date of discontinued operations, the district must wait three years before applying to enter the network as a planning program under the previously sunset model.

(j) [~~(h)~~] Revocation of authority.

(1) The commissioner may deny renewal or revoke the authorization of a CCRSM program based on the following factors:

(A) noncompliance with the PAC deadline, PAC application assurances, and/or the provisions of this section;

(B) lack of program success as evidenced by progress reports and program OBM data;

(C) failure to meet performance standards specified in the application and/or CCRSM blueprints; or

(D) failure to provide accurate, timely, and complete information as required by TEA to evaluate the effectiveness of the CCRSM program.

(2) A decision by the commissioner to deny renewal as or revoke authorization of a CCRSM is final and may not be appealed.

(3) The commissioner may impose sanctions on a school district as authorized by TEC, Chapters 39 and 39A, for failure to comply with the requirements of 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.

Filed with the Office of the Secretary of State on August 24, 2026.

TRD-202603702
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 277. PRACTICE AND PROCEDURE

22 TAC §277.7

The Texas Optometry Board proposes amendments to 22 TAC Chapter 277, §277.7 - Patient Records.

The rules in the Chapter 277 were reviewed as a result of the Board's general rule review under Texas Government Code §2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). One comment was received regarding the Board's notice of review related to §277.7. The commenter stated the "written" patient record needed to be updated as most records are no longer written.

The Board has determined that there continues to be a need for the rules in Chapter 277. The Board has also determined that changes to §277.7 as currently in effect are necessary.

In conjunction with the quadrennial review, the rule was reviewed by the Texas Regulatory Efficiency Office (TREO). These amendments incorporate recommendations by TREO to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers.

The amendments clarify the Board's requirements for what constitutes a patient record; repeal current language that duplicates the requirements found in Rules 279.1 and 279.3 for clarity and ease of use by stakeholders; and allow records to be maintained in any format in response to the comment during the quadrennial review.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another

rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register.*

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code. Additional authority is found in §§351.351 and 351.1575 of the Occupations Code.

No other sections are affected by the amendments.

§277.7. Patient Records.

(a) In order to protect the patient's health, an optometrist or therapeutic optometrist shall create and maintain a legible and accurate [~~written~~] patient record for each patient. Every patient record shall provide sufficient information such that:

(1) another optometrist or therapeutic optometrist can identify the examination performed and the results obtained, and

(2) the Board can accurately assess a licensee's compliance with §§279.1 and 279.3 of this title, and Optometry Act §351.353.

(b) This rule is adopted to assist the Board in determining whether a licensee has complied with the requirements of Optometry Act §351.353, Initial Examination of Patient. This rule is not adopted to establish a standard of care for the practice of optometry.

(c) Notations to a detailed preprinted checklist are acceptable if the results of an examination may clearly and accurately be presented in this format. The use of a check mark or similar minimal notation to record the performance of an examination, if not made to a detailed checklist, does not meet the requirements of subsection (a) of this section. Any patient record that is created or maintained in an electronic format must have the capability of printing a paper record that meets the requirements of this rule.

(d) The patient record for each initial examination for which an ophthalmic lens prescription is signed shall contain, at a minimum, written notations recording the procedures and findings required by §§279.1 and 279.3 of this title, and Optometry Act §351.353, and also shall include [~~in the following format:~~]

[~~(1)~~] [~~An~~] an accurate identification of the patient;

[~~(2)~~] [~~The~~] the date of the examination; and

[~~(3)~~] [~~The~~] the name of the optometrist or therapeutic optometrist conducting the examination [~~;~~]

[~~(4) Past and present medical history, including complaint presented at visit;~~]

[~~(5) A numerical value of the monocular uncorrected or monocular corrected visual acuity in a standard acceptable format;~~]

[~~(6) The results of a biomicroscopic examination of the lids, cornea, and sclera;~~]

[~~(7) The results of the internal examination of the media and fundus, including the optic nerve and macula, all recorded individually;~~]

[~~(8) The results of a retinoscopy. A tape from an automatic refractor is acceptable;~~]

[~~(9) The subjective findings of the examination. A tape from a computer assisted refractor/photometer is acceptable if the instrument is being used to obtain subjective findings;~~]

[~~(10) The results of an assessment of binocular function, including the test used and the numerical endpoint value;~~]

[~~(11) The amplitude or range of accommodation expressed in numerical endpoint value including the test used in the examination;~~]

[~~(12) A tonometry reading including the type of instrument used in the examination; and~~]

[~~(13) Angle of vision: the extent of the patient's field to the left and right~~].

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 305-8502

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22 TAC §277.10

The Texas Optometry Board proposes amendments to 22 TAC Chapter 277, §277.10 - Remedial Plans.

The rules in the Chapter 277 were reviewed as a result of the Board's general rule review under Texas Government Code §2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received regarding this rule during the review period.

The Board has determined that there continues to be a need for the rules in Chapter 277. The Board has also determined that changes to §277.10 as currently in effect are necessary.

The rule deletes the authority for the Executive Director to issue remedial plans and instead leaves the authority with the Board.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year

period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register.*

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code. Additional authority is found in §351.509 of the Occupations Code.

No other sections are affected by the amendments.

§277.10. Remedial Plans.

[~~(a) Section 351.509 authorizes the Board to issue a remedial plan to resolve the investigation of a complaint.~~]

(a) [~~(b)~~] The issuance of a remedial plan does not impose disciplinary action. Records of the remedial plan will be removed from the records of the Board on the date two years after the date that a licensee successfully completes a remedial plan.

(b) [~~(c)~~] A remedial plan may not:

(1) revoke, suspend, limit, or restrict a license or assess an administrative penalty;

(2) be imposed to resolve a complaint concerning a death, hospitalization, or the commission of a felony; and

(3) be imposed if the Board issued a remedial plan to a licensee within the preceding 24 months.

(c) [~~(d)~~] A remedial plan [~~must be approved by the Board. The plan~~] may be initiated [~~in the following manner: (1) for violations listed in §277.6(a)(9) of this title, by the Executive Director in the same manner as administrative penalties are assessed by the Executive Director in §277.1 of this title; or (2)~~] by the Investigation-Enforcement Committee in the same manner as the disposition of complaints in §277.1 of this title and must be approved by the Board.

(d) [~~(e)~~] If a licensee does not accept an offer of settlement based on the issuance of a remedial plan, the Board shall schedule an informal settlement conference according to the provisions of §277.2 of this title.

(e) [~~(f)~~] If a licensee does not successfully complete the terms of a remedial plan, the Board may reopen the investigation of the complaint to determine if disciplinary action should be imposed.

(f) [~~(g)~~] The Board may assess a plan administration fee in an amount of $1,000, to recover the costs of administering the plan.

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 August 24, 2026.

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CHAPTER 279. INTERPRETATIONS

22 TAC §279.1

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.1 - Contact Lens Examination.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). Comments received during the review were considered by the committee.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.1 as currently in effect are necessary.

In conjunction with the quadrennial review, the rule was reviewed by the Texas Regulatory Efficiency Office (TREO). These amendments incorporate many recommendations by

TREO to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers.

The proposed amendments update the requirements for a contact lens examination to clarify that a photograph can be used for other purposes besides documentation or consultation; confirm that a patient has knowledge regarding the correct handling of contact lenses; update what constitutes a sanitary office; remove the language related to willful or repeated noncompliance for disciplinary reasons; and make style changes for consistency across rules. The rule also deletes specific requirements for dispensers as the Board does not regulate dispensers.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register.*

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §§351.353 and 351.359 of the Optometry Act.

No other sections are affected by the amendments.

§279.1. Contact Lens Examination.

(a) The optometrist or therapeutic optometrist shall, in the initial examination of the patient for whom contact lenses are prescribed:

(1) Personally make and record, if possible, the following findings of the conditions of the patient as required by §351.353 of the Optometry Act:

(A) biomicroscopy examination (lids, cornea, sclera, etc.), using a binocular microscope;

(B) internal ophthalmoscopic examination (media, fundus, etc.), using an ophthalmoscope or biomicroscope with fundus condensing lenses; videos and photographs [~~may be used only for documentation and consultation purposes but~~] do not fulfill the internal ophthalmoscopic examination requirement; and

(C) subjective findings, far point and near point;

(2) Either personally make and record or authorize an assistant present in the same office with the optometrist or therapeutic optometrist to make and record the following findings required by §351.353 of the Optometry Act. The authorization for assistants to make and record the following findings does not relieve the optometrist or therapeutic optometrist of professional responsibility for the proper examination and recording of each finding required by §351.353 of the Optometry Act:

(A) case history (ocular, physical, occupational, and other pertinent information);

(B) visual acuity;

(C) static retinoscopy O.D., O.S., or autorefractor;

(D) assessment of binocular function;

(E) amplitude or range of accommodation;

(F) tonometry; and

(G) angle of vision, to right and to left.

(3) Personally notate in the patient's record the reasons why it is not possible to make and record the findings required in subsection (a) of this section; and

(4) [When a follow-up visit is medically indicated, schedule the follow-up visit within 30 days of the contact lens fitting, and inform the patient on the initial visit regarding the necessity for the follow-up care; and]

[(5)] Personally or authorize an assistant to instruct the patient in the proper care of lenses or confirm the patient has correct knowledge of handling and care of contact lenses.

(b) The optometrist or therapeutic optometrist and assistants shall maintain sanitary conditions consistent with accepted clinical practice in the handling and dispensing of contact lenses and in the conduct of the examination [observe proper hygiene in the handling and dispensing of the contact lenses and in the conduct of the examination. Proper hygiene includes sanitary office conditions, running water in the office where contact lenses are dispensed, and proper sterilization of diagnostic lenses and instruments].

(c) The fitting of contact lenses may be performed only by a licensed physician, optometrist, or therapeutic optometrist. Ophthalmic dispensers may dispense contact lenses in accordance with the exceptions contained in [make mechanical adjustments to contact lenses and dispense contact lenses only after receipt of a fully written contact lens prescription from a licensed optometrist, therapeutic optometrist, or a licensed physician. An ophthalmic dispenser shall make no measurement of the eye or the cornea or evaluate the physical fit of the contact lenses, by any means whatever, subject solely and only to the exception contained in the] §351.005 of the Optometry Act.

(d) The [willful or repeated] failure or refusal of an optometrist or therapeutic optometrist to comply with any of the requirements in the Optometry Act, §351.353 and §351.359, shall be considered by the Board [board] to constitute prima facie evidence that the licensee is unfit or incompetent by reason of negligence within the meaning of the Optometry Act, §351.501(a)(2), and shall be sufficient ground for disciplinary action [the filing of charges to cancel, revoke, or suspend the license. The charges shall state the specific instances in which it is alleged that the rule was not complied with. After the board has produced evidence of the omission of a finding required by §351.353, the burden shifts to the licensee to establish that the making and recording of the findings was not possible].

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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22 TAC §279.2

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.2 - Contact Lens Prescriptions.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). Comments received during the review were considered by the committee.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.2 as currently in effect are necessary.

In conjunction with the quadrennial review, the rule was reviewed by the Texas Regulatory Efficiency Office (TREO). These amendments incorporate many recommendations by TREO to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers.

The proposed amendments update requirements for a contact lens prescription to include electronic signature requirements; clarify the prescription verification process; delete language directing dispensers to act as the Board does not regulate dispensers; and make style changes for consistency across rules.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §§351.005, 351.356, 351.357, 351.359, 351.453, and 351.607 of the Optometry Act, §§353.152, 353.153 and 353.158 of the Contact Lens Prescription Act, and federal law, 15 U.S.C. Sections 7601 - 7610 (Public Law 108-164).

No other sections are affected by the amendments.

§279.2. Contact Lens Prescriptions.

(a) [~~Prescription.~~] A prescription for contact lenses is defined as a written order signed by the examining optometrist, therapeutic optometrist or physician, or a written order signed by an optometrist, therapeutic optometrist or physician authorized by the examining doctor to issue the prescription.

(1) If the prescription is signed by the examining optometrist or therapeutic optometrist, the prescription may be signed electronically, provided that the electronic signature complies with applicable law, including the Texas Uniform Electronic Transactions Act, Business and Commerce Code, Chapter 322.[~~:~~]

[~~(A) the prescription is electronically signed by the practitioner using a system which electronically replicates the practitioner's manual signature on the written prescription; and~~]

[~~(B) the security features of the system require the practitioner to authorize each use.~~]

(2) If the prescription is signed by a doctor other than the examining optometrist, therapeutic optometrist or physician, the prescription must contain:

(A) the name of the examining doctor; and

(B) the license number of both the examining doctor and the doctor signing the prescription.

[~~(b) Applicable Law. A contact lens prescription must comply with the requirements of the Texas Optometry Act, Sections 351.005, 351.356, 351.357, 351.359, and 351.607, and the Contact Lens Prescription Act, Sections 353.152, 353.153 and 353.158 and federal law, 15 U.S.C. Sections 7601 - 7610 (Public Law 108-164).~~]

(b) [~~(c) Contents of Prescription.~~] A fully written contact lens prescription must contain all information required to accurately dispense the contact lens, including:

(1) patient's name;

(2) the name, postal address, telephone number, and facsimile telephone number of the prescribing optometrist or therapeutic optometrist (required by federal law);

(3) the date of examination (not including date of follow-up examinations) (required by federal law);

(4) date the prescription is issued;

(5) an expiration date of not less than one year, unless a shorter period is medically indicated;

(6) examining optometrist's signature or authorized signature;

(7) name of the lens manufacturer, if required to accurately dispense the lens;

(8) lens brand name, including:

(A) a statement that brand substitution is permitted if the optometrist intends to authorize a contact lens dispenser to substitute the brand name; and

(B) name of manufacturer, trade name of private label brand, and, if applicable, trade name of equivalent brand name when the prescribed brand name is not available to the optical industry as a whole, unless the prescribing of a proprietary lens brand is medically indicated;

(9) lens power;

(10) lens diameter, unless set by the manufacturer;

(11) base curve, unless set by the manufacturer; and

(12) number of lenses and recommended replacement interval.

(c) [~~(d)~~] The [~~Release of Prescription, Timing. Regardless of whether the release is requested by the patient, the~~] optometrist or therapeutic optometrist shall release a prescription at the end of a contact lens fitting (once the parameters of the prescription are determined) even if the patient does not ask for it. An exception to this requirement exists if the optometrist or therapeutic optometrist determines that because of a medical indication further monitoring is required, and the optometrist or therapeutic optometrist gives the patient a verbal explanation of the reason the prescription is not released and documents in the patient's records a written explanation of the reason.

(d) [~~(e) Release of Prescription, Method.~~] An optometrist or therapeutic optometrist shall issue a prescription by any verifiable method, including electronic transmission, [~~by giving or delivering an original signed copy of the prescription~~] to the patient or to another person in accordance with subsection (c) [~~(d)~~] of this section.

(e) [~~(f) Verification of Prescription.~~] An optometrist or therapeutic optometrist shall verify a prescription when a dispenser designated to act on behalf of the patient requests a verification by direct communication, including telephone or electronic means [~~telephone, facsimile or electronic mail~~]. An optometrist or therapeutic optometrist is required to communicate with the dispenser within eight business hours, or a similar time as defined by the Federal Trade Commission.

(f) [~~(g)~~] An optometrist or therapeutic optometrist is not required to verify a prescription unless the [~~Verification Procedure. A~~] dispenser designated to act on behalf of the patient provides [~~is required to provide the optometrist or therapeutic optometrist with~~] the following information when seeking a verification of a prescription:

(1) the patient's full name and address;

(2) contact lens power, manufacturer, base curve or appropriate designation, and diameter, as appropriate;

(3) quantity of lenses ordered;

(4) the date on which the patient requests lenses to be ordered or dispensed;

(5) the date and time of the verification request; [~~and~~]

(6) the name and contact information[~~, telephone number, and facsimile number~~] of a person at the contact lens dispenser's company with whom to discuss the verification; and

(7) a clear statement of the prescriber's regular Saturday business hours if the seller is counting those hours as business hours.

(g) [~~(h) Verification Requirements. If the format of the verification request allows, the optometrist or therapeutic optometrist, when verifying a prescription, should provide the contact lens dispenser with all of the information required in subsection (c) of this section. An optometrist or therapeutic optometrist who did not perform the examination, may verify a prescription according to subsection (a) of this section, providing to the dispenser the name and license number of the examining doctor if the format of the verification request so allows.~~] Each request for a prescription verification should be recorded in the patient record, including the name of the dispenser, the date verification is requested, and number of lenses requested[~~, and response of the optometrist or therapeutic optometrist~~].

(h) [~~(i)~~] A contact lens prescription shall not be filled by a contact lens dispenser if the optometrist or therapeutic optometrist states the prescription is inaccurate or invalid. [~~Inaccurate or Invalid Verification. A contact lens dispenser seeking a contact lens prescription verification shall not fill the prescription if an optometrist or therapeutic optometrist informs a dispenser that the contact lens prescription is inaccurate, expired, or otherwise invalid. An optometrist or therapeutic optometrist is required to communicate the basis for the inaccuracy or invalidity of the prescription.~~] If the prescription communicated by the dispenser to the optometrist or therapeutic optometrist is inaccurate or invalid, the optometrist or therapeutic optometrist is required to provide the correct information to the dispenser. An optometrist or therapeutic optometrist is required to communicate the basis for the inaccuracy or invalidity of the prescription. [~~A dispenser may dispense lenses without verification if an optometrist or therapeutic optometrist fails to communicate with the dispenser within 8 business hours, or a similar time as defined by the Federal Trade Commission.~~]

(i) [~~(j) Number of Lenses.~~] An optometrist or therapeutic optometrist dispensing contact lenses shall record on the prescription the number of lenses dispensed and return the prescription to the person. [~~If all the contact lenses authorized by the prescription are dispensed by an optometrist or therapeutic optometrist, the following procedure complies with state law and should not be in conflict with federal law: the optometrist or therapeutic optometrist writes on the prescription "All Lenses Dispensed," makes a copy of the prescription to retain in the licensee's records, and returns the original to the person presenting the prescription.~~]

(j) [~~(k)~~] An [~~Extension. The Contact Lens Prescription Act requires an~~] optometrist or therapeutic optometrist shall [~~to~~] authorize, upon request of the patient, a one-time, two-month extension of the contact lens prescription.

(k) [~~(l) Private Labels.~~] The prescribing optometrist or therapeutic optometrist has the authority to specify any and all parameters of an optical prescription for the therapeutic and visual health and welfare of a patient, but the prescription shall not contain restrictions limiting the parameters to private labels not available to the optical industry as a whole, unless the prescribing of a proprietary lens brand is medically indicated. The specifications of the prescription may not be altered without the consent of the prescribing doctor.

(l) [~~(m)~~] An [~~Fee. The Contact Lens Prescription Act prohibits an~~] optometrist or therapeutic optometrist may not charge [~~from charging~~] the patient a fee in addition to the examination fee and the fitting fee as a condition for giving a contact lens prescription to the patient or verifying a prescription [~~according to subsections (h) and (i) of this section~~]. An optometrist or therapeutic optometrist may not refuse to release a prescription solely because charges assigned or presented for payment to an insurance carrier, health maintenance organization, managed care entity, or similar entity have not been paid by that entity.

(m) [~~(n) Fitting Process.~~] An optometrist or therapeutic optometrist may charge a fitting fee that includes fees for lenses required to be used in the fitting process. The fitting process may include the initial eye examination, an examination to determine the specifications of the contact lenses, and follow-up examinations that are medically necessary. Unless medically necessary, the optometrist or therapeutic optometrist may not require the patient to purchase a quantity of lenses in excess of the lenses the optometrist or therapeutic optometrist was required to purchase to complete the fitting process.

(n) [~~(o)~~] An optometrist or therapeutic optometrist may not sign, or cause to be signed, an ophthalmic lens prescription without first personally examining the eyes for whom the prescription is made pursuant to §351.453 [~~Section 351.435~~] of the Optometry Act. An optometrist or therapeutic optometrist is responsible for the prescriptions signed under the practitioner's name even if they are produced by non-clinical staff. Should a licensee discover a prescription for lenses was issued without the licensee's [~~his~~] knowledge or permission, the licensee shall report it to the Board within seven business days.

[~~(p) The Executive Commissioner of the Health and Human Services Commission and the Executive Director of the Board may enter into interagency agreements as necessary to implement and enforce 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.

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22 TAC §279.3

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.3 - Spectacle Examination.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this rule during the review.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.3 as currently in effect are necessary.

In conjunction with the quadrennial review, the rule was reviewed by the Texas Regulatory Efficiency Office (TREO). These amendments incorporate many recommendations by TREO to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers.

The proposed amendments update the requirements for a spectacle lens examination to remove the language related to willful or repeated noncompliance for disciplinary reasons and make style changes for consistency across rules.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §§351.353 and 351.359 of the Optometry Act.

No other sections are affected by the amendments.

§279.3. Spectacle Examination.

(a) The optometrist or therapeutic optometrist shall, in the initial examination of the patient for whom ophthalmic lenses are prescribed:

(1) Personally make and record, if possible, the following findings of the conditions of the patient as required by §351.353 of the Optometry Act:

(A) biomicroscopy examination (lids, cornea, sclera, etc.), using a binocular microscope;

(B) internal ophthalmoscopic examination (media, fundus, etc.), using an ophthalmoscope or biomicroscope with fundus condensing lenses; videos and photographs may be used only for documentation and consultation purposes but do not fulfill the internal ophthalmoscopic examination requirement; and

(C) subjective findings, far point and near point.

(2) Either personally make and record or authorize an assistant present in the same office with the optometrist or therapeutic optometrist to make and record the following findings required by §351.353 of the Optometry Act. The authorization for assistants to make and record the following findings does not relieve the optometrist or therapeutic optometrist of professional responsibility for the proper examination and recording of each finding required by §351.353 of the Optometry Act:

(A) case history (ocular, physical, occupational, and other pertinent information);

(B) visual acuity;

(C) static retinoscopy O.D., O.S., or autorefractor;

(D) assessment of binocular function;

(E) amplitude or range of accommodation;

(F) tonometry;

(G) angle of vision, to right and to left.

(3) Personally notate in the patient's record the reasons why it is not possible to make and record the findings required in this section.

(b) The [~~willful or repeated~~] failure or refusal of an optometrist or therapeutic optometrist to comply with any of the requirements in the Optometry Act, §351.353 and §351.359, shall be considered by the

Board [~~board~~] to constitute prima facie evidence that the licensee is unfit or incompetent by reason of negligence within the meaning of the Optometry Act, §351.501(a)(2), and shall be sufficient ground for disciplinary action [~~the filing of charges to cancel, revoke, or suspend the license. The charges shall state the specific instances in which it is alleged that the rule was not complied with. After the board has produced evidence of the omission of a finding required by §351.353, the burden shifts to the licensee to establish that the making and recording of the findings was not possible~~].

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 August 24, 2026.

TRD-202603693
Janice McCoy
Executive Director
Texas Optometry Board
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For further information, please call: (512) 305-8502

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22 TAC §279.4

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.4 - Spectacle and Ophthalmic Devices Prescriptions.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this rule during the review.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.4 as currently in effect are necessary.

In conjunction with the quadrennial review, the rule was reviewed by the Texas Regulatory Efficiency Office (TREO). These amendments incorporate many recommendations by TREO to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers.

The proposed amendments define what constitutes a fully written spectacle prescription and update electronic signature requirements; and add a reference to §351.453 of the Optometry Act regarding signing a prescription without personally examining the eyes of the patient. It adds language that a licensee is responsible for prescriptions signed under his/her name and adds a requirement to report to the Board if a prescription was issued without his/her knowledge similar to language found in Board Rule §279.2.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §§351.359 and 351.453 of the Optometry Act.

No other sections are affected by the amendments.

§279.4. Spectacle and Ophthalmic Devices Prescriptions.

(a) A prescription for spectacles or ophthalmic devices is defined as a written order signed by the examining optometrist, therapeutic optometrist or physician, or a written order signed by an optometrist, therapeutic optometrist or physician authorized by the examining doctor to issue the prescription.

(1) If the prescription is signed by the examining optometrist or therapeutic optometrist, the prescription may be signed electronically, provided that the electronic signature complies with applicable law, including the Texas Uniform Electronic Transactions Act, Business and Commerce Code, Chapter 322.[:]

(2) If the prescription is signed by a doctor other than the examining optometrist, therapeutic optometrist or physician, the prescription must contain:

(A) the name of the examining doctor; and

(B) the license number of both the examining doctor and the doctor signing the prescription.

[(1) the prescription is electronically signed by the practitioner using a system which electronically replicates the practitioner's manual signature on the written prescription; and]

[(2) the security features of the system require the practitioner to authorize each use.]

(b) An optometrist or therapeutic optometrist may issue a duplicate prescription in the following manner:

(1) giving or delivering an original signed copy of the prescription to the patient or to another person when requested by the patient;

(2) faxing an original signed prescription to a person authorized to fill the prescription;

(3) transmitting a complete prescription as defined in this section, to a person authorized to fill the prescription, by email or other computerized electronic means[. When] (when transmitting a prescription by computerized electronic means, including e-mail, the optometrist or therapeutic optometrist shall attach a digital signature in a commonly recognized format) [format. The computerized electronic transmission shall also include the office address and license number of the optometrist or therapeutic optometrist]; or

(4) if the optometrist or therapeutic optometrist determines that the patient needs an emergency refill of the spectacle prescription, the prescription may be telephoned to a person authorized to fill the prescription.

(c) A fully written spectacle prescription must contain all information required to accurately fill the prescription, including:

(1) patient's name;

(2) the name, postal address, telephone number, and facsimile telephone number of the prescribing optometrist or therapeutic optometrist;

(3) the date of examination (not including date of follow-up examinations);

(4) date the prescription expires, and

(5) examining optometrist's signature or authorized signature.

[(c) If the prescription is signed by a doctor other than the examining optometrist, therapeutic optometrist or physician, the prescription must contain:]

[(1) the name of the examining doctor; and]

[(2) the license number of both the examining doctor and the doctor signing the prescription.]

(d) The prescribing optometrist or therapeutic optometrist has the authority to specify any and all parameters of an optical prescription for the therapeutic and visual health and welfare of a patient, but the prescription shall not contain restrictions limiting the parameters to private labels not available to the optical industry as a whole, unless the prescribing of a proprietary lens brand is medically indicated. The specifications of the prescription may not be altered without the consent of the prescribing doctor.

(e) An optometrist or therapeutic optometrist may not sign, or cause to be signed, a spectacle prescription without first personally examining the eyes for whom the prescription is made pursuant to §351.453 of the Optometry Act. An optometrist or therapeutic optometrist is responsible for the prescriptions signed under the practitioner's name even if they are produced by non-clinical staff. Should a licensee discover a prescription for spectacles was issued without the licensee's knowledge or permission, the licensee shall report it to the Board within seven business days.

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 305-8502

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22 TAC §279.5

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.5 - Dispensing Ophthalmic Materials.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this rule during the review.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.5 as currently in effect are necessary.

The rule makes style changes for consistency across rules and removes language directing an ophthalmic dispenser as the Board does not regulate that profession.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §351.453 of the Optometry Act.

No other sections are affected by the amendments.

§279.5. Dispensing Ophthalmic Materials.

(a) The dispensing of medications, spectacles, contact lenses, or ophthalmic devices without a valid prescription constitutes the unlawful practice of optometry, subject to penalties under the [~~Texas~~] Optometry Act, §§351.251, 351.406, 351.602, 351.603, 351.606 and 351.607.

(b) [~~The Texas Optometry Act, §351.453, relates to prescribing without examination.~~] Nothing in §351.453 of the Optometry Act [~~this section~~] prohibits a licensed optometrist or therapeutic optometrist from:

(1) duplicating a patient's spectacle lenses;

(2) filling or having filled a prescription that has been signed by an authorized practitioner;

(3) dispensing or having dispensed lenses from a patient's optometric record located within the same optometric office; or

(4) replacing or repairing frames or parts thereof.

[~~(c) Under the Texas Optometry Act, §§351.005, 351.356 and 351.357, the practice of optometry and therapeutic optometry includes prescribing lenses or prisms, and an ophthalmic dispenser is charged to fill such prescription in accordance with the specific directions of a prescription of a licensed physician, optometrist, or therapeutic optometrist.~~]

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 305-8502

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22 TAC §279.9

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.9 - Advertising.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the open review.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.9 as currently in effect are necessary.

The proposed amendment simply clarifies that the rule is applied to both an optometrist and therapeutic optometrist.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §§351.155 and 351.403 of the Optometry Act.

No other sections are affected by the amendments.

§279.9. Advertising.

(a) [~~All advertising must be in compliance with the Texas Optometry Act, §351.155 and §351.403.~~] Any advertising regarding services to be provided by an optometrist or therapeutic optometrist must not be false, deceptive, or misleading.

(b) The term "board certified" or any similar word or phrase denoting certification or specialization may be used by an optometrist or therapeutic optometrist if the advertising includes the name of the organization that has conferred the certification or specialization. The [~~Texas Optometry~~] Board does not confer certifications or specializations.

(c) Any advertisement of price of contact lens shall affirmatively disclose the number of lenses included for the price specified.

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 August 24, 2026.

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Janice McCoy
Executive Director
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For further information, please call: (512) 305-8502

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22 TAC §279.10

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.10 - Professional Identification.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the review period.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.10 as currently in effect are necessary.

The proposed amendment removes unnecessary language from the rule to state what a licensee must do to satisfy §351.458 of the Optometry Act in regard to display of name at a practice location.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §§351.362 and 351.458 of the Optometry Act.

No other sections are affected by the amendments.

§279.10. Professional Identification.

(a) To protect the public health and provide a means for the patient to identify a licensee in a complaint filed with the Board, [~~§351.362 of the Act requires~~] an optometrist or therapeutic optometrist shall [~~to~~] display the doctor's name so that the name is visible to the public before entry into the office reception area. This requirement does not apply to an optometrist or therapeutic optometrist practicing at a location on a temporary basis[~~, as defined in subsection (b) of this section~~].

(b) Temporary basis is defined as the practice of optometry or therapeutic optometry at an office for no more than two consecutive months. [~~For example, an optometrist or therapeutic optometrist practicing at a location one day per week during a three month period is not at that location on a temporary basis, and the doctor's name must be displayed as required in §351.362 of the Act.~~]

(c) An [~~Section 351.458 of the Act prohibits the display of an optometrist or therapeutic optometrist's professional designation if the intent of the display is to mislead the public that the named optometrist or therapeutic optometrist owner regularly practices at that location. Therefore an~~] optometrist or therapeutic optometrist practicing at an office in which the doctor has no ownership interest, must display the doctor's name as licensed by the Board, regardless of the percentage of time spent at that office, unless the doctor's practice meets the definition of temporary basis [~~in subsection (b) of 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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Janice McCoy
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22 TAC §279.11

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.11 - Relationship with Dispensing Optician - Books and Records.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the review period.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.11 as currently in effect are necessary.

The proposed amendment deletes language from the rule that is duplicative of statute.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communi-

ties and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §351.364 of the Optometry Act.

No other sections are affected by the amendments.

§279.11. Relationship with Dispensing Optician - Books and Records.

[~~(a) Texas Optometry Act, §351.364, relating to relationships with dispensing opticians, states: The purpose of this section is to insure that the practice of optometry or therapeutic optometry shall be carried out in such a manner that it is completely and totally separated from the business of any dispensing optician, with no control of one by the other and no solicitation for one by the other.~~]

[~~(b)~~] An [~~It is therefore the interpretation of this Board that an~~] optometrist or therapeutic optometrist practicing under the licensee's [~~his~~] own name and dispensing, repairing, or duplicating lenses and/or frames in the licensee's [~~his~~] own office as part of the [~~his~~] optometric practice would not be required to keep separate records or books by virtue of the fact that it is all part of the same [~~his~~] practice of optometry and not a separate dispensing business.

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
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For further information, please call: (512) 305-8502

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22 TAC §279.12

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.12 - Relationship with Dispensing Optician - Separation of Offices.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the review period.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.12 as currently in effect are necessary.

The proposed amendment deletes language from the rule that is duplicative of statute and affirms the Board's intent regarding separation between a dispensing optician and an optometrist.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small busi-

nesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §351.364 of the Optometry Act.

No other sections are affected by the amendments.

§279.12. Relationship with Dispensing Optician - Separation of Offices.

(a) An optometrist or therapeutic optometrist sharing premises with a dispensing optician shall comply with the physical separation requirements of the Optometry Act §351.364. [~~The Texas Optometry Act, §351.364(a), requires that the space occupied by the optometrist or therapeutic optometrist shall be separated from the space occupied by the dispensing optician by solid partitions or walls from floor to ceiling. The intent of the Texas Legislature in passing §351.364 is specifically spelled out in §351.364(d) and is to insure that the practices of optometry and therapeutic optometry shall be carried out in such a manner that they are completely and totally separated from the business of any dispensing optician.~~]

(b) The [~~In light of the overriding legislative intent in passing §351.364 that the practices of optometry and therapeutic optometry be completely and totally separate from the business of any dispensing optician, it is the interpretation of the Board that §351.364(a), set forth in subsection (a) of this section, prohibits the~~] space occupied by an optometrist or therapeutic optometrist and the space occupied by a dispensing optician are prohibited from being joined by a wall in which there is a door, either locked or unlocked.

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 305-8502

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22 TAC §279.13

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.13 - Professional Responsibility for Off-Site Examinations: Improper Solicitation of Patients.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the review period.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.13 as currently in effect are necessary.

The proposed amendment clarifies the responsibility of an optometrist practicing away from his/her office to the patient. The amendments also make style changes for consistency across rules.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §351.455 of the Optometry Act.

No other sections are affected by the amendments.

§279.13. Professional Responsibility for Off-Site Examinations: Improper Solicitation of Patients.

~~[(a) The Texas Optometry Act was enacted in part to safeguard the visual welfare of the public and the optometrist-patient relationship and to fix professional responsibility with respect to the patient.]~~

(a) ~~[(b)]~~ [~~In order to comply with these objectives and to assure patients will have adequate follow-up care, this~~] This rule applies to [~~licensed~~] optometrists or therapeutic optometrists who practice optometry or therapeutic optometry, including the examination and prescribing or supplying of lenses to patients away from their place of practice such as:

(1) a nursing home or other abode to patients confined therein,

(2) an industrial site, when requested to do so, or

(3) a school site when requested to do so by the school administration.

(b) ~~[(c)]~~ The optometrist or therapeutic optometrist must have an office location or place of practice within reasonable traveling distance of such examination site, or, in the alternative must have made arrangements, confirmed in writing prior to offering or providing services, for continued care with a qualified eye health professional with an office location or place of practice within reasonable traveling distance of such examination site, or assured telehealth access for continued care.

(c) ~~[(d)]~~ Failure to comply with this rule shall be deemed as practicing from house-to-house and the improper solicitation of patients in violation of the Optometry Act, §351.455. In addition, the optometrist must comply with the requirements of §351.351 to maintain current information regarding practice locations with the office.

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
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For further information, please call: (512) 305-8502

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22 TAC §279.14

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.14 - Patient Files.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the review period.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.14 as currently in effect are necessary.

The amendment adds a reference to statute.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §351.352 of the Optometry Act.

No other sections are affected by the amendments.

§279.14. Patient Files.

Patient's optometric records under §351.352 of the Optometry Act are defined as the patient chart, historical record, or working document during the course of examination and patient care between the doctor and patient. The patient's records may contain information regarding spectacle prescription findings and contact lens prescription findings but do not include a prescription for spectacles or contact lenses.

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 305-8502

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22 TAC §279.15

The Texas Optometry Board proposes amendments to 22 TAC Chapter 279, §279.15 - Practice with Contagious or Infectious Disease.

The rules in the Chapter 279 were reviewed as a result of the Board's general rule review under Texas Government Code Section 2001.039. Notice of the review was published in the March 6, 2026, issue of the *Texas Register* (51 TexReg 1429). No comments were received on this specific rule during the review period.

The Board determined that there continues to be a need for the rules in Chapter 279. The Board also determined that changes to §279.15 as currently in effect are necessary.

The rule removes specific examples of contagious diseases that could be applicable under the rule and clarifies the definition of a contagious disease under the rule.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public although the updated rule provides increased clarity for stakeholders impacted by the complaint process.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code and pursuant to §351.454 of the Optometry Act.

No other sections are affected by the amendments.

§279.15. Practice with Contagious or Infectious Disease.

(a) No [~~The Texas Optometry Act, §351.454, requires that no~~] licensed optometrist or therapeutic optometrist shall practice optometry or therapeutic optometry while knowingly suffering from a contagious or infectious disease, if the disease is one that could reasonably be transmitted in the normal performance of optometry or therapeutic optometry.

(b) A [~~For purposes of interpretation, a~~] "contagious or infectious disease" is defined as a "disease capable of being transmitted from one person to another by contact or close proximity." Infectious agents transmitted from one person to another by contact or close proximity would include bacteria and viruses.

(c) A licensee shall be deemed practicing while knowingly suffering from an infectious or contagious disease when a medical diagnosis of that disease has been made.

[~~(d) The following include but are not limited to infectious diseases or diseases that can be transmitted:~~]

[~~(1) Infectious agents which may be transmitted by direct contact or by respiratory route include: chickenpox, common cold, infectious mononucleosis, influenza, mycoplasma pneumonia, measles, meningococcal disease, mumps, pertussis, rubella and tuberculosis.~~]

[~~(2) Diseases that could be transmitted by direct contact include: chlamydia trachomatous infections, herpes simplex viruses, staphylococcal infections, streptococcal infections, and bacterial and viral conjunctivitis.~~]

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 August 24, 2026.

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Janice McCoy
Executive Director
Texas Optometry Board
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For further information, please call: (512) 305-8502

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 553. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes in the Texas Administrative Code, Title 26, Chapter 553, concerning Licensing Standards for Assisted Living Facilities, amendments to §§553.3, 553.5, 553.7, 553.9, 553.17, 553.21, 553.23, 553.25, 553.27, 553.29, 553.31, 553.33, 553.35, 553.37, 553.39, 553.47, 553.100, 553.101, 553.103, 553.104, 553.107, 553.111 - 553.113, 553.115, 553.118, 553.119, 553.121, 553.122, 553.125, 553.128, 553.129, 553.131 - 553.133, 553.135, 553.137 - 553.139, 553.141 - 553.143, 553.145, 553.147 - 553.149, 553.211, 553.212, 553.215, 553.218, 553.219, 553.221, 553.222, 553.225, 553.228, 553.229, 553.231 - 553.233, 553.235, 553.237 - 553.239, 553.241 - 553.243, 553.245 - 553.249, 553.253, 553.254, 553.259, 553.301, 553.303, 553.305, 553.307, 553.309, 553.327, 553.331, 553.333, and 553.751; the repeal of §§553.43, 553.255, 553.261, 553.263, 553.265, 553.267, 553.269, 553.271 - 553.273, 553.275, 553.311, 553.351, 553.353, 553.401, 553.403, 553.405, 553.407, 553.409, 553.411, 553.413, 553.415, 553.417, 553.419, 553.421, 553.423, 553.425, 553.427, 553.429, 553.431, 553.433, 553.435, 553.437, 553.439, 553.451, 553.453, 553.455, 553.457, 553.459, 553.461, 553.463, 553.465, 553.467, 553.469, 553.471, 553.473, 553.475, 553.477, 553.479, 553.481, 553.483, 553.501, 553.503, 553.551, 553.553, 553.555, 553.557, 553.559, 553.561, 553.563, 553.565, 553.567, 553.569, 553.571, 553.573, 553.575, 553.577, 553.579, 553.581, 553.583, 553.585, 553.587, 553.589, 553.591, 553.593, 553.595, 553.597, 553.601, 553.603, 553.651, 553.653, 553.655, 553.657, 553.659, 553.661, 553.701, 553.703,

553.705, 553.707, 553.709, and 553.711; and new §§553.45, 553.250, 553.261, 553.263, 553.265, 553.267, 553.269, 553.271, 553.273, 553.275, 553.277, 553.279, 553.281, 553.283, 553.285, 553.287, 553.289, 553.291 - 553.293, 553.295, 553.328, 553.351, 553.401, 553.451, 553.501, 553.551, 553.601, 553.651, and 553.701.

BACKGROUND AND PURPOSE

The purpose of the proposal is to update and reorganize certain rules in Chapter 553 to make key topics easier to find, add more clarity or specificity to certain rules, remove unnecessary or overly burdensome rules, improve overall readability, and update references throughout the chapter. Amendments throughout the chapter are to better reflect the current population served in assisted living facilities, which has changed greatly since the original rules were developed in 1991.

The proposal includes several important clarifications and enhancements. It clarifies that a resident in an assisted living facility must be at least 18 years old or an emancipated minor, strengthens rules relating to medication administration by requiring the documentation of doses administered instead of doses missed, clarifies that assisted living facilities must offer a planned activity to residents daily instead of at least once per week, adds guidance on the use of bedrails, clarifies that certain assistive devices and postural support devices are not to be construed as restraints, provides more guidance relating to respite admissions, specifies resident records must be retained for five years after services end, and reformats the rules in the enforcement section from question-and-answer format to standard rule format.

The proposal also updates a citation to the Texas Government Code as modified by House Bill (HB) 4611, 88th Legislature, Regular Session, 2023. HB 4611 made certain non-substantive revisions to Subtitle I, Title 4, Texas Government Code, which governs HHSC, Medicaid, and other social services as part of the legislature's ongoing statutory revision program. The updated citation became effective on April 1, 2025.

An earlier version of these rules was proposed in the December 22, 2023, issue of the *Texas Register* (48 TexReg 7759). The formal comment period on that proposal ended on January 22, 2024. Over 200 public comments were received. The main theme identified in the public comments was that some of the proposed regulations were too burdensome for providers. To effectively address the public comments, HHSC made the decision to withdraw that rule proposal. The notice providing that the proposed rules are withdrawn was published in the March 1, 2024, issue of the *Texas Register*. HHSC now proposes these amendments, repeals, and new rules in response to public and stakeholder comments.

SECTION-BY-SECTION SUMMARY

Edits are made throughout the rules to clarify language, correct punctuation and formatting for consistency, and improve overall readability. "Facility staff" is replaced with "staff" throughout since "staff" is defined as employees of an assisted living facility. Unnecessary or overly burdensome rules are removed. Reference citations are updated and rules are reorganized and renumbered where necessary.

Subchapter A, Introduction

The proposed amendment to §553.3, Definitions, amends the definitions for "abuse," "exploitation," and "neglect" to reference the definitions for these terms provided in Texas Health and Safety Code §260A.001. The proposed amendment also adds definitions that are used in the chapter. Definitions related to facility construction are relocated to proposed amended §553.101. The proposed amendment deletes definitions not used in the chapter. The proposed amendment also makes changes to certain definitions to add more clarity or update a reference.

The proposed amendment to §553.5, Types of Assisted Living Facilities, adds additional guidance related to the evacuation capability required of a resident in a Type A facility.

The proposed amendment to §553.7, Assisted Living Facility Services, updates references, adds a defined acronym, and adds clarity to the rule. The amendment also relocates language from §553.259(a)(1).

The proposed amendment to §553.9, General Characteristics of a Resident, adds the statement that a resident must be 18 years of age or older or an emancipated minor and updates guidance related to some general characteristics of a resident. Key updates to the list of general characteristics include statements providing that a resident may be incontinent without pressure sores in the genital or rectal areas or buttocks and use various assistive devices, as well as specifying that a resident may have a permanently placed percutaneous endoscopic gastrostomy tube which requires registered nurse (RN) delegation or RN designation as a health maintenance activity.

Subchapter B, Licensing

The proposed amendment to §553.17, Criteria for Licensing, adds more specific guidance related to whether an assisted living facility that has multiple buildings requires licensing as a small or large facility or requires multiple licenses. Edits are made to replace "on-site" with "onsite" and improve readability.

The proposed amendment to §553.21, Time Periods for Processing All Types of License Applications, adds clarity related to the payment of fees.

The proposed amendment to §553.23, Initial License Application Procedures and Requirements, adds clarity and standardizes capitalization and hyphenation.

The proposed amendment to §553.25, Initial License for a Type A or Type B Facility for an Applicant in Good Standing, updates references and standardizes capitalization and hyphenation.

The proposed amendment to §553.27, Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders, removes the requirement that HHSC cancel an assisted living facility's Alzheimer's certification if the facility undergoes a change of ownership; adds a statement that HHSC cancels Alzheimer's certification if a provider voluntarily surrenders it; and updates citations and references.

The proposed amendment to §553.29, Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing, updates references and standardizes capitalization and hyphenation.

The proposed amendment to §553.31, Provisional License, adds clarity, corrects references and citations, deletes redundant language, and standardizes the hyphenation of a word.

The proposed amendment to §553.33, Renewal Procedures and Qualifications, deletes the requirement for an onsite health inspection by HHSC for renewal of a license, clarifies timeframes

for presumed receipt when HHSC faxes or emails notices to license holders, adds clarity, and updates references.

The proposed amendment to §553.35, Changes of Ownership and Notice of Changes, updates a reference and standardizes capitalization and hyphenation.

The proposed amendment to §553.37, Relocation, adds clarity, updates capitalization, and standardizes the hyphenation of a word.

The proposed amendment to §553.39, Increase in Capacity, adds clarity and standardizes capitalization and hyphenation.

The proposed repeal of §553.43, Disclosure of Facility Identification Number, deletes the rule as no longer necessary because the information is added to proposed new §553.292.

Proposed new §553.45, Voluntary Closure, clarifies notification requirements for an assisted living facility that chooses to close the facility.

The proposed amendment to §553.47, License Fees, adds clarity, standardizes capitalization and hyphenation, and updates a reference.

Subchapter D, Facility Construction

The proposed amendment to §553.100, General Requirements, replaces a reference to NFPA 101, Life Safety Code, published by the National Fire Protection Association with the defined acronym "NFPA 101;" simplifies the statement of requirements based in NFPA 101 by deleting the listed examples of other NFPA 101 chapters that may apply to an assisted living facility without changing the intent of subsection (c); deletes references to the accessibility requirements of the Texas Department of Licensing and Regulation (TDLR) because those requirements are enforced by TDLR, not by HHSC; clarifies that an assisted living facility can only lock doors against egress or escape by means that are not permitted by NFPA 101, or if the facility is a Type B assisted living facility that is a certified Alzheimer's assisted living facility; and removes a reference to previously repealed §553.51 and adds references to §553.27, §553.29, and proposed new §553.250.

The proposed amendment to §553.101, Definitions, clarifies definitions that relate to certified Alzheimer's assisted living facilities to align with changes in usage in other sections in the chapter, defines new terms used in the subchapter related to certified Alzheimer's assisted living facilities, adds definitions specific to facility construction from §553.3, and deletes a defined term that is no longer used in this chapter.

The proposed amendment to §553.103, Site and Location for all Assisted Living Facilities, deletes the minimum number of parking spaces an assisted living facility must provide based on the facility's licensed capacity; deletes the requirement to provide a guardrail, fence, or handrail where a grade makes an abrupt change in level because the rule is subjective; and clarifies the limitation on licensing a new assisted living facility in a county of more than 3.3 million residents.

The proposed amendment to §553.104, Safety Operations, clarifies that an assisted living facility must maintain onsite documentation or written records for certain inspection, testing, and maintenance activities; reinstates the requirement for an assisted living facility to provide a reduced size floorplan upon request from HHSC, which was inadvertently repealed during a previous rule project; incorporates direct references to applicable requirements for certain assisted living facilities in National Fire Protection Association (NFPA 101), Life Safety Code, 2012 edition, as a convenience to assisted living facilities; clarifies references to portable fire extinguishers; clarifies that assisted living facilities must not allow an accumulation of waste in attics; makes changes in grammar that do not substantively change the requirements in the section; removes the requirement that an assisted living facility must have a "contract" with a service company to provide inspection, testing, and maintenance of fire safety systems; and removes the requirement that an assisted living facility must have a "program" to ensure inspection, testing, and maintenance of fire safety systems is performed. An assisted living facility must ensure inspection, testing, and maintenance activities are performed by a qualified individual. The Texas Department of Insurance requires certain activities to be performed by licensed individuals. An assisted living facility may obtain the required services on an as-needed basis. An assisted living facility is responsible for determining how to ensure the facility meets the requirements for inspection, testing, and maintenance of fire safety systems.

The proposed amendment to §553.107, Building Rehabilitation, removes the requirement for an assisted living facility to notify HHSC before the start of building rehabilitation; incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition; adds lead-in phrases in paragraphs within subsection (c) to enhance readability; corrects references; and corrects the use of terms related to means of egress.

The proposed amendment to §553.111, Construction Requirements for an Existing Small Type A Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined acronym "HHSC;" and incorporates, as a convenience to assisted living facilities, direct references to applicable requirements in NFPA 101, Life Safety Code, 2012 edition for certain assisted living facilities.

The proposed amendment to §553.112, Space Planning and Utilization Requirements for an Existing Small Type A Assisted Living Facility, replaces the term "social-diversional space" with "common living area," clarifies the requirements for common living areas and dining areas, clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows, and relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275.

The proposed amendment to §553.113, Means of Escape Requirements for an Existing Small Type A Assisted Living Facility, clarifies requirements for doors between resident bedrooms or living units and corridors when the assisted living facility does not have a fire sprinkler system.

The proposed amendment to §553.115, Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility, clarifies the application of fire sprinkler system requirements in NFPA 101, extends the period for an existing assisted living facility with a fire sprinkler system to protect an attic by two years, to August 31, 2026, which is necessary because of the challenges assisted living facilities had obtaining the services to perform that work during the COVID-19 public health emergency, and standardizes the hyphenation of a word.

The proposed amendment to §553.118, Electrical Requirements for an Existing Small Type A Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.119, Miscellaneous Requirements for an Existing Small Type A Assisted Living Facility, incorporates direct references related to furnishings, mattresses, and decorations, in NFPA 101, Life Safety Code, 2012 edition, as a convenience to assisted living facilities.

The proposed amendment to §553.121, Construction Requirements for an Existing Small Type B Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined term "HHSC;" and incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities in NFPA 101, Life Safety Code, 2012 edition, as a convenience to assisted living facilities.

The proposed amendment to §553.122, Space Planning and Utilization Requirements for an Existing Small Type B Assisted Living Facility, replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows; and relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275.

The proposed amendment to §553.125, Fire Protection Systems Requirements for an Existing Small Type B Assisted Living Facility, clarifies the statement of requirements for fire alarm system power supply sources; clarifies the application of fire sprinkler system requirements in NFPA 101; extends the period for an existing assisted living facility with a fire sprinkler system to protect an attic by two years, to August 31, 2026, which is necessary because of the challenges assisted living facilities had obtaining the services to perform that work during the COVID-19 public health emergency; and standardizes the hyphenation of a word.

The proposed amendment to §553.128, Electrical Requirements for an Existing Small Type B Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.129, Miscellaneous Requirements for an Existing Small Type B Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.131, Construction Requirements for an Existing Large Type A Assisted Living Facility, incorporates direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition, as a convenience to assisted living facilities.

The proposed amendment to §553.132, Space Planning and Utilization Requirements for an Existing Large Type A Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined acronym "HHSC;" replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows; relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275; removes references to grease traps, which may be required by local jurisdictions but are not required by HHSC; relocates the figure from subsection (g)(1)(C) to (g)(1)(A) and the figure in subsection (g)(2)(D) to (g)(2)(A); and standardizes hyphenation.

The proposed amendment to §553.133, Means of Egress Requirements for an Existing Large Type A Assisted Living Facility, clarifies requirements related to inspection of doors in a means of egress already required of an assisted living facility.

The proposed amendment to §553.135, Fire Protection Systems Requirements for an Existing Large Type A Assisted Living Facility, allows the use of smoke alarms or smoke detectors in resident living units containing independent cooking equipment; clarifies the statement of requirements for fire alarm system power supply sources; extends the period for an assisted living facility with a fire sprinkler system to protect an attic by two years, to August 31, 2026, which is necessary because of the challenges assisted living facilities had obtaining the services to perform that work during the COVID-19 public health emergency; clarifies rule language; and standardizes the hyphenation of a word.

The proposed amendment to §553.137, Mechanical Requirements for an Existing Large Type A Assisted Living Facility, clarifies the minimum required number of water closets and lavatories.

The proposed amendment to §553.138, Electrical Requirements for an Existing Large Type A Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.139, Miscellaneous Requirements for an Existing Large Type A Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.141, Construction Requirements for an Existing Large Type B Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined term "HHSC;" incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition; and clarifies requirements related to high-rise buildings already required of an assisted living facility.

The proposed amendment to §553.142, Space Planning and Utilization Requirements for an Existing Large Type B Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined term "HHSC;" replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted

living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows; relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275; relocates the figure from subsection (g)(1)(C) to (g)(1)(A) and the figure in subsection (g)(2)(D) to (g)(2)(A); and standardizes the hyphenation of a word.

The proposed amendment to §553.143, Means of Egress Requirements for an Existing Large Type B Assisted Living Facility, specifies that door-locking arrangements described in NFPA 101, Chapter 19, Existing Health Care Occupancies, 19.2.2.2.5, are not permitted and clarifies requirements related to maintenance of the means of egress already required of an assisted living facility.

The proposed amendment to §553.145, Fire Protection Systems Requirements for an Existing Large Type B Assisted Living Facility, allows the use of smoke alarms or smoke detectors in resident living units containing independent cooking equipment.

The proposed amendment to §553.147, Mechanical Requirements for an Existing Large Type B Assisted Living Facility, clarifies the minimum required number of water closets and lavatories, and clarifies requirements related to portable space-heating devices already required of an assisted living facility.

The proposed amendment to §553.148, Electrical Requirements for an Existing Large Type B Assisted Living Facility, clarifies minimum lightening requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements and clarifies the performance requirements for a communication system.

The proposed amendment to §553.149, Miscellaneous Requirements for an Existing Large Type B Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.211, Construction Requirements for a New Small Type A Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.212, Space Planning and Utilization Requirements for a New Small Type A Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined term "HHSC;" replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows; and relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275.

The proposed amendment to §553.215, Fire Protection Systems Requirements for a New Small Type A Assisted Living Facility, adds clarity to a requirement related to electronic supervision of a fire sprinkler system.

The proposed amendment to §553.218, Electrical Requirements for a New Small Type A Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.219, Miscellaneous Requirements for a New Small Type A Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.221, Construction Requirements for a New Small Type B Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.222, Space Planning and Utilization Requirements for a New Small Type B Assisted Living Facility, replaces "Texas Health and Human Services Commission" with the defined term "HHSC;" replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows; and relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275.

The proposed amendment to §553.225, Fire Protection Systems Requirements for a New Small Type B Assisted Living Facility, adds clarity to a requirement related to electronic supervision of a fire sprinkler system.

The proposed amendment to §553.228, Electrical Requirements for a New Small Type B Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.229, Miscellaneous Requirements for a New Small Type B Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.231, Construction Requirements for a New Large Type A Assisted Living Facility, clarifies the application of requirements for interior finish materials.

The proposed amendment to §553.232, Space Planning and Utilization Requirements for a New Large Type A Assisted Living Facility, replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows and relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275; relocates the figure from subsection (g)(1)(C) to (g)(1)(A) and the figure in subsection (g)(2)(D) to (g)(2)(A); and standardizes hyphenation.

The proposed amendment to §553.233, Means of Egress Requirements for a New Large Type A Assisted Living Facility, clarifies requirements related to inspection of doors in a means of egress already required of an assisted living facility.

The proposed amendment to §553.235, Fire Protection Systems Requirements for a New Large Type A Assisted Living Facility, corrects NFPA 101 references, clarifies rule language, and standardizes a hyphenation.

The proposed amendment to §553.237, Mechanical Requirements for a New Large Type A Assisted Living Facility, corrects a typographical error and a hyphenation.

The proposed amendment to §553.238, Electrical Requirements for a New Large Type A Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.239, Miscellaneous Requirements for a New Large Type A Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

The proposed amendment to §553.241, Construction Requirements for a New Large Type B Assisted Living Facility, clarifies occupancy separation requirements in new large Type B assisted living facilities.

The proposed amendment to §553.242, Space Planning and Utilization Requirements for a New Large Type B Assisted Living Facility, replaces the term "social-diversional space" with "common living area;" clarifies the requirements for common living areas and dining areas; clarifies the intent of provisions that allow floor area within the assisted living facility to be allocated between resident bedrooms and private or common living and dining areas; clarifies requirements related to bedroom windows; standardizes a hyphenation; relocates the figure from subsection (g)(1)(C) to (g)(1)(A) and the figure in subsection (g)(2)(D) to (g)(2)(A); and relocates requirements related to the preparation of food and operation of the kitchen, which are not facility construction requirements, to §553.275.

The proposed amendment to §553.243, Means of Egress Requirements for a New Large Type B Assisted Living Facility, specifies that door-locking arrangements described in NFPA 101, Chapter 18, New Health Care Occupancies, 18.2.2.2.5, are not permitted and clarifies requirements related to maintenance of the means of egress already required of an assisted living facility.

The proposed amendment to §553.245, Fire Protection Systems Requirements for a New Large Type B Assisted Living Facility, corrects an error to a reference and allows the use of smoke alarms or smoke detectors in resident living units containing independent cooking equipment.

The proposed amendment to §242.246, Hazardous Area Requirements for a New Large Type B Assisted Living Facility, corrects references.

The proposed amendment to §553.247, Mechanical Requirements for a New Large Type B Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition, and standardizes hyphenation.

The proposed amendment to §553.248, Electrical Requirements for a New Large Type B Assisted Living Facility, clarifies minimum lighting requirements, updates communication system requirements at an assisted living facility to permit any technology that meets the communication system requirements, and clarifies the performance requirements for a communication system.

The proposed amendment to §553.249, Miscellaneous Requirements for a New Large Type B Assisted Living Facility, incorporates, as a convenience to assisted living facilities, direct references to applicable requirements for certain assisted living facilities, in NFPA 101, Life Safety Code, 2012 edition.

New Division 12 is added in Subchapter D, titled "Specialized Assisted Living Facilities."

Proposed new §553.250, Construction Requirements for a Certified Alzheimer's Assisted Living Facility, has construction requirements from repealed §553.311 so that these requirements are located with the other facility construction requirements in Subchapter D and are easier to find. The proposed new rule organizes requirements for Alzheimer's certification based on whether an assisted living facility is small or large and whether it is fully locked or contains one or more certified Alzheimer's assisted living units.

Subchapter E, Standards For Licensure

The proposed amendment to §553.253, Employee Qualifications and Training, reorganizes manager and staff training requirements to add clarity. To be exempt from the 24-hour training course requirement, the amendment increases the time period an assisted living manager can have a break in employment as an assisted living manager from 30 days to 90 days and clarifies that subject matter dealing with internal affairs of an organization does not qualify for credit toward the 24-hour manager training course. The amendment to the section specifies that an attendant can have certification of equivalence of graduation and that a facility must have dedicated staff on duty for each shift and not share on-duty attendants with another facility or provider type. It also adds details to the required posting of the facility's 24-hour staffing pattern, contains a statement that a facility must not use a companion care provider or solicit or involve family members to provide care to residents to mitigate staffing shortages, adds infection prevention and control principles to the list of required staff training and continued education, and removes the word "certified" from training requirements for medication aides, as medication aides are not certified.

The proposed amendment to §553.254, Training Requirements for Staff Providing Personal Care Services to a Resident With Alzheimer's Disease or a Related Disorder in a Facility that is Not an Alzheimer's Certified Facility, incorporates the training policy requirement from repealed §553.255 so all training required for employees providing services to residents with Alzheimer's and related disorders is grouped into one section and there is no redundant information. The word "With" in the title of this section is changed to "with."

The proposed repeal of §553.255, All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder, removes redundant requirements that are located in other sections relating to training policy requirements for employees of facilities with residents who have Alzheimer's disease and related disorders.

The proposed amendment to §553.259, Admission Policies and Procedures, adds that a facility must not admit a resident under the age of 18 years unless the person is an emancipated minor. The amendment adds the requirement for a facility to share the facility's disclosure statement and resident service plans with outside resources and obtain resident service (or care) plans

from outside resources, adds a requirement that an assisted living facility that allows pets must have a pet policy, and specifies the information the pet policy must include. It also adds a requirement for a facility to address the use of service animals in accordance with the Americans with Disabilities Act, changes the term "resident assessment" to "resident evaluation," states the resident evaluation must be completed annually and upon a significant change in condition, and updates references. The amendment also relocates the statement that a facility is responsible for all care provided by the facility to §553.7, Assisted Living Facility Services, and information regarding inappropriate placement in Type A or Type B facilities to new §553.261 and adds a provision related to advance directives that facilities that employ a nurse must address nurse interventions during a life-threatening emergency.

The proposed repeal of §553.261, Coordination of Care, deletes the rule. New rules are proposed in Subchapter E based on the topic of each subsection of §553.261. These topics include: Medications; Accident, Injury or Acute Illness; Health Care Professional; Activities Program; Dietary Services; Infection Prevention and Control; and Restraints and Seclusion; which includes Wheelchair Self-Release Seat Belts.

The proposed repeal of §553.263, Health maintenance activities; §553.265, Resident Records and Retention; §553.267, Rights; §553.269, Access to Residents and Records by the State Long-Term Care Ombudsman Program; §553.271, Postings; §553.272, Advertisements, Solicitations, and Promotional Material; §553.273, Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities; and §553.275, Emergency Preparedness and Response, deletes the rules. New rules are proposed with the same topics in Subchapter E. Repealing these rules, makes the section numbers available for new rules with the provisions from repealed §553.261. This keeps related key topics grouped together within the subchapter.

Proposed new §553.261, Inappropriate Placement in a Type A or Type B Facility, relocates content from §553.259 regarding inappropriate placement in Type A or Type B facilities and does not include the requirement for annual completion of HHSC training on aging in place and retaliation, as the requirement was removed from Texas Health and Safety Code §247.066 by House Bill 2358, 89th Legislature, Regular Session, 2025.

Proposed new §553.263, Resident Transfer and Discharge, requires the facility to establish a policy relating to resident transfer and discharge. It outlines residents' rights pertaining to being transferred or discharged. The information is from repealed §553.267.

Proposed new §553.265, Respite Admissions, provides requirements concerning residents admitted for respite care.

Proposed new §553.267, Medications, has requirements from repealed §553.261. The proposed new rule adds requirements for assisted living facilities to have written medication policies and procedures and maintain a medication profile record and a medication administration record for each resident who receives medication administration or supervision. Staff must record all medication doses administered and missed in the medication administration record. Previously, the rule only required staff to record missed doses.

The proposed new rule also adds guidance for assisted living facilities that administer medications with parameters and requires an assisted living facility that charges a fee for residents who choose not to use the facility's preferred pharmacy to disclose how the facility determines the amount of the fee. The requirement for monthly medication counseling for residents who self-administer medications is amended to require additional medication counseling whenever a resident has a significant change in condition that might affect the ability to self-administer medications. The option to include a medication take-back program is added to the requirement that drug disposal be carried out by a licensed pharmacist.

Proposed new §553.269, Accident, Injury, or Acute Illness, has requirements from repealed §553.261, with updated references. This new rule also provides a requirement for facilities to notify any outside resources that provide care to a resident who has been injured or had an accident or acute illness, within 48 hours. A facility must also provide a brief description of the accident, injury, or acute illness, the resident's location at the time of notification, and an estimated return date to the facility, if applicable, in order to coordinate continued care and services.

Proposed new §553.271, Health Care Professional, relocates requirements from repealed §553.261. This section describes that a health care professional may provide services to a resident within the health care professional's scope of practice. A resident may contract with a home and community support services agency licensed under Chapter 558 of this title, or with an independent health professional to have health care services delivered to the resident at the facility.

Proposed new §553.273, Activities Program, has requirements from repealed §553.261. This new rule changes the requirement from offering residents an activity at least once a week to offering residents a daily activity.

Proposed new §553.275, Dietary Services, has requirements from repealed §553.261. This rule contains requirements for food preparation and kitchen area from other amended rules in Subchapter D, Facility Construction, as the guidance is relevant in this rule. It also adds a requirement that staff who work with or handle unpackaged food must complete an accredited food handler training course and clarifies that the three daily meals or the equivalent must include all five basic food groups.

Proposed new §553.277, Infection Prevention and Control, has requirements from repealed §553.261. The new rule adds that during a declared public health emergency or disaster, the facility must also follow the requirements in Chapter 570, Subchapter B. The new rule also provides additional guidance for employee tuberculosis (TB) screening and decreases the requirement for employee TB education from annually to at least once every 24 months.

Proposed new §553.279, Restraints and Seclusion, has requirements from repealed §553.261. This section describes the circumstances under which restraints can be used and contains the requirements pertaining to wheelchair self-release seat belts. It also adds specific guidance pertaining to the use of bed rails.

Proposed new §553.281, Health Maintenance Activities, has requirements from repealed §553.263. This section describes the requirements for providing health maintenance activities. It also removes the provisions relating to RN delegation because RN delegation is separate from health maintenance activities and has different requirements. The provisions relating to RN delegation are proposed in new §553.283.

Proposed new §553.283, RN Delegation of Care Tasks, has requirements from repealed §553.263. The new rule clarifies that RN delegation is distinct from health maintenance activities. The

proposed new rule clarifies that an RN providing RN delegation to staff of the assisted living facility must be an employee or a contractor of the assisted living facility.

Proposed new §553.285, Resident Records and Retention, has requirements from repealed §553.265. The new rule also adds a requirement to retain resident records for at least five years after services end and provides guidance pertaining to electronic records and destruction of records.

Proposed new §553.287, Rights, has requirements from repealed §553.267. The new rule specifies that an assisted living facility must provide a copy of the Residents' Bill of Rights to each resident or resident's legally authorized representative in the resident's primary language and adds specificity and clarity to rules pertaining to residents' rights to privacy and retaining personal property. The rule also adds a requirement for an assisted living facility to allow residents to form and participate in resident councils. The provisions regarding residents' rights pertaining to being transferred or discharged are relocated to new §553.263.

Proposed new §553.289, Access to Residents and Records by the State Long-Term Care Ombudsman Program, has requirements from repealed §553.269. It adds the requirement that a facility must not require complaints to be made to the assisted living facility before making a complaint to the Ombudsman Program.

Proposed new §553.291, Postings, has requirements from repealed §553.271. It also adds requirements to post the facility's evacuation floor plan, unless the facility is one-story or is licensed for fewer than 17 residents, the facility's meal menu for the current week, resident daily activities scheduled for the current month, emergency telephone numbers, and notices about electronic monitoring.

Proposed new §553.292, Advertisements, Solicitations, and Promotional Material, has requirements from repealed §553.272. This section describes the requirement for assisted living facilities to include the state-issued identification number in all advertisements and promotional material and adds forms of advertisement to include social media accounts and websites.

Proposed new §553.293, Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities, has requirements from repealed §553.273. This section describes the requirements and procedures for reporting abuse, neglect, and exploitation, and specifies which incidents must be reported to HHSC and law enforcement.

Proposed new §553.295, Emergency Preparedness and Response, has requirements from repealed §553.275. This section describes the requirement for assisted living facilities to have policies and procedures in place, and follow them, in the event of an emergency or disaster. It also adds the clarification that having an evacuation summary is a requirement, and not optional.

Subchapter F, Additional Licensing Standards For Certified Alzheimer's Assisted Living Facilities

The proposed amendment to §553.301, Manager Qualifications and Training, adds "Alzheimer's Certified Facility or Unit" and other clarifications to the title. The update aims to clearly differentiate between rules addressing Alzheimer's certified facilities and those that do not. Edits are made to add references and correct grammar.

The proposed amendment to §553.303, Staff Training, adds "Alzheimer's Certified Facility or Unit" and other clarifications to the title. The update aims to clearly differentiate between rules addressing Alzheimer's certified facilities and those that do not. The amendments also clarify certain guidance to make information easier to find and understand.

The proposed amendment to §553.305, Staffing, adds "Alzheimer's Certified Facility or Unit" and other clarifications to the title. The update aims to clearly differentiate between rules addressing Alzheimer's certified facilities and those that do not. The amendments also clarify certain guidance.

The proposed amendment to §553.307, Admission Procedures, Assessment, and Service Plan, adds "Alzheimer's Certified Facility or Unit" and other clarifications to the title. The update aims to clearly differentiate between rules addressing Alzheimer's certified facilities and those that do not. The amendments also clarify certain guidance.

The proposed amendment to §553.309, Activities Program, add "Alzheimer's Certified Facility or Unit" and other clarifications to the title. The update aims to clearly differentiate between rules addressing Alzheimer's certified facilities and those that do not. The amendments also reorganize some rules and clarify certain guidance to make information easier to find and understand.

The proposed repeal of §553.311, Physical Plant Requirements for Alzheimer's Units, deletes the rule. The information from the rule is relocated to new proposed §553.250.

Subchapter G, Inspections, Investigations, and Informal Dispute Resolution

The proposed amendment to §553.327, Inspections, Investigations, and Other Visits, adds a requirement that an assisted living facility that maintains electronic records must have a mechanism for printing all documentation if a surveyor or investigator requests a printed copy. The amendment also corrects grammatical error.

Proposed new §553.328, Plan of Removal, specifies procedures for a facility to submit a plan of removal if HHSC has found a violation that creates an immediate threat to health and safety of a resident.

The proposed amendment to §553.331, Determinations and Actions (Investigation Findings), adds a form name and standardizes hyphenation.

The proposed amendment to §553.333, Informal Dispute Resolution, adds specificity to how HHSC redacts or excludes information on documents related to an informal dispute resolution and updates references.

Subchapter H, Enforcement

The proposed repeal of the following rules in Subchapter H deletes the rules as the provisions from these rules are proposed in new rules, rewritten in standard format rather than the question-and-answer style. The repealed sections are §§553.351 and 553.353 in Division 1; 553.401, 553.403, 553.405, 553.407, 553.409, 553.411, 553.413, 553.415, 553.417, 553.419, 553.421, 553.423, 553.425, 553.427, 553.429, 553.431, 553.433, 553.435, 553.437, and 553.439 in Division 2; 553.451, 553.453, 553.455, 553.457, 553.459, 553.461, 553.463, 553.465, 553.467, 553.469, 553.471, 553.473, 553.475, 553.477, 553.479, 553.481, and 553.483 in Division 3; 553.501 and 553.503 in Division 4; 553.551, 553.553, 553.555, 553.557, 553.559, 553.561, 553.563,

553.565, 553.567, 553.569, 553.571, 553.573, 553.575, 553.577, 553.579, 553.581, 553.583, 553.585, 553.587, 553.589, 553.591, 553.593, 553.595, and 553.597 in Division 5; 553.601 and 553.603 in Division 6; 553.651, 553.653, 553.655, 553.657, 553.659, and 553.661 in Division 7; 553.701, 553.703, 553.705, 553.707, 553.709, and 553.711 in Division 8.

Proposed new §553.351, Enforcement General Information, has requirements from the repealed sections of Subchapter H, Division 1. The proposed new rule rewrites the rules in standard format rather than the question-and-answer style. The rule provides when HHSC may take enforcement actions and the type of enforcement actions that may be taken.

Proposed new §553.401, Suspension Actions Against a License, has requirements from the repealed sections of Subchapter H, Division 2. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides when HHSC may suspend a facility's license and describes the process for suspension as well as the opportunity to show compliance and the right to appeal.

Proposed new §553.451, Revocation Actions Against a License, has requirements from repealed Subchapter H, Division 3. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides when HHSC may revoke a facility's license and describes the process for revocation as well as the opportunity to show compliance and the right to appeal.

Proposed new §553.501, Temporary Restraining Order and Injunctions Against a License, has requirements from repealed Subchapter H, Division 4. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides when HHSC will refer a facility to the Office of Attorney General and where HHSC will refer a facility that is operating without a license.

Proposed new §553.551, Emergency License Suspension and Closing Order Actions Against a License, has requirements from repealed Subchapter H, Division 5. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides when HHSC can suspend a license or order an immediate closing of all or part of a facility and the actions the facility must take when a facility is closed partly or fully.

Proposed new §553.601, Civil Penalties, has requirements from repealed Subchapter H, Division 6. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides when HHSC may refer a facility to the Office of the Attorney General and when civil penalties can be assessed.

Proposed new §553.651, Involuntary Appointment of a Trustee, has requirements from repealed Subchapter H, Division 7. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides when HHSC may petition a court for involuntary appointment of a trustee to operate a facility and when HHSC may provide emergency assistance funds.

Proposed new §553.701, Appointment of a Trustee by Agreement, has requirements from repealed Subchapter H, Division 8. The proposed new rule is written in standard format rather than the question-and-answer style. The rule provides what happens when a facility requests the appointment of a trustee.

The proposed amendment to §553.751, Administrative Penalties, changes the term "opportunity to correct" to "right to correct," makes edits for formatting and consistency, and updates references.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do 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 expand and 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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. 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; the rules do not impose a cost on regulated persons; and the rules are amended to reduce the burden or responsibilities imposed on regulated persons by the rules.

PUBLIC BENEFIT AND COSTS

David Kostroun, Chief Regulatory Services Officer, has determined that for each year of the first five years the rules are in effect, the public will benefit from increased clarity in the rules and more specific guidance concerning staff training requirements, general characteristics of residents in assisted living facilities, and residents' rights. The rules clarify provider responsibilities which will benefit assisted living facility providers, staff, and the public. The rules will also make the survey process more consistent throughout the state and better protect the health and safety of the residents served.

Victoria Grady has also determined that for the first five years the rules are in effect, there are no anticipated economic costs for persons required to comply with the proposed rules because

there are no requirements to alter current business practices and there are no new fees or costs imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period, (2) hand-delivered before 5:00 p.m. on the last working day of the comment period, or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R031" in the subject line.

SUBCHAPTER A. INTRODUCTION

26 TAC §§553.3, 553.5, 553.7, 553.9

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.3. Definitions.

The following [~~words and~~] terms[~~,~~] when used in this chapter[~~,~~] have the following meanings [~~meaning~~], unless the context clearly indicates otherwise.

(1) Abuse--Has the meaning provided in Texas Health and Safety Code §260A.001.

[~~(A) For a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes, the term has the meaning in Texas Family Code §261.001(1), which is an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program, as further described by rule or policy; and~~]

[~~(B) For a person other than one described in subparagraph (A) of this paragraph, the term has the meaning in Texas Health and Safety Code §260A.001(1), which is:~~]

~~(i)~~ ~~the negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to a resident by the resident's caregiver, family member, or other individual who has an ongoing relationship with the resident; or~~]

~~(ii)~~ ~~sexual abuse of a resident, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Texas Penal Code §21.08 (relating to Indecent Exposure), or Texas Penal Code, Chapter 22 (relating to Assaultive Offenses), committed by the resident's caregiver, family member, or other individual who has an ongoing relationship with the resident.~~]

(2) Accreditation commission--Has the meaning provided [~~given~~] in Texas Health and Safety Code §247.032.

(3) Activities of daily living--Activities routinely performed in the normal course of the day, including bathing, oral care, dressing, grooming, routine hair care, routine skin and nail care, meal preparation, feeding, exercising, toileting, transfer or ambulation, positioning, and assistance with self-administered medications. The term does not include HMAs and tasks performed under RN delegation, which must be assessed in accordance with applicable Texas Board of Nursing rules in 22 TAC Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions).

(4) [~~(3)~~] Actual harm--A negative outcome that compromises a resident's physical, mental, or emotional well-being.

(5) [~~(4)~~] Advance directive--Has the meaning provided [~~given~~] in Texas Health and Safety Code §166.002.

(6) [~~(5)~~] Affiliate--With respect to:

(A) a corporation: [~~a partnership, each partner thereof;~~]

(i) each officer and director;

(ii) each stockholder with a disclosable interest; and

(iii) any subsidiary or parent company of the corporation;

(B) a limited liability company: [~~a corporation, each officer, director, principal stockholder, subsidiary, or person with a disclosable interest, as the term is defined in this section; and~~]

(i) each officer;

(ii) each member;

(iii) each manager; or

(iv) parent company;

(C) an individual: [~~a natural person:~~]

(i) the individual's spouse, if the individual is a sole proprietor; [~~said person's spouse;~~]

(ii) each partnership and each partner thereof of which the individual or any affiliate of the individual is a partner; and

[each partnership and each partner thereof, of which said person or any affiliate of said person is a partner; and]

(iii) each corporation in which the individual is an officer, director, or a stockholder with a disclosable interest in the corporation; [each corporation in which said person is an officer, director, principal stockholder, or person with a disclosable interest.]

(D) a partnership:

(i) each partner in the partnership, including general and limited partners (regardless of the percentage of direct or indirect ownership or controlling authority); and

(ii) any parent company of the partnership;

(E) a trust, each trustee of the trust; and

(F) a group of co-owners under any other business arrangement:

(i) each officer;

(ii) each director, or the equivalent under the specific business arrangement; and

(iii) any parent company of the business.

(7) [(6)] Alzheimer's Assisted Living Disclosure Statement form--The HHSC-prescribed form a facility uses to describe the nature of care or treatment of residents with Alzheimer's disease and related disorders.

(8) [(7)] Alzheimer's disease and related disorders--Alzheimer's disease and any other irreversible dementia described by the Centers for Disease Control and Prevention (CDC), or in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(9) [(8)] Alzheimer's facility--A Type B facility that is certified to provide specialized services to residents with Alzheimer's disease or a related condition.

(10) [(9)] Applicant--A person applying for a license to operate an assisted living facility under Texas Health and Safety Code[,] Chapter 247.

(11) [(10)] Assisted Living Facility Memory Care Disclosure Statement form--The HHSC-prescribed form that a facility uses when the facility advertises, markets, or otherwise promotes that it provides memory care services to residents with Alzheimer's disease and related disorders.

(12) Assistive devices--Products or tools for residents designed to help residents be more independent and improve quality of life. Assistive devices help residents complete activities of daily living and make walking and moving from place to place easier and safer, whether it is with or without staff assistance.

(13) [(11)] Attendant--A facility employee who provides personal care services to residents and performs other duties in the facility as needed. [direct care to residents. This employee may serve other functions, including cook, janitor, porter, maid, laundry worker, security personnel, bookkeeper, activity director, and manager.]

(14) [(12)] Authorized electronic monitoring (AEM)--The placement and use of an electronic monitoring device to record audio, video, or both, after meeting the requirements to allow electronic monitoring. [of an electronic monitoring device in a resident's room and using the device to make tapes or recordings after making a request to the facility to allow electronic monitoring.]

(15) [(13)] Behavioral emergency--Has the meaning provided [given] in §553.279 of this chapter (relating to Restraints and Seclusion). [§553.261(g)(2) of this chapter (relating to Coordination of Care).]

(16) Capacity--The number of residents for which a facility is licensed to provide services, regardless of census.

(17) [(14)] Certified ombudsman--Has the meaning provided [given] in §88.2 of this title (relating to Definitions).

(18) [(15)] CFR--Code of Federal Regulations.

(19) [(16)] Change of ownership--An event that results in a change to the federal taxpayer identification number of the license holder of a facility. The substitution of a personal representative for a deceased license holder is not a change of ownership.

[(17) Commingles--The laundering of apparel or linens of two or more individuals together.]

(20) [(18)] Controlling person--[A person with the ability, acting alone or with others, to directly or indirectly influence, direct, or cause the direction of the management, expenditure of money, or policies of a facility or other person. A controlling person includes:]

(A) A person acting alone or with others, who can directly or indirectly influence, direct, or cause the direction of the management, expenditure of money, or policies of an assisted living facility or other person. [a management company, landlord, or other business entity that operates or contracts with others for the operation of a facility;]

(B) For purposes of this chapter, "controlling person" includes: [any person who is a controlling person of a management company or other business entity that operates a facility or that contracts with another person for the operation of an assisted living facility;]

(i) a management company, landlord, or other business entity that operates or contracts with others for the operation of an assisted living facility;

(ii) a person who is a controlling person of a management company or other business entity that operates an assisted living facility or that contracts with another person for the operation of an assisted living facility; and

(iii) any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of an assisted living facility, is in a position of actual control or authority with respect to the facility, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the facility.

(C) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an assisted living facility or of a management company or other business entity described in subparagraph (B)(i) of this paragraph that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation. [an officer or director of a publicly traded corporation that is, or that controls, a facility, management company, or other business entity described in subparagraph (A) of this paragraph but does not include a shareholder or lender of the publicly traded corporation; and]

(D) A controlling person described by subparagraph (B)(iii) of this paragraph does not include an employee, lender, secured creditor, landlord, or other person who does not exercise formal or actual influence or control over the operation of an assisted living

facility. [any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of a facility, is in a position of actual control or authority with respect to the facility, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the facility, except an employee, lender, secured creditor, landlord, or other person who does not exercise formal or actual influence or control over the operation of a facility.]

(21) [(19)] Covert electronic monitoring--The placement and use of an electronic monitoring device that is not open and obvious, and about which the facility and HHSC have not been informed by the resident, by the person who placed the device in the room, or by a person who uses the device.

(22) [(20)] Delegation--Written authorization by a registered nurse (RN), acting for the assisted living facility, for an attendant to perform a specific nursing care task in a selected situation. Delegation is allowed when the criteria for the task are met, following Texas Board of Nursing rules in 22 TAC Chapter 225. [In the assisted living facility context, written authorization by a registered nurse (RN) acting on behalf of the facility for personal care staff to perform tasks of nursing care in selected situations, where delegation criteria are met for the task. The delegation process includes nursing assessment of a resident in a specific situation, evaluation of the ability of the personal care staff, teaching the task to the personal care staff, ensuring supervision of the personal care staff in performing a delegated task, and re-evaluating the task at regular intervals.]

(23) [(21)] Dietitian--A person who currently holds a license or provisional license issued by the Texas Department of Licensing and Regulation.

(24) [(22)] Direct ownership interest--Ownership of equity in the capital, stock, or profits of, or a membership interest in, an applicant or license holder.

(25) [(23)] Disclosable interest--Five percent or more direct or indirect ownership interest in an applicant or license holder.

(26) [(24)] Disclosure statement--An HHSC form for prospective residents or the residents' [their] legally authorized representatives that a facility must complete. The form contains information regarding the facility's preadmission, admission, and discharge processes [process]; resident evaluation [assessment] and service plans; staffing patterns; the physical environment of the facility; resident activities; and facility services.

(27) Durable medical equipment--Items that are ordered by a health care provider for everyday or extended use during treatment and recovery from an injury or illness or due to age-related problems.

(28) [(25)] Electronic monitoring device--A video camera or audio device placed in a resident's room to watch or listen to the resident. Devices used to monitor phone calls or electronic messages without informed consent from the resident or responsible party are not included in this definition. [Video surveillance cameras and audio devices installed in a resident's room, designed to acquire communications or other sounds that occur in the room. An electronic, mechanical, or other device used specifically for the nonconsensual interception of wire or electronic communication is excluded from this definition.]

(29) [(26)] Exploitation--Has the meaning provided in Texas Health and Safety Code §260A.001.

[(A) For a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes, the term has the meaning in Texas Family Code §261.001(3), which is the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy; and]

[(B) For a person other than one described in subparagraph (A) of this paragraph, the term has the meaning in Texas Health and Safety Code §260A.001(4), which is the illegal or improper act or process of a caregiver, family member, or other individual who has an ongoing relationship with the resident using the resources of a resident for monetary or personal benefit, profit, or gain without the informed consent of the resident.]

(30) [(27)] Facility--An entity required to be licensed under the Assisted Living Facility Licensing Act, Texas Health and Safety Code[,] Chapter 247.

(31) [(28)] Fire suppression authority--The paid or volunteer fire-fighting organization or tactical unit that is responsible for fire suppression operations and related duties once a fire incident occurs within its jurisdiction.

[(29) Flame spread--The rate of fire travel along the surface of a material. This is different than other requirements for time-rated "burn through" resistance ratings, such as one-hour rated. Flame spread ratings are Class A (0-25), Class B (26-75), and Class C (76-200).]

(32) [(30)] Functional disability--A mental, cognitive, or physical disability that precludes the physical performance of self-care tasks, including HMAs [health maintenance activities] and personal care.

(33) [(31)] Governmental unit--The state or any county, municipality, or other political subdivision, or any department, division, board, or other agency of any of the foregoing.

(34) [(32)] Health care professional--An individual who holds a current license or certification [licensed, certified,] or is otherwise legally authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice. [The term includes a physician, registered nurse, licensed vocational nurse, licensed dietitian, physical therapist, and occupational therapist.]

(A) The term includes individuals such as physicians, registered nurses, licensed vocational nurses, licensed dietitians, physical therapists, and occupational therapists.

(B) A health care professional may be employed by the facility, employed by or contracted with an outside entity such as a home and community support services agency, or an independent contractor.

(35) [(33)] HMA--Health maintenance activity. [(HMA)--]A [Consistent with 22 TAC §225.4 (relating to Definitions), a] task that:

(A) meets the definition of HMA in 22 TAC §225.4 (relating to Definitions) and requires a higher level of skill to perform than assistance with activities of daily living; [may be exempt from delegation based on an RN's assessment in accordance with §553.263(c) of this chapter (relating to Health Maintenance Activities); and]

(B) is exempt from delegation based on an RN's assessment in accordance with 22 TAC Chapter 225; and [requires a higher level of skill to perform than personal care services and, in the context of an ALF, excludes the following tasks:]

(C) in the context of an assisted living facility, excludes:

(i) intermittent catheterization; and

(ii) subcutaneous, nasal, or insulin pump administration of insulin or other injectable medications prescribed in the treatment of diabetes mellitus.

(36) [~~(34)~~] HHSC--The Texas Health and Human Services Commission.

(37) [~~(35)~~] Immediate threat to the health or safety of a resident--A situation that causes, or is likely to cause, serious injury, harm, or impairment to or the death of a resident.

(38) [~~(36)~~] Immediately available--A situation in which staff are able to respond right away to an emergency after receiving a notice from a communication or alarm system. To be immediately available, staff must be inside the facility while on duty and located within 600 feet of the resident who is farthest away. [~~The capacity of facility staff to immediately respond to an emergency after being notified through a communication or alarm system. The staff are to be no more than 600 feet from the farthest resident and in the facility while on duty.~~]

(39) [~~(37)~~] Indirect ownership interest--Any ownership or membership interest in a person that has a direct ownership interest in an applicant or license holder.

(40) [~~(38)~~] Isolated--A situation in which a very limited number of residents are affected[~~,~~] and a very limited number of staff are involved, or a [~~the~~] situation that has occurred only occasionally.

(41) [~~(39)~~] Key infectious agents--Bacteria, viruses, and other microorganisms that [~~which~~] cause the most common infections and infectious diseases in long-term care facilities, and that can be mitigated by establishing, implementing, maintaining, and enforcing proper infection[~~,~~] prevention[~~,~~] and control policies and procedures.

(42) [~~(40)~~] Large facility--A facility licensed for 17 or more residents.

(43) [~~(41)~~] Legally authorized representative--A person authorized by law to act on behalf of a person with regard to a matter described in this chapter, which [~~and~~] may include a parent, guardian, spouse, sibling, [~~or managing conservator of a minor,~~] or a resident's legal [~~the~~] guardian or agent under a power of attorney [~~of an adult~~].

(44) [~~(42)~~] License holder--A person that holds a license to operate a facility.

[~~(43) Listed--Equipment, materials, or services included in a list published by an organization concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose. The listing organization must be acceptable to the authority having jurisdiction, including HHSC or any other state, federal, or local authority.~~]

[~~(44) Local code--A model building code adopted by the local building authority where the facility is constructed or located.~~]

(45) Management services--Services provided under contract between the owner of a facility and a person to provide for the operation of the [~~a~~] facility, including administration, staffing, maintenance, or delivery of resident services. Management services do not include contracts solely for maintenance, laundry, transportation, or food services.

(46) Manager--The individual in charge of the day-to-day operation of the facility.

(47) Managing local ombudsman--Has the meaning provided [~~given~~] in §88.2 of this title.

(48) Medication--

(A) Medication is any substance:

(i) recognized as a drug in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, Texas Drug Code Index or official National Formulary, or any supplement to any of these official documents;

(ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease;

(iii) other than food intended to affect the structure or any function of the body; and

(iv) intended for use as a component of any substance specified in this definition.

(B) Medication includes both prescription and over-the-counter medication, unless otherwise specified.

(C) Medication does not include devices or the device [~~their~~] components, parts, or accessories.

(49) Medication administration--The direct application of a medication or drug to the body of a resident by an individual legally allowed to administer medication in the state of Texas.

(50) Medication assistance or supervision--The assistance or supervision of a resident's [~~the~~] medication regimen by [~~facility~~] staff. Refer to §553.267(c) [~~§553.261(a)~~] of this chapter (relating to Medications).

(51) Medication self-administration--A resident taking [~~(self- or self-administration of)--The capability of a resident to administer~~] the resident's own medication or treatments without help [~~assistance~~] from [~~the facility~~] staff.

(52) Memory care services--Enhanced services provided by a facility without Alzheimer's certification that support the social and safety needs of residents with Alzheimer's disease and related disorders and that help maintain resident dignity and independence. [~~Services provided by an assisted living facility to meet the needs of residents with a diagnosis of Alzheimer's disease or related disorders or a diagnosis of dementia.~~]

(53) Multidrug-resistant organisms--Bacteria and other microorganisms that have developed resistance to multiple types of medicine used to act against the microorganism.

(54) Neglect--Has the meaning provided in Texas Health and Safety Code §260A.001.

[~~(A) For a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes, the term has the meaning in Texas Family Code §261.001(4), which is a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy; and~~]

[~~(B) For a person other than one described in subparagraph (A) of this paragraph, the term has the meaning in Texas Health and Safety Code §260A.001(6), which is the failure to provide for oneself the goods or services, including medical services, which are nec-~~

essary to avoid physical or emotional harm or pain or the failure of a caregiver to provide such goods or services.]

[(55) NFPA 101--The 2012 publication titled NFPA 101 Life Safety Code published by the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, Massachusetts 02169.]

(55) [(56)] Ombudsman intern--Has the meaning provided [given] in §88.2 of this title.

(56) [(57)] Ombudsman program--Has the meaning provided [given] in §88.2 of this title.

(57) [(58)] Online portal--A secure portal provided on the HHSC website for licensure activities, including for an assisted living facility applicant to submit licensure applications and information.

(58) Outside resources--Services and support that a facility does not provide or that a resident chooses not to receive from the facility, but that are needed for a resident to keep the highest possible level of independence and quality of life. Outside resource service providers include:

(A) an employee of a home and community support services agency in accordance with Texas Health and Safety Code Chapter 142;

(B) a health care professional, as defined in this section;

(C) mental health and cognitive service support; and

(D) companion services.

(59) Pattern of violation--Repeated, but not widespread in scope, failures of a facility to comply with this chapter or a rule, standard, or order adopted under Texas Health and Safety Code[,] Chapter 247 that:

(A) result in a violation; and

(B) are found throughout the services provided by the facility or that affect or involve the same residents or facility employees.

(60) Person--Any individual, firm, partnership, corporation, association, or joint stock association, and the legal successor thereof.

(61) Personal care services--Assistance with activities of daily living, as defined in this section, or general supervision or oversight of the physical and mental well-being of residents in the facility. [feeding, dressing, moving, bathing, or other personal needs or maintenance; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in the facility or who needs assistance to manage his or her personal life, regardless of whether a guardian has been appointed for the person.]

[(62) Personal care staff--An attendant whose primary employment function is to provide personal care services.]

(62) [(63)] Physician--A practitioner licensed by the Texas Medical Board.

(63) Plan of correction--A plan that identifies all actions an assisted living facility will take to correct violations and specifies the date by which those violations will be corrected.

(64) Plan of removal--A plan that identifies all actions an assisted living facility will take to immediately address noncompliance that has caused or is likely to cause serious injury, serious harm, serious impairment, or death by detailing how the facility will keep residents safe and free from serious harm or death caused by the noncompliance.

(65) [(64)] Potential for minimal harm--A violation that has the potential for causing no more than a minor negative impact on a resident.

(66) [(65)] Practitioner--An individual who is currently licensed in a state in which the individual practices as a physician, dentist, podiatrist, or a physician assistant; or an RN registered with [a registered nurse approved by] the Texas Board of Nursing [to practice] as an advanced practice registered nurse.

(67) [(66)] Private and unimpeded access--Access to enter a facility or communicate with a resident outside of the hearing and view of others, without interference or obstruction from staff, [facility employees,] volunteers, or contractors.

[(67) Qualified medical personnel--An individual who is licensed, certified, or otherwise authorized to administer health care. The term includes a physician, registered nurse, and licensed vocational nurse.]

(68) Rapid influenza diagnostic test--A test administered to a person with flu-like symptoms that can detect the influenza viral nucleoprotein antigen.

(69) Resident--An individual accepted for care in a facility, including for respite care.

(70) Resident evaluation--Assessment of a resident to determine what care is needed, as required by Texas Health and Safety Code §247.002.

(71) [(70)] Respite--The provision by a facility of room, board, and care at the level ordinarily provided for permanent residents of the facility to a person for not more than 60 days for each stay in the facility.

(72) Responsible party--An individual authorized by the resident to act for the resident as an official delegate or agent. A responsible party is usually a family member or relative but may be a legal guardian or other individual. The resident may authorize a responsible party in writing or verbally.

(73) [(71)] Restraint hold--

(A) A manual method, except for physical guidance or prompting of brief duration, used to restrict:

(i) free movement or normal functioning of all or a portion of a resident's body; or

(ii) normal access by a resident to a portion of the resident's body.

(B) Physical guidance or prompting of brief duration becomes a restraint if the resident resists the guidance or prompting.

(74) [(72)] Restraints--

(A) Chemical restraints are psychoactive drugs administered for the purposes of discipline or convenience and [are] not required to treat the resident's medical symptoms.

(B) Physical restraints are tools or manual methods used to stop or limit a resident from moving freely. [any manual method, or physical or mechanical device, material, or equipment attached or adjacent to the resident that restricts freedom of movement.] Physical restraints include restraint holds. This definition does not apply to wheelchairs, seating systems, or secondary supports when used to provide postural support, stability, pressure distribution, and pressure relief.

(75) [(73)] RN--Registered nurse. [(registered nurse)--] A person who holds a current and active license from the Texas Board of

Nursing to practice professional nursing, as defined in Texas Occupations Code §301.002(2).

[(74) Safety--Protection from injury or loss of life due to such conditions as fire, electrical hazard, unsafe building or site conditions, and the hazardous presence of toxic fumes and materials.]

(76) [(75)] Seclusion--The involuntary confinement of a resident alone in a room or area that the resident is physically prevented from leaving. [separation of a resident from other residents and the placement of the resident alone in an area from which the resident is prevented from leaving.]

(77) [(76)] Service plan--A written description of the medical care, supervision, or non-medical [nonmedical] care needed by a resident.

[(77) Short-term acute episode--An illness of less than 30 days' duration.]

(78) Significant change--A sudden or major improvement or decline in the physical, cognitive, or behavioral status of a resident that is inconsistent with the resident's condition when admitted or last evaluated or assessed. Ordinary day-to-day fluctuations in a resident's functioning and behavior, short-term illnesses such as colds, or gradual deterioration in a resident's ability to conduct activities of daily living that accompanies the aging process are not considered significant changes.

(79) Skilled nursing--Medically ordered care that can only be provided by or under the supervision or delegation of a licensed nurse.

(80) [(78)] Small facility--A facility licensed for 16 or fewer residents.

(81) [(79)] Stable and predictable--A phrase describing the clinical and behavioral status of a resident that is non-fluctuating and consistent and does not require the regular presence of a registered or licensed vocational nurse.

[(A) The phrase does not include within its meaning a description of the clinical and behavioral status of a resident that is expected to change rapidly or needs continuous or continual nursing assessment and evaluation.]

[(B) The phrase does include within its meaning a description of the condition of a resident receiving hospice care within a facility where deterioration is predictable.]

(82) [(80)] Staff--Employees of an assisted living facility.

(83) [(81)] Standards--The minimum conditions, requirements, and criteria established in this chapter with which a facility must comply to be licensed under this chapter.

(84) [(82)] State Ombudsman--Has the meaning provided [given] in §88.2 of this title.

(85) [(83)] Terminal condition--A medical diagnosis, certified by a physician, of an illness that is expected to [will] result in death in six months or less.

(86) [(84)] Universal precautions--An approach to infection control in which blood, any body fluids visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids are treated as if known to be infectious for HIV, hepatitis B, and other blood-borne pathogens.

(87) [(85)] Vaccine Preventable Diseases--The diseases included in the most current recommendations of the Advisory Committee on Immunization Practices of the CDC.

(88) [(86)] Widespread in scope--A violation of Texas Health and Safety Code[,] Chapter 247, or a rule, standard, or order adopted under Chapter 247 that:

(A) is pervasive throughout the services provided by the facility; or

(B) represents a systemic failure by the facility that affects or has the potential to affect a large portion of or all of the residents of the facility.

(89) [(87)] Willfully interfere--To act or not act to intentionally prevent, interfere with, or impede [impeded,] or to attempt to intentionally prevent, interfere with, or impede.

(90) [(88)] Working day--Any 24-hour period, Monday through Friday, excluding state and federal holidays.

§553.5. Types of Assisted Living Facilities.

(a) Basis for licensure type. A facility must be licensed as a Type A or Type B facility. A facility's licensure type is based on the capability of the residents to evacuate the facility, as described in this section.

(b) Type A. In a Type A facility, a resident:

(1) must be physically and mentally capable of evacuating the facility without help [physical assistance] from staff. This includes a resident who uses a wheelchair or electric cart, as long as the resident can leave the building without help from staff during an emergency; [, which may include an individual who is mobile, although non-ambulatory, such as an individual who uses a wheelchair or an electric cart, and has the capacity to transfer and evacuate himself or herself in an emergency;]

(2) does not require routine attendance during nighttime sleeping hours;

(3) must be capable of following directions under emergency conditions; and

(4) must be able to demonstrate [to HHSC] that the resident [they] can travel from the resident's own living unit to a centralized space, such as a lobby, living room, or dining room on the level of discharge, within a 13-minute period without continuous staff assistance and without using an elevator. [meet the evacuation requirements described in Subchapter D of this chapter (relating to Facility Construction).]

(c) Type B. In a Type B facility, a resident may:

(1) require staff assistance to evacuate;

(2) require attendance during nighttime sleeping hours;

(3) be incapable of following directions under emergency conditions; and

(4) require assistance in transferring to and from a wheelchair; but

(5) must not be permanently bedfast.

(d) Type C.

(1) A Type C facility is a four-bed facility that was originally licensed by HHSC to provide adult foster care services as described in Chapter 278, Subchapter B of this title (relating to Minimum Standards For Adult Foster Care) [40 TAC Chapter 48, Subchapter K (relating to Minimum Standards for Adult Foster Care)].

(2) HHSC no longer issues Type C licenses and Type C licensure is no longer a requirement to contract with HHSC to provide adult foster care services. In accordance with Chapter 278, Subchapter

B of this title, [40 TAC Chapter 48, Subchapter K, in order] to contract with HHSC as a provider of adult foster care services, an applicant must have a current license for a Type A or Type B assisted living facility.

§553.7. Assisted Living Facility Services.

(a) An assisted living facility is an entity that [must]:

(1) provides, [furnish,] in one or more facilities, food and shelter for [to] four or more persons who are unrelated to the proprietor [of the establishment]; and

(2) provides [provide]:

(A) personal care services; or

(B) medication administration by a person licensed or otherwise authorized in this state to administer the medication.

(b) An assisted living facility [establishment] may provide:

(1) assistance with or supervision of medication administration;

(2) HMAs [health maintenance activities] in accordance with §553.281 [§553.263] of this chapter (relating to Health Maintenance Activities); and

(3) skilled nursing services for the following limited purposes:

(A) coordination of [coordinate] resident care with an outside home and community support services agency or other health care professional;

(B) provision or delegation of personal care services and medication administration, as described in this chapter;

(C) evaluation [assessment] of residents to determine the care required; and

(D) temporary [delivery, for a period not to exceed 30 days, of temporary] skilled nursing services for a minor illness, injury, or emergency for up to 30 days.

(c) As part of the facility's general supervision and oversight of the physical and mental well-being of its residents, the facility remains responsible for all care provided by the facility.

§553.9. General Characteristics of a Resident.

(a) A resident must be 18 years of age or older or an emancipated minor.

(b) [This section describes some general characteristics of a resident in a facility.] A resident may:

(1) exhibit symptoms of cognitive [mental] or emotional distress, provided the resident [disturbance, but] is not considered to be at risk of imminent harm to self or others;

(2) need help with activities of daily living as defined in §553.3 of this subchapter (relating to Definitions) [assistance with movement];

(3) be incontinent without pressure sores in the genital or rectal area or buttocks; [require assistance with bathing, dressing, and grooming;]

(4) need toileting assistance, or reminders, to encourage routine toileting to prevent incontinence; [require assistance with routine skin care, such as application of lotions or treatment of minor cuts and burns;]

(5) have healthcare conditions and diagnoses that could require additional care from outside resources, as defined in §553.3 of this subchapter; [need reminders to encourage toilet routine and prevent incontinence;]

(6) manage the resident's own medication regimen and storage, may need assistance with a medication regimen, or may need medication administration or medication storage by staff; [require temporary services by professional personnel;]

(7) need encouragement to join in activities like eating, hygiene, socializing, and going to appointments; [assistance with medication, supervision of self-medication, or medication administration;]

(8) need monitoring due to feelings of sadness, depression, or apathy; [require encouragement to eat, or monitoring due to social or psychological reasons of temporary illness;]

(9) be hearing, speech, or vision impaired; [or speech impaired;]

(10) require an established therapeutic diet; [be incontinent without pressure sores;]

(11) use various assistive devices, as defined in §553.3 of this subchapter, that increase independence; [require an established therapeutic diet;]

(12) need assistance with meals, which may include feeding; and [require self-help devices; and]

(13) have a permanently placed percutaneous endoscopic gastrostomy (PEG) tube for feeding and medication administration that requires RN delegation or RN designation as an HMA, as described in this chapter. [need assistance with meals, which may include feeding.]

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
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SUBCHAPTER B. LICENSING

26 TAC §§553.17, 553.21, 553.23, 553.25, 553.27, 553.29, 553.31, 553.33, 553.35, 553.37, 553.39, 553.45, 553.47

STATUTORY AUTHORITY

The amendments and new section are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments and new section implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.17. Criteria for Licensing.

(a) A person must be licensed by HHSC to establish or operate an assisted living facility in Texas.

(1) HHSC considers one or more facilities to be part of the same establishment and, therefore, subject to licensure as an assisted living facility, based on the following factors:

(A) common ownership;

(B) physical proximity;

(C) shared services, personnel, or equipment in any part of the facilities' operations; and

(D) any public appearance of joint operations or of a relationship between the facilities.

(2) The presence or absence of any one factor in paragraph (1) of this subsection is not conclusive.

(3) Licensed capacity means the total number of residents allowed in the entire assisted living establishment under one license. If more than one license is obtained, licensed capacity is set for each license separately.

(b) To obtain a license, a person must follow the application requirements in this subchapter and meet the criteria for a license.

(c) An applicant must affirmatively show that:

(1) the applicant, license holder, controlling person, and any person required to submit background and qualification information meet the criteria and eligibility for licensing[,] in accordance with this section; and

(2) [~~(1)~~] the building in which the facility is housed:

(A) meets local fire ordinances;

(B) is approved by the local fire authority;

(C) meets HHSC licensing standards in accordance with Subchapter D of this chapter (relating to Facility Construction) based on an onsite [~~on-site~~] inspection by HHSC or the standards for accreditation based on an onsite [~~on-site~~] accreditation survey by an accreditation commission; and

(D) if located in a county of more than 3.3 million residents, for initial license applications submitted or issued on or after December 6, 2022, is not located in a 100-year floodplain; and

(3) [~~(2)~~] operation of the facility meets HHSC licensing standards based on an onsite [~~on-site~~] health inspection by HHSC, which must include observation of the care of a resident; or

(4) [~~(3)~~] the facility meets the standards for accreditation based on an onsite [~~on-site~~] accreditation survey by the accreditation commission.

(d) An applicant who chooses the option authorized in subsection (c)(4) [~~(c)(3)~~] of this section must contact HHSC to determine which accreditation commissions are available to meet the requirements of that subsection. If a license holder uses an onsite [~~on-site~~] accreditation survey by an accreditation commission, as provided in this subsection and §553.33(h) [~~§553.33(i)~~] of this subchapter (relating to Renewal Procedures and Qualifications), the license holder must:

(1) provide written notification to HHSC by submitting an updated application in the licensing system within five working days after the license holder receives [a] notice of change in accreditation status from the accreditation commission; and

(2) include a copy of the notice of change with the license holder's [~~its~~] written notification to HHSC.

(e) HHSC issues a license to a facility meeting all requirements of this chapter. The facility must not exceed the maximum allowable number of residents specified on the license.

(f) HHSC denies an application for an initial license or a renewal of a license if:

(1) the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure has been debarred or excluded from the Medicare or Medicaid programs by the federal government or a state;

(2) a court has issued an injunction prohibiting the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure from operating a facility; or

(3) during the five years preceding the date of the application, a license to operate a health care facility, long-term care facility, assisted living facility, or similar facility in any state held by the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure has been revoked.

(g) A license holder or controlling person who operates a nursing facility or an assisted living facility for which a trustee was appointed and for which emergency assistance funds, other than funds to pay the expenses of the trustee, were used is subject to exclusion from eligibility for:

(1) the issuance of an initial license for a facility for which the person has not previously held a license; and

(2) the renewal of the license of the facility for which the trustee was appointed.

(h) HHSC may deny an application for an initial license or refuse to renew a license if an applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure:

(1) violates Texas Health and Safety Code[,] Chapter 247; a section, standard, or order adopted under Chapter 247; or a license issued under Chapter 247 in either a repeated or substantial manner;

(2) commits an act described in §553.751(a)(2) - (9) of this chapter (relating to Administrative Penalties);

(3) aids, abets, or permits a substantial violation described in paragraph (1) or (2) of this subsection about which the person had or should have had knowledge;

(4) fails to provide the required information, facts, or references;

(5) engages in the following:

(A) knowingly submits false or intentionally misleading statements to HHSC;

(B) provides false information [~~uses subterfuge~~] or uses other evasive means of filing an application for licensure;

(C) provides false information [~~engages in subterfuge~~] or uses other evasive means of filing on behalf of another who is unqualified for licensure;

(D) knowingly conceals a material fact related to licensure; or

(E) is responsible for fraud;

(6) fails to pay the following fees, taxes, and assessments when due:

(A) license fees, as described in §553.47 of this subchapter (relating to License Fees); or

(B) franchise taxes, if applicable;

(7) during the five years preceding the date of the application, has a history in any state or other jurisdiction of any of the following:

(A) operation of a facility that has been decertified or has had its contract canceled under the Medicare or Medicaid program;

(B) federal or state long-term care facility, assisted living facility, or similar facility sanctions or penalties, including monetary penalties, involuntary downgrading of the status of a facility license, proposals to decertify, directed plans of correction, or the denial of payment for new Medicaid admissions;

(C) unsatisfied final judgments, excluding judgments wholly unrelated to the provision of care rendered in long-term care facilities;

(D) eviction involving any property or space used as a facility; or

(E) suspension of a license to operate a health care facility, long-term care facility, assisted living facility, or a similar facility;

(8) violates Texas Health and Safety Code §247.021 by operating a facility without a license; [~~or~~]

(9) is subject to denial or refusal of a license as described in Chapter 560 of this title (relating to Denial or Refusal of License) during the time frames described in that chapter; or[~~.~~]

(10) chooses to surrender the license in lieu of enforcement action.

(i) Without limitation, HHSC reviews all information provided by an applicant, a license holder, a person required to be disclosed on the application for licensure, or a manager when considering grounds for denial of an initial license application or a renewal application in accordance with subsection (h) of this section. HHSC may grant a license if HHSC finds the applicant, license holder, person required to be disclosed on the application for licensure, affiliate, or manager is able to comply with the rules in this chapter.

(j) HHSC reviews final actions when considering the grounds for denial of an initial license application or renewal application in accordance with subsections (f) and (h) of this section. An action is final when routine administrative and judicial remedies are exhausted. An applicant must disclose all actions, whether pending or final.

(k) If an applicant owns multiple facilities, HHSC examines the overall record of compliance in all of the applicant's facilities. An overall record poor enough to deny issuance of a new license does not preclude the renewal of a license of a facility with a satisfactory record.

§553.21. Time Periods for Processing All Types of License Applications.

(a) HHSC reviews an application for a license within 30 days after the date HHSC Licensing and Credentialing Section, Long-term Care Regulation, receives the application and the payment of associated fees and notifies the applicant if additional information is needed to complete the application.

(b) HHSC denies an application that remains incomplete 120 days after the date that HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application and the payment of associated fees.

(c) HHSC issues a license within 30 days after HHSC determines that the applicant and the facility have met all licensure requirements referenced in §553.23 of this subchapter (relating to Initial License Application Procedures and Requirements) or §553.33 of this subchapter (relating to Renewal Procedures and Qualifications), as applicable.

(d) If HHSC does not process an application in the time period stated, the applicant has a right to make a request to the program director for reimbursement of the license fees paid with the application.

(1) If the program director does not agree that the established time period has been violated or finds that good cause existed for exceeding the established time period, the program director denies the request.

(2) Good cause for exceeding the established time period exists if:

(A) the number of applications to be processed exceeds by 15 percent or more the number processed in the same calendar quarter of the preceding year;

(B) HHSC must rely on another public or private entity to process all or a part of the application received by HHSC, and the delay is caused by that entity; or

(C) other conditions existed giving good cause for exceeding the established time period.

(3) If the request for reimbursement is denied, the applicant may appeal to the HHSC Executive Commissioner for resolution of the dispute. The applicant must send a written statement to the HHSC Executive Commissioner describing the request for reimbursement and the reason for the request. The HHSC Executive Commissioner will make a timely decision concerning the appeal and notify the applicant in writing of the decision.

§553.23. Initial License Application Procedures and Requirements.

(a) An applicant must complete the HHSC pre-licensure training course before submitting an application for an initial license. An applicant that is currently licensed under Texas Health and Safety Code[~~,~~] Chapter 247 is exempt from this requirement.

(b) An applicant for an initial license must submit an application in accordance with §553.19 of this subchapter (relating to General Application Requirements) and include full payment of the fees required in §553.47 of this subchapter (relating to License Fees).

(c) HHSC reviews an application for an initial license within 30 days after the date HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application and associated fees and notifies the applicant if additional information is needed to complete the application.

[~~(d) The applicant must notify HHSC via the online portal indicating that the facility is ready for a Life Safety Code (LSC) inspection. The notice must be submitted with the application or within 120 days after the HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application. After the applicant has satisfied the application submission requirements in §553.17 of this subchapter (relating to Criteria for Licensing) and §553.19 of this subchapter, HHSC staff conduct an on-site LSC inspection of the facility to determine if the facility meets the applicable NFPA 101 and other physical plant requirements in Subchapter D of this chapter (relating to Facility Construction).~~]

(d) [(e)] If the facility fails to meet the licensure requirements within 120 days after the initial life safety code (LSC) [LSC] inspection, HHSC denies the application for a license.

(e) [(f)] After a facility has met the licensure requirements in Subchapter D of this chapter (relating to Facility Construction) and has admitted at least one but no more than three residents, the applicant must notify HHSC via the online portal that the facility is ready for a health inspection.

(1) HHSC staff conduct an onsite [on-site] health inspection to determine if the facility meets the licensure requirements for standards of operation and resident care in Subchapter E of this chapter (relating to Standards for Licensure).

(2) If the facility fails to meet the licensure requirements for standards of operation and resident care within 120 days after the initial health inspection, HHSC denies the application for a license.

(f) [(g)] HHSC issues a license within 30 days after HHSC determines that the applicant and the facility have met the licensure requirements of this section. The issuance of a license constitutes HHSC's official written notice to the facility of the approval of the application.

(g) [(h)] HHSC may deny an application for an initial license if the applicant, controlling person, or any person required to submit background and qualification information fails to meet the criteria for a license established in §553.17 of this subchapter (relating to Criteria for Licensing).

(h) [(i)] If HHSC denies an application for an initial license, HHSC sends the applicant a written notice of the denial and informs the applicant of the applicant's right to request an administrative hearing to appeal the denial. The administrative hearing is held in accordance with Texas Health and Human Services Commission rules at 1 TAC Chapter 357 [Texas Administrative Code, Title 1, Part 15, Chapter 357,] Subchapter I (relating to Hearings Under the Administrative Procedure Act).

§553.25. Initial License for a Type A or Type B Facility for an Applicant in Good Standing.

(a) An applicant may request that HHSC issue, before conducting an onsite [on-site] health inspection, an initial license for a Type A or Type B facility. The applicant must request the license by completing [submitting] a form prescribed by HHSC and submitting the form to HHSC via the online portal.

(b) If an applicant makes a request in accordance with subsection (a) of this section, HHSC determines the applicant is in good standing, and the applicant complies with subsection (d) of this section, the applicant is not required to admit a resident to the facility or have the onsite [on-site] health inspection described in §553.23(e) [§553.23(f)] of this subchapter (relating to Initial License Application Procedures and Requirements) before HHSC issues an initial license.

(c) For purposes of this section, an applicant is in good standing if:

(1) one of the following conditions is met:

(A) the applicant has operated or been a controlling person of a licensed Type A or Type B facility in Texas for at least six consecutive years; or

(B) the applicant has not held a license for a Type A or Type B facility, but a controlling person of the applicant has operated or been a controlling person of a licensed Type A or Type B facility in Texas for at least six consecutive years; and

(2) each licensed facility operated by the applicant or the controlling person described in paragraph (1)[(A) or (B)] of this subsection:

(A) has not had a violation of a licensing rule:

(i) that:

(I) resulted in actual harm to a resident, which is defined as a negative outcome that compromises the resident's physical, mental, or emotional well-being; or

(II) posed an immediate threat of harm causing or likely to cause serious injury, impairment, or death to a resident; and

(ii) that:

(I) the facility did not challenge;

(II) was affirmed; or

(III) is pending a final determination; and

(B) has not had a sanction imposed by HHSC against the facility during the six years before the date an application is submitted that resulted in:

(i) a civil penalty;

(ii) an administrative penalty;

(iii) an injunction;

(iv) the denial, suspension, or revocation of a license; or

(v) an emergency closure.

(d) An applicant that makes a request in accordance with subsection (a) of this section must:

(1) submit the following to HHSC for approval via the online portal:

(A) the applicant's policies and procedures;

(B) proof that the applicant has followed the requirements in §553.257 of this chapter (relating to Personnel); and [evidence that the applicant has complied with §553.257(b) of this chapter (relating to Human Resources); and]

(C) documentation that the applicant's employees have the credentials described in §553.253 of this chapter (relating to Employee Qualifications and Training); and

(2) comply with [§553.23(d) of this subchapter and] §553.17 of this subchapter (relating to Criteria for Licensing).

(e) HHSC issues an initial license to an applicant that makes a request in accordance with subsection (a) of this section if HHSC determines that an applicant:

(1) is in good standing;

(2) has submitted information in accordance with subsection (d)(1) of this section that complies with this chapter; and

(3) is in compliance with applicable [NFPA 101 and other physical plant] requirements of Subchapter D of this chapter (relating to Facility Construction), including meeting the requirements of a life safety code [Life Safety Code] (LSC) inspection within 120 days after the date HHSC staff conduct the initial LSC inspection.

(f) HHSC staff conduct an onsite [on-site] health inspection within 90 days after the date HHSC issues a license in accordance with subsection (e) of this section. The onsite [on-site] health inspection

includes HHSC observation of the facility's provision of care to at least one resident.

(g) Until a facility that is issued an initial license under this section meets the requirements of the onsite [~~on-site~~] health inspection described in subsection (f) of this section, the facility must attach a written addendum to the disclosure statement required by §553.259(d) [~~§553.259(e)(1)~~] of this chapter (relating to Admission Policies and Procedures) as notice to a resident or a prospective resident that the facility has not met the requirements of the onsite [~~on-site~~] health inspection. At a minimum, the addendum must state that:

(1) the facility has not met the requirements of an initial onsite [~~on-site~~] health inspection for a license; and

(2) HHSC staff conduct an onsite [~~on-site~~] health inspection for licensure within 90 days after the date the license is issued.

§553.27. Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders.

(a) A facility that advertises, markets, or otherwise promotes that the facility or a distinct unit of the facility provides specialized care for persons with Alzheimer's disease or related disorders must be certified or have the unit certified under subsection (d) of this section or §553.29 of this subchapter (relating to Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing). Certification under this section is not required for a facility to use advertising terms such as "medication reminders or assistance," "meal and activity reminders," "escort service," or "short-term memory loss, confusion, or forgetfulness."

(b) To be certified under subsection (d) of this section, a facility must be licensed as a Type B facility.

(c) A license holder must request certification of a facility or unit under subsection (d) of this section by submitting the forms prescribed by HHSC via the online portal and include full payment of applicable fees described in §553.47(c) of this subchapter (relating to License Fees).

(d) After HHSC receives a request for certification in accordance with subsection (c) of this section, HHSC certifies a licensed Type B facility as a certified Alzheimer's facility or a unit of a licensed Type B facility as a certified Alzheimer's unit, if HHSC determines that:

(1) [~~that~~] the facility or unit is in compliance with §553.250 [~~§553.311~~] of this chapter (relating to Construction Requirements for a Certified Alzheimer's Assisted Living Facility [~~(relating to Physical Plant Requirements for Alzheimer's Units)~~] and other applicable requirements of Subchapter D of this chapter (relating to Facility Construction)[~~, including meeting the requirements of a Life Safety Code (LSC) inspection~~] within 120 days after the date HHSC staff conduct an initial life safety code [~~LSC~~] inspection; and

(2) [~~that~~] the facility or unit meets the requirements of Subchapter F of this chapter (relating to Additional Licensing Standards for Certified Alzheimer's Assisted Living Facilities) based on an onsite [~~on-site~~] health inspection, during which HHSC observes the facility's or unit's provision of care to at least one resident who has been admitted to the Alzheimer's facility or unit.

(e) A facility or unit may not exceed the maximum number of residents specified on the Alzheimer's certificate issued to the facility by HHSC.

(f) A facility must post the facility's or unit's Alzheimer's certificate in a prominent location for public view.

(g) An Alzheimer's certificate is valid for three years from the effective date of approval by HHSC.

(h) HHSC cancels an Alzheimer's certificate if:

[~~(1) a certified facility, or the facility in which a certified unit is located, undergoes a change of ownership; or~~]

(1) [~~(2)~~] HHSC determines that a certified facility or unit is not in compliance with applicable laws and rules; or[~~,~~]

(2) the legal entity or individual for which the certification is issued voluntarily surrenders the certification.

(i) A facility must remove a cancelled certificate from display and advertising and surrender the certificate to HHSC.

§553.29. Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing.

(a) An applicant may request that HHSC [~~, before conducting an on-site health inspection,~~] issue an initial license for a Type B facility and an Alzheimer's certification for the facility or a distinct unit of the facility before HHSC conducts an onsite health inspection. The applicant must meet the requirements of §553.25 of this subchapter (relating to Initial License for a Type A or Type B Facility for an Applicant in Good Standing) for the initial license and the requirements of this section for certification of the facility or unit.

(b) An applicant must request certification by submitting forms prescribed by HHSC via the online portal and include full payment of applicable fees described in §553.47 of this subchapter (relating to License Fees).

(c) An applicant that makes a request under [~~in accordance with~~] subsection (a) of this section is not required to admit a resident to the facility or unit or have the onsite [~~on-site~~] health inspection described in §553.23(e) [~~§553.23(f)~~] of this subchapter (relating to Initial License Application Procedures and Requirements) before HHSC certifies the facility or unit if HHSC determines that the applicant is in good standing:

(1) for the issuance of an initial license of the facility in accordance with §553.25(c) of this subchapter; and

(2) for certification of the facility or unit in accordance with subsection (d) of this section.

(d) An applicant is in good standing to obtain certification of a facility or unit if:

(1) for at least six consecutive years before applying for certification:

(A) the applicant has been:

(i) the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit; or

(ii) a controlling person of the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit; or

(B) a controlling person of the applicant has been:

(i) the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit; or

(ii) a controlling person of the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit;

(2) each licensed facility operated by the applicant or the controlling person has not had a violation or sanction described in §553.25(c)(2) of this subchapter; and

(3) each licensed facility operated by the applicant or the controlling person has had no more than two violations listed in §553.287(a) [~~§553.267(a)~~] of this chapter (relating to Rights) during the six-year period immediately before the applicant applied for certification.

(e) For purposes of subsection (d)(3) of this section, a facility has a violation if:

(1) the applicant or controlling person operating the facility did not challenge the violation;

(2) a final determination on the violation is pending; or

(3) the violation was upheld.

(f) An applicant that makes a request in accordance with subsection (a) of this section must submit to HHSC for approval via the online portal:

(1) the applicant's policies and procedures required by Subchapter F of this chapter (relating to Additional Licensing Standards for Certified Alzheimer's Assisted Living Facilities); and

(2) documentation demonstrating that the applicant is complying with Subchapter F of this chapter and §553.257 [~~§553.257(b)~~] of this chapter (relating to Personnel [~~Human Resources~~]).

(g) HHSC certifies a facility or unit after an applicant makes a request in accordance with subsection (a) of this section if HHSC determines that the applicant:

(1) meets the good standing requirements described in §553.25(c) of this subchapter and subsection (d) of this section;

(2) has submitted information in accordance with subsection (f) of this section; and

(3) is in compliance with:

(A) §553.27 of this subchapter (relating to Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders); and

(B) §553.250 [~~§553.311~~] of this chapter (relating to Construction Requirements for a Certified Alzheimer's Assisted Living Facility) [~~(relating to Physical Plant Requirements for Alzheimer's Units)~~].

(h) HHSC conducts an onsite [~~on-site~~] health inspection to determine if the facility or unit meets the requirements of Subchapter F of this chapter within 90 days after the date HHSC certifies a facility or unit in accordance with subsection (g) of this section. During each onsite [~~on-site~~] health inspection, HHSC observes the provision of care to at least one resident who has been admitted to the facility or unit.

(i) Until a facility or unit that is issued a certification under this section meets the requirements of the onsite [~~on-site~~] health inspection described in subsection (h) of this section, the facility must attach a written addendum to the disclosure statement required by §553.307(a) of this chapter (relating to Admission Procedures, Evaluation, and Service Plan for Residents in an Alzheimer's Certified Facility or Unit) [~~(relating to Admission Procedures, Assessment, and Service Plan)~~] to notify a resident or a prospective resident that the facility or unit has not met the requirements of the onsite [~~on-site~~] health inspection. At a minimum, the addendum must state that:

(1) the facility or unit has not met the requirements of an initial onsite [~~on-site~~] health inspection for Alzheimer's certification; and

(2) HHSC conducts an onsite [~~on-site~~] health inspection for Alzheimer's certification within 90 days after the date of certification.

(j) To obtain certification of a unit in a Type B facility that is already licensed, a license holder must comply with §553.27 of this subchapter.

§553.31. Provisional License.

[~~(a) HHSC may issue a six-month provisional license in the case of a corporate change of ownership.~~]

(a) [~~(b)~~] HHSC may issue [~~issues~~] a six-month provisional license for a newly constructed facility without conducting a life safety code [~~an NFPA 101 and physical plant~~] inspection to verify that the facility is in compliance with the applicable requirements of [~~under~~] Subchapter D of this chapter (relating to Facility Construction), [~~and, as applicable §553.311, of this chapter (relating to Physical Plant Requirements for Alzheimer's Units),~~] if:

(1) an applicant makes a written request for [~~requests in writing~~] a provisional license by submitting the required application in the online portal;

(2) the applicant submits working drawings and specifications to HHSC for review in accordance with applicable procedures for plan review, approval, and construction in Subchapter D of this chapter, before facility construction begins;

(3) the applicant obtains all approvals, including a certificate of occupancy in a jurisdiction that requires one, from local authorities having jurisdiction in the area in which the facility is located, such as the fire marshal, health department, and building inspector;

(4) the applicant submits a complete license application within 30 days after receipt of all local approvals described in paragraph (3) of this subsection;

(5) the applicant pays in full the license fees required by §553.47 of this subchapter (relating to License Fees);

(6) the applicant, or a person who is a controlling person and an owner of the applicant, has constructed another facility in this state that complies with applicable [~~NFPA 101 and physical plant~~] requirements in Subchapter D of this chapter[~~, and, as applicable, §553.311 of this chapter~~]; and

(7) the applicant is in compliance with resident-care standards for licensure required by Subchapter E of this chapter (relating to Standards for Licensure) based on an onsite [~~on-site~~] inspection conducted in accordance with §553.327 of this chapter (relating to Inspections, Investigations, and Other Visits).

(b) [~~(c)~~] HHSC considers the date facility construction begins to be the date the building construction permit for the facility was approved by local authorities.

(c) [~~(d)~~] A provisional license expires on the earlier of:

(1) the 180th day after the effective date of the provisional license or the end of any extension period granted by HHSC; or

(2) the date a three-year license is issued to the provisional license holder.

(d) [~~(e)~~] HHSC conducts a life safety code [~~an NFPA 101 and physical plant~~] inspection of a facility as soon as reasonably possible after HHSC issues a provisional license to the facility.

(e) [~~(f)~~] After conducting a life safety code [~~an NFPA 101 and physical plant~~] inspection, HHSC issues a license in accordance with Texas Health and Safety Code §247.023 to the provisional license holder if the facility passes the inspection and the applicant meets all requirements for a license.

§553.33. Renewal Procedures and Qualifications.

(a) The facility is responsible for submitting an application for license renewal via the online portal before the expiration date printed on the license. A license issued under this chapter:

(1) expires three years after the date issued;

(2) must be renewed before the license expiration date; and

(3) is not automatically renewed.

(b) An application for renewal must comply with the requirements of §553.19 of this subchapter (relating to General Application Requirements), and, as applicable, §553.21 of this subchapter (relating to Time Periods for Processing All Types of License Applications). The submission of a license fee alone does not constitute an application for renewal.

(c) To renew a license, a license holder must submit an application for renewal with HHSC via the online portal before the expiration date of the license. For purposes of Texas Government Code §2001.054, HHSC considers a license holder to have submitted a timely and sufficient application for the renewal of a license, which continues the license in effect and permits the facility to continue operations while HHSC is processing the renewal application, if the license holder submits to HHSC the basic fee described in §553.47(a) [~~§553.47(a)(1) or (2)~~] of this subchapter (relating to License Fees); and:

(1) a complete application for renewal no later than 45 days before the expiration of the current license;

(2) an incomplete application for renewal, with a letter explaining the circumstances that prevented the inclusion of the missing information no later than 45 days before the expiration of the current license; or

(3) a complete application or an incomplete application, with a letter explaining the circumstances that prevented the inclusion of the missing information, and the late fee described in §553.47(b) of this chapter during the 45-day period ending on the date the current license expires.

(d) HHSC may propose to deny, in accordance with subsection (l) [~~(m)~~] of this section, a timely and sufficient, but incomplete, renewal application submitted in accordance with subsection (c) of this section if the license holder fails to complete the application by paying in full all fees due beyond the basic fee and late fee paid in accordance with §553.47(b) of this chapter, and by submitting all information and documentation required to complete the license holder's renewal application before the date that the current license expires. HHSC does not grant a license unless a renewal application is complete. It is the license holder's responsibility to ensure that the application is submitted timely [~~submitted~~] to HHSC.

(e) A license expires if the license holder fails to submit a timely and sufficient application in accordance with subsection (c) of this section before the expiration date of the license.

(f) A person whose license has expired may not operate a facility without obtaining a license in accordance with the application requirements for an initial license in §553.23 of this subchapter (relating to Initial License Application Procedures and Requirements). Operating a facility without a license is subject to civil and administrative penalties and other authorized civil remedies.

(g) HHSC reviews an application for a renewal license within 30 days after the date HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application and notifies the applicant if additional information is needed to complete the application.

[~~(h) A license holder applying for a renewal license must show that the facility meets HHSC licensing standards based on an on-site inspection by HHSC. The on-site inspection must include an observation of the care of a resident.~~]

(h) [~~(i)~~] If an applicant is relying on meeting standards for accreditation in accordance with §553.17(c)(3) [~~§553.17(c)(2)~~] of this subchapter (relating to Criteria for Licensing) to show that it meets the requirements for licensure, the application for a renewal license must include a copy of the license holder's accreditation report from the accreditation commission with its application for renewal.

(i) [~~(j)~~] HHSC may hold [~~pend~~] action on an application for the renewal of a license for up to six months if the facility does not meet licensure requirements during an onsite [~~on-site~~] inspection.

(j) [~~(k)~~] The issuance of a license constitutes official written notice from HHSC to the facility that its application is approved.

(k) [~~(l)~~] HHSC may deny an application for the renewal of a license if the applicant, controlling person, or any person required to submit background and qualification information fails to meet the criteria for a license established in §553.17 of this subchapter.

(l) [~~(m)~~] Before denying an application for renewal of a license, HHSC provides [~~gives~~] the license holder[~~:~~]

[~~(1)~~] notice by [~~registered or certified~~] mail, by fax, in person, or by email of the facts or conduct alleged to warrant the proposed action[~~;~~] and

[~~(2)~~] an opportunity to show compliance with all requirements of law for the retention of the license.

(1) If a document was sent by mail, HHSC will presume that it was received no later than three days after mailing.

(2) If a document was sent by fax or email before 5:00 p.m. on a business day, HHSC will presume that the document was received on the same day; otherwise, HHSC will presume that the document was received on the next business day.

(m) [~~(n)~~] To request an opportunity to show compliance, the license holder must send its written request to the Associate Commissioner of Long-term Care Regulation. The request must:

(1) be postmarked no later than 10 days after the date of HHSC notice and be received in the office of the Associate Commissioner of Long-term Care Regulation no later than 10 days after the date of the postmark; and

(2) contain specific documentation refuting HHSC allegations.

(n) [~~(o)~~] The opportunity to show compliance is limited to a review of documentation submitted by the license holder and information HHSC used as the basis for its proposed action and is not conducted as an adversary hearing. HHSC provides [~~gives~~] the license holder a written affirmation or reversal of the proposed action.

(o) [~~(p)~~] If HHSC denies an application for the renewal of a license, the applicant may request:

(1) an informal reconsideration by HHSC; and

(2) an administrative hearing or binding arbitration to appeal the denial, as described in §553.801 of this chapter (relating to Arbitration).

§553.35. Changes of Ownership and Notice of Changes.

(a) For purposes of this section, a temporary change of ownership license is a temporary license issued to an applicant who proposes

to become the new operator of a facility that exists on the date the application is submitted.

(b) A license holder may not transfer its license. The applicant (new license holder) must obtain a temporary change of ownership license followed by an initial three-year license in accordance with this section. When HHSC [~~the Texas Health and Human Services Commission (HHSC)~~] approves the change of ownership by issuing a temporary change of ownership license to the new license holder, the current license holder's license becomes invalid as of the effective date of the change of ownership indicated in the change of ownership application. Between the effective date of the change of ownership and the issuance of the temporary change of ownership license, the current license holder remains responsible under its license; however, the applicant may operate a facility on behalf of a current license holder during such period of time.

(c) An applicant must submit to HHSC through the online portal:

(1) a complete HHSC application for a license in accordance with HHSC instructions and §553.23 of this subchapter (relating to Initial Application Procedures and Requirements) or an incomplete application with a letter explaining the circumstances that prevented the inclusion of the missing information;

(2) full payment of the fees required in §553.47 of this subchapter (relating to License Fees); and

(3) a signed and notarized Change of Ownership Transfer Affidavit HHSC Form 1092 from the applicant and the facility's current license holder of intent to transfer operation of the facility from the current license holder to the applicant, beginning on the change of ownership effective date specified on the change of ownership application.

(d) To avoid a facility operating while unlicensed, an applicant must submit all items required by subsection (c) of this section at least 30 days before the anticipated date of the change of ownership, unless the 30-day notice requirement is waived in accordance with subsection (e) of this section.

(e) HHSC may waive the 30-day notice required by subsection (d) of this section if HHSC determines that the applicant presents evidence showing that circumstances prevented the submission of the items specified in subsection (c) of this section and that not waiving the notice would create a threat to resident welfare or health and safety.

(f) Upon HHSC approval of the items specified in subsection (c) of this section, HHSC issues a temporary change of ownership license to the applicant if HHSC finds that the applicant, all controlling persons, and all persons disclosed in the application satisfy the requirements in §553.17 of this subchapter (relating to Criteria for Licensing), except for §553.17(c) and (d).

(1) The issuance of a temporary change of ownership license constitutes HHSC's official written notice to the facility of the approval of the application for a change of ownership.

(2) The effective date of the temporary change of ownership license is the date requested in the application and cannot precede the date the application is received by HHSC through the online portal.

(g) A temporary change of ownership license expires on the earlier of:

(1) 90 days after its effective date or the last day of any extension HHSC provides in accordance with subsection (h) of this section; or

(2) the date HHSC issues a three-year license in accordance with subsection (k) of this section.

(h) HHSC, in its sole discretion, may extend a temporary change of ownership license for a term of 90 days at a time based upon extenuating circumstances.

(i) HHSC staff conduct an onsite [~~on-site~~] health inspection to verify compliance with the licensure requirements after issuing a temporary change of ownership license. HHSC may conduct a desk review instead of an onsite [~~on-site~~] health inspection after issuing a temporary change of ownership if:

(1) less than 50 percent of the direct or indirect ownership interest in the former license holder differs from that of the new license holder; or

(2) every owner with a disclosable interest in the new license holder has a disclosable interest in the former license holder.

(j) HHSC, in its sole discretion, may conduct an onsite life safety code [~~on-site Life Safety Code~~] inspection of the facility after issuing a temporary change of ownership license.

(k) If the applicant, all controlling persons, and all persons disclosed in the application satisfy the requirements of §553.17 of this subchapter, except for §553.17(c)(2)(A)- (C), [~~§553.17(e)(1)(A) - (C),~~] for a license, and the facility passes the change of ownership health inspection as described in subsection (i) of this section, HHSC issues a three-year license within 30 days after HHSC determines that the applicant and the facility have met the licensure requirements of this section. The effective date of the three-year license is the same date as the effective date of the change of ownership and cannot precede the date the application was received by HHSC through the online portal.

(l) HHSC may deny an application for a change of ownership if the applicant, controlling person, or any person disclosed in the application fails to meet the criteria for a license established in §553.17 of this subchapter.

(m) If HHSC denies an application for a temporary change of ownership license or a three-year license, HHSC sends the applicant a written notice of the denial and informs the applicant of the applicant's right to request an administrative hearing to appeal the denial. The administrative hearing is held in accordance with HHSC rules at 1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act).

(n) If a license holder that is not a publicly traded company adds an owner with a disclosable interest, but the license holder does not undergo a change of ownership, the license holder must notify HHSC no later than 30 days after the addition of the owner by submitting an application through the online portal.

(o) If a license holder changes its name but does not undergo a change of ownership, the license holder must notify HHSC and submit documentation evidencing a legal name change by submitting an application through the online portal. On receipt of the notice and documentation, HHSC reissues the current license in the license holder's new name.

§553.37. Relocation.

(a) Relocation is the closing of a facility and the movement of its residents to another location for which the license holder does not hold a current license. This section does not apply to relocations conducted as part of a facility's emergency response activities under §553.295 of this chapter (relating to Emergency Preparedness and Response).

(b) A license holder must not relocate a facility without a license from HHSC for the facility at the new location.

(c) To apply for relocation, the license holder for the current location must submit an application via the online portal for an initial license for the new location in accordance with §553.23 of this subchapter (relating to Initial Application Procedures and Requirements) and full payment of the fees required in §553.47 of this subchapter (relating to License Fees). The applicant must enter the proposed date of relocation on the application, subject to issuance of a license.

(d) Residents must not be relocated until HHSC inspects the new building and approves the [~~new~~] building [~~has been inspected and approved~~] as meeting the life safety code (LSC) [~~Life Safety Code~~] licensure requirements in Subchapter D of this chapter (relating to Facility Construction).

(e) Following LSC [~~Life Safety Code~~] approval by HHSC, the license holder must notify HHSC via the online portal of the date the residents will be relocated.

(f) After a facility has met standards of operations in subsection (d) of this section, HHSC staff conduct an onsite [~~on-site~~] health inspection if one was not conducted within the last survey [~~licensure~~] period, to determine if the facility meets the licensure requirements for standards of operation and resident care in Subchapter E of this chapter (relating to Standards for Licensure).

(g) HHSC issues a license for the new facility if the new facility meets the standards of operations in subsections (d) and (e) of this section.

(h) The license holder must continue to maintain the license at the current location and must continue to meet all requirements for operation of the facility until HHSC has approved the relocation. The issuance of a license constitutes HHSC approval of the relocation. The license for the current location becomes invalid upon issuance of the new license for the new location. The license from the other location must be returned to HHSC.

§553.39. Increase in Capacity.

(a) A license holder must not increase a facility's licensed capacity without approval from HHSC.

(b) The license holder must submit an application for an increase in capacity in accordance with §553.19 of this subchapter (relating to General Application Requirements) and the fee required in §553.47 of this subchapter (relating to License Fees).

(c) The license holder must arrange for an inspection of the facility by the local fire marshal and provide the signed fire marshal approval to HHSC.

(d) After HHSC's review of an application and after the applicant notifies HHSC via the online portal that the facility is ready for a life safety code [~~Life Safety Code~~] (LSC) inspection, HHSC staff conduct an onsite [~~on-site~~] LSC inspection of the facility to determine if the facility meets the [~~LSC~~] licensure requirements in Subchapter D of this chapter (relating to Facility Construction).

(e) If the facility fails to meet the LSC licensure requirements within 120 days after the LSC inspection, HHSC denies the application for an increase in capacity.

(f) After a facility has met LSC licensure requirements, HHSC staff conduct an onsite [~~on-site~~] health inspection, if one was not conducted within the last survey [~~licensure~~] period, to determine if the facility meets the licensure requirements for standards of operation and resident care in Subchapter E of this chapter (relating to Standards for Licensure).

(g) HHSC issues a new license with an increased capacity within 30 days after HHSC determines that all licensure requirements have been met. HHSC may grant approval to occupy the increased capacity once HHSC determines that all licensure requirements have been met.

(h) In order to meet the residents' health and safety needs in the event of a fire, natural disaster, or catastrophic event, HHSC may grant approval to temporarily exceed a facility's licensed capacity provided the health and safety of residents are not compromised and the facility can meet the required health care service needs of all residents. A facility may exceed its licensed capacity under this circumstance, monitored by HHSC Survey Operations, until residents can be transferred to a permanent location. HHSC issues authorization for the temporary increase in the facility's licensed capacity. The authorization to temporarily increase the capacity ends when the facility receives written notice from HHSC ending the authorization.

§553.45. Voluntary Closure.

(a) If a license holder decides to voluntarily close an assisted living facility, the license holder must send a written notice at least 30 days before the facility closes. This notice must include the planned closing date and be sent to:

(1) HHSC Licensing;

(2) the facility's designated regional office;

(3) the State Ombudsman; and

(4) the residents of the facility and the residents' legally authorized representatives.

(b) The facility must assist a resident to find placement at another facility upon request to the extent practicable.

§553.47. License Fees.

(a) Basic fees.

(1) Type A and Type B. The license fee is $300, plus $15 for each bed for which a license is sought, with a maximum of $2,250 for a three-year license. The fee must be paid with an initial application, change of ownership application, or renewal application.

(2) Increase in capacity. An approved increase in capacity is subject to an additional fee of $15 for each bed. HHSC does not assess the fee for temporary capacity increases in response to an emergency.

(b) Late renewal fee. An applicant that submits an application for license renewal later than the 45th day before the expiration date of the license must pay a late fee of an amount equal to one-half of the basic fee required in accordance with subsection (a) [~~(a)(1) and (2)~~] of this section.

(c) Alzheimer's certification. In addition to the basic license fee described in subsection (a) of this section, a facility that applies for certification as an Alzheimer's facility under Subchapter E of this chapter (relating to Standards for Licensure) must pay an additional license fee. For a three-year license issued in accordance with subsection (a)(1) of this section or §553.33(a)(1) of this subchapter (relating to Renewal Procedures and Qualifications), the additional fee is $300.

(d) Trust fund fee.

(1) If the amount in the facility trust fund, established under Texas Health and Safety Code[~~,~~] Chapter 242, Subchapter D, and [~~Chapter 247~~] §247.003(b), is less than $500,000, HHSC collects an annual fee from each facility. The fee is based on a monetary amount specified for each licensed unit of capacity or bed space and is in an

amount sufficient to provide not more than $500,000 in the trust fund. When the trust fund fee is collected, HHSC sends written notice to each facility stating the amount of the fee and the date the fee is due. A facility must pay the amount of the fee within 90 days after the date the fee is due.

(2) HHSC may charge and collect a trust fund fee more than once a year if necessary to ensure that the amount in the facility trust fund is sufficient to make the disbursements required under Texas Health and Safety Code §242.0965. When this subsequent trust fund fee is collected, HHSC sends written notice to each facility stating the amount of the fee and the date the fee is due. A facility must pay the amount of the fee within 90 days after the date the fee is due.

(3) Failure to pay the trust fund fee within 90 days after the date the fee is due as stated on the written notice described in paragraphs (1) and (2) of this subsection may result in an assessment of an administrative penalty under the administrative penalties described in §553.751 [~~Subchapter H, Division 9~~] of this chapter (relating to Administrative Penalties).

(e) Plan review fee. An applicant may submit building plans for a new building, an addition, the conversion of a building not licensed, or for the remodeling of an existing licensed facility for review by HHSC architectural staff. If the applicant chooses to submit building plans for review, the applicant must pay a fee for the plan review according to the following schedule:
Figure: 26 TAC §553.47(e) (No change.)

(f) Payment of fees. A facility or applicant must pay fees in a method allowed by [~~check, cashier's check, money order, or credit card, made payable to~~] HHSC. All fees are nonrefundable, except as provided in Texas Government Code[~~,~~] Chapter 2005, and in §553.21(d) of this chapter (relating to Time Periods for Processing All Types of License Applications).

(g) Optional expedited inspection and associated fee.

(1) An applicant for an assisted living facility license may obtain an expedited inspection described in subparagraph (A) or (B) of this paragraph if the applicant meets the requirements in both clauses of the applicable subparagraph.

(A) A life safety code [~~Life Safety Code~~] (LSC) inspection conducted no later than the 15th calendar day after the date HHSC receives a request for an expedited inspection, if the applicant:

(i) indicates that the facility is ready for a LSC inspection [~~meets the application requirements under this subchapter for the applicable license~~]; and

(ii) submits the applicable expedited LSC inspection fee in accordance with the fee schedule in paragraph (2) of this subsection; or

(B) an onsite [~~on-site~~] health inspection conducted no later than the 21st calendar day after the date HHSC receives a request for an expedited inspection, if the applicant:

(i) indicates that it is ready for a health inspection and meets the application requirements under this subchapter for the applicable license; and

(ii) submits the applicable expedited onsite [~~on-site~~] health inspection fee in accordance with the fee schedule in paragraph (2) of this subsection.

(2) An applicant requesting an expedited inspection must include the applicable fee from the following fee schedule with a request for an expedited inspection submitted in accordance with paragraph (1) of this subsection.

Figure: 26 TAC §553.47(g)(2) (No change.)

(h) If, after HHSC conducts two life safety code [~~LSC~~] inspections for a given application, the applicant requests an additional inspection, then the applicant must pay a fee of $25 per bed, with a minimum payment of $1,000 for the third and each subsequent inspection pertaining to the same application.

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

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Karen Ray
Chief Counsel
Health and Human Services Commission
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For further information, please call: (512) 438-3161

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26 TAC §553.43

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeal implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.43. Disclosure of Facility Identification Number.

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 D. FACILITY CONSTRUCTION
DIVISION 1. GENERAL PROVISIONS

26 TAC §553.100, §553.101

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.100. General Requirements.

(a) A building or structure used as a licensed assisted living facility, whether new or existing, must comply with these standards.

(b) All assisted living facilities must meet the requirements of NFPA 101 [~~comply with National Fire Protection Association Life Safety Code (NFPA 101)~~] and any applicable Tentative Interim Amendment (TIA) issued by NFPA (National Fire Protection Association), unless stated [~~NFPA, except as~~] otherwise [~~stated~~] in these standards.

(c) All assisted living facilities must meet the requirements of [~~comply with~~] other chapters, sections, subsections, and paragraphs of NFPA 101, as those chapters, sections, subsections, and paragraphs [~~they~~] relate to[:] Chapter 18, New Health Care Occupancies; Chapter 19, Existing Health Care Occupancies; Chapter 32, New Residential Board and Care Occupancies; and Chapter 33, Existing Residential Board and Care Occupancies.[~~, including:~~]

[~~(1) Chapter 1, Administration;~~]

[~~(2) Chapter 2, Referenced Publications;~~]

[~~(3) Chapter 3, Definitions;~~]

[~~(4) Chapter 4, General;~~]

[~~(5) Chapter 5, Performance-Based Option;~~]

[~~(6) Chapter 6, Classification of Occupancy and Hazard of Contents;~~]

[~~(7) Chapter 7, Means of Egress;~~]

[~~(8) Chapter 8, Features of Fire Protection;~~]

[~~(9) Chapter 9, Building Service and Fire Protection Equipment;~~]

[~~(10) Chapter 10, Interior Finish, Contents, and Furnishings;~~]

[~~(11) Chapter 11, Special Structures and High-Rise Buildings; and~~]

[~~(12) Chapter 43, Building Rehabilitation.~~]

(d) An assisted living facility that wishes to be reclassified from a small facility to a large facility, from a Type A facility to a Type B facility, or both, must meet the requirements for a new facility of the type and size specified in this subchapter to be reclassified.

(e) This [~~The requirements of this~~] subchapter applies [~~apply~~] to an assisted living facility as follows.[:]

(1) All assisted living facilities must meet the requirements of [~~comply with~~] Division 1 of this subchapter (relating to General Provisions) and Division 2 of this subchapter (relating to Provisions Applicable to All Facilities).

(2) An existing assisted living facility is one that received its first license before August 31, 2021, and has kept its license in effect since then. The rules in this subchapter apply to an existing assisted living facility, as follows. [~~An assisted living facility initially licensed before August 31, 2021, and continually operated under an assisted living license without interruption since then, is considered an existing assisted living facility and must comply with the following, as applicable:~~]

(A) An existing small Type A assisted living facility must meet the requirements of [~~comply with~~] Division 4 of this subchapter (relating to Existing Small Type A Assisted Living Facilities).

(B) An existing small Type B assisted living facility must meet the requirements of [~~comply with~~] Division 5 of this subchapter (relating to Existing Small Type B Assisted Living Facilities).

(C) An existing large Type A assisted living facility must meet the requirements of [~~comply with~~] Division 6 of this subchapter (relating to Existing Large Type A Assisted Living Facilities).

(D) An existing large Type B assisted living facility must meet the requirements of [~~comply with~~] Division 7 of this subchapter (relating to Existing Large Type B Assisted Living Facilities).

(3) A new [~~An~~] assisted living facility is one that applies for a new license [~~initially licensed~~] on or after August 31, 2021. Any [~~2021, or any~~] new building or building addition at a licensed assisted facility that is completed [~~to a currently licensed assisted living facility constructed~~] on or after August 31, 2021, is also considered a new assisted living facility. The rules in this subchapter apply to a new assisted living facility, as follows. [~~and must comply with the following:~~]

(A) A new small Type A assisted living facility must meet the requirements of [~~comply with~~] Division 8 of this subchapter (relating to New Small Type A Assisted Living Facilities).

(B) A new small Type B assisted living facility must meet the requirements of [~~comply with~~] Division 9 of this subchapter (relating to New Small Type B Assisted Living Facilities).

(C) A new large Type A assisted living facility must meet the requirements of [~~comply with~~] Division 10 of this subchapter (relating to New Large Type A Assisted Living Facilities).

(D) A new large Type B assisted living facility must meet the requirements of [~~comply with~~] Division 11 of this subchapter (relating to New Large Type B Assisted Living Facilities).

(f) An assisted living facility must comply with local codes and ordinances as follows.[:]

(1) Where there is [~~An assisted living facility located within the jurisdiction of~~] a local AHJ, an assisted living facility [~~organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure that adopts codes or ordinances governing building construction or fire safety (Authority Having Jurisdiction or AHJ)~~] must comply with the [~~applicable~~] local codes and ordinances. The local AHJ decides how local codes and ordinances are interpreted and enforced. [~~adopted by the AHJ, as interpreted and enforced by the AHJ. The description of the occupancy may vary with local codes.~~]

(2) Where [An assisted living facility located where] there is no local AHJ an assisted living facility must be designed and constructed to meet a nationally recognized [nationally-recognized] building code and its related [referenced] codes.

(3) If a building was already being used [An existing building, either occupied] as an assisted living facility when HHSC inspected it for the first time, or the building changed use to become an assisted living facility before that first inspection by HHSC, [at the time of initial inspection by HHSC or converted to occupancy as an assisted living facility prior to the initial inspection by HHSC,] the building must meet all local requirements for that building use. The local AHJ decides how local codes and ordinances are interpreted and enforced. [pertaining to that building for that occupancy as administered by the local AHJ for the adopted code or ordinance.]

(4) An assisted living facility must keep records showing compliance with all local requirements. [submit documentation from the local AHJ that local requirements are satisfied.]

(g) When local laws, codes, or ordinances are different from the standards for assisted living facilities set forth in this subchapter [Subchapter D], an assisted living facility must comply with both local and HHSC requirements.

(h) An assisted living facility must ensure building rehabilitation on existing buildings is classified according to NFPA 101 and that any rehabilitation complies with NFPA 101 and §553.107 of this subchapter (relating to Building Rehabilitation).

(i) An assisted living facility must ensure buildings, or portions of buildings, are not occupied during construction, repair, alterations, or additions, except when required means of egress, required means of escape, and required fire protection features are in place and continuously maintained for the portion occupied. Alternative life safety measures may be put in place if prior approval is obtained from HHSC.

(j) An assisted living facility must ensure no existing life safety feature is removed or reduced when the feature is a requirement for a new facility. Life safety features, and equipment not required by NFPA 101, that have been installed in existing buildings must continue to be maintained or be completely removed, if prior approval is obtained from HHSC.

(k) An assisted living facility must not lock doors against egress or escape unless it is allowed by NFPA 101 or the facility is a certified Alzheimer's assisted living facility that meets the requirements of §553.250 of this chapter (relating to Construction Requirements for a Certified Alzheimer's Assisted Living Facility). A certified Alzheimer's assisted living facility is an assisted living facility certified according to §553.27 of this chapter (relating to Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders) or §553.29 of this chapter (relating to Alzheimer's Certification of Type B Facility for an Initial License Applicant in Good Standing). [comply with the plan review and inspection requirements of the Texas Accessibility Standards (TAS) adopted by the Texas Department of Licensing and Regulation (TDLR) rules in Texas Administrative Code, Title 16, Chapter 68, and must provide documentation demonstrating it has registered the facility with TDLR and obtained a plan review from a Registered Accessibility Specialist, if TDLR requires the facility to be registered and reviewed.]

[(l) An assisted living facility must not segregate any area housing residents from other parts of the assisted living facility housing residents, except as permitted by §553.51 of this chapter (relating to Certification of a Facility or Unit for Persons with Alzheimer's Disease and Related Disorders).]

§553.101. Definitions.

The following [words and] terms[, when used] in this subchapter[,] have the following meanings, unless the context clearly indicates otherwise. The definitions in §553.3 of this chapter (relating to Definitions) also apply to this subchapter.

(1) Approved--Acceptable to HHSC [the Texas Health and Human Services Commission].

(2) AHJ--Authority having jurisdiction. [(AHJ)--] An organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.

(3) Auxiliary serving kitchen--An area that is not contiguous to a food preparation or serving area and that is for serving food but is not used for cooking or meal preparation.

(4) Bedroom usable floor space--The floor area of a resident bedroom that may be considered toward meeting minimum requirements for a resident bedroom floor area.

(5) Building rehabilitation--Any construction activity involving repair, modernization, reconfiguration, renovation, changes in occupancy or use, or installation of new fixed equipment, including:

(A) the replacement of finishes, such as new flooring or wall finishes or the painting of walls and ceilings;

(B) the construction, removal, or relocation of walls, partitions, floors, ceilings, doors, or windows;

(C) the replacement of doors, windows, or roofing;

(D) changes to the appearance of the exterior of a building, including new finish materials;

(E) the installation, repair, replacement, or extension of fire protection systems, including fire sprinkler systems, fire alarm system, and fire suppression systems, at cooking operations;

(F) the replacement of door hardware, plumbing fixtures, handrails in corridors, or grab rails in bathrooms and restrooms;

(G) the repair, replacement, or extension of required communication systems;

(H) the repair or replacement of emergency electrical system equipment and components, including generator sets, transfer switches, distribution panel boards, receptacles, switches, and light fixtures;

(I) the change of a wing or area to a certified [Certified] Alzheimer's assisted living facility or certified Alzheimer's assisted living unit; [Disease Assisted Living Facility or unit;]

(J) the change of a certified [Certified] Alzheimer's assisted living facility or certified Alzheimer's assisted living unit to ordinary resident use; [Disease Assisted Living Facility or unit to ordinary resident use;]

(K) a change in the use of space, including the change of resident bedrooms to other uses, such as offices, storage, or living or dining spaces; and

(L) changes in locking arrangements, such as the installation of access control systems or the installation or removal of electronic locking devices, including electromagnetic locks, and other delayed-egress locking devices.

(6) Co-mingles--The laundering of apparel or linens of two or more individuals together.

(7) Control door--A door between two certified Alzheimer's assisted living units or a certified Alzheimer's assisted living unit and other resident-use or public areas of an assisted living facility. A control door is intended for separating residents living in a certified Alzheimer's assisted living unit from residents living in another certified Alzheimer's assisted living unit or from residents living in a part of an assisted living facility that is not a certified Alzheimer's assisted living unit for the safety of the Alzheimer's assisted living unit resident.

(8) [~~(7)~~] Conversion--Change of occupancy from an existing residential or health care occupancy to a residential board and care occupancy, including an assisted living facility located in a building that had been used as a residence or a health care facility such as a hospital or a nursing home.

~~[(8) Direct telephone--A telephone that automatically dials and connects to a fixed location when the caller takes the handset off-hook without requiring the caller to input a receiving telephone number. A direct telephone must ring at a location staffed 24-hours a day and may not be answered by an answering machine or voicemail system. A direct telephone may also function as a regular telephone when a receiving telephone number is entered.]~~

~~[(9) Factory Mutual (FM)--An organization that certifies products and services for compliance with loss prevention standards. Also known as FM Approvals.]~~

(9) [~~(10)~~] Finished ground level--The level of the finished ground (earth or other surface on ground).

(10) Flame spread--A measure of how fire spreads along the surface of a material. This is different than the fire resistance rating of a material. Flame spread is described as Class A, Class B, or Class C.

(11) FM--Factory Mutual. An organization that certifies products and services for compliance with loss prevention standards. Also known as FM Approvals.

(12) [~~(11)~~] Fuel-fired heating device--Any equipment, device, or apparatus, or any part thereof, which is installed for the purpose of combustion of fuel, including natural gas, liquid petroleum gas (propane), or solid fuel, to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. Freestanding solid fuel- or pellet-fuel burning appliances such as freestanding wood-burning or pellet-burning stoves do not meet this definition.

(13) [~~(12)~~] Independent cooking equipment--An electric or gas stove or range with one or more burners, with or without an oven.

(14) Listed--Equipment, materials, or services included in a list published by an organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose. The listing organization must be acceptable to the authority having jurisdiction, including HHSC or any other state, federal, or local authority.

(15) [~~(13)~~] Living unit--A portion of a facility arranged as a separate unit providing one or more bedrooms, toilet and bathing facilities, and living or dining spaces, with or without facilities for cooking, exclusively for the use of the residents residing in the bedrooms.

(16) Local code--A set of rules for building safety or fire safety that the local government or fire marshal has officially adopted for the area where the building is located.

(17) [~~(14)~~] Neighborhood or household--A portion of a large facility arranged as a unit providing bedrooms, toilet and bathing facilities, resident living areas, and kitchen facilities serving up to 16 residents.

(18) [~~(15)~~] NFPA--National Fire Protection Association.

(19) [~~(16)~~] NFPA 10--Standard for Portable Fire Extinguishers, 2010 edition.

(20) [~~(17)~~] NFPA 13--Standard for the Installation of Sprinkler Systems, 2010 edition.

(21) [~~(18)~~] NFPA 13D--Standard for the Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes, 2010 edition.

(22) [~~(19)~~] NFPA 13R--Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height, 2010 edition.

(23) [~~(20)~~] NFPA 25--Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2011 edition.

(24) [~~(21)~~] NFPA 54--National Fuel Gas Code, 2012 edition.

(25) [~~(22)~~] NFPA 70--National Electrical Code, 2011 edition.

(26) [~~(23)~~] NFPA 72--National Fire Alarm and Signaling Code, 2010 edition.

(27) [~~(24)~~] NFPA 96--Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition.

(28) NFPA 101--Life Safety Code, 2012 edition.

(29) [~~(25)~~] NFPA 110--Standard for Emergency and Standby Power Systems, 2010 edition.

(30) [~~(26)~~] NFPA 211--Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2010 edition.

(31) [~~(27)~~] NFPA 720--Standard for Installation of Carbon Monoxide (CO) Detection and Warning Equipment, 2012 edition.

(32) [~~(28)~~] Special Waste from Health Care-Related Facilities--Special waste from health care-related facilities as defined in Texas Administrative Code, Title 25, Part 1, Chapter 1, Subchapter K (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).

(33) [~~(29)~~] TCEQ--Texas Commission on Environmental Quality.

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. PROVISIONS APPLICABLE TO ALL FACILITIES

26 TAC §553.103, §553.104

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.103. Site and Location for all Assisted Living Facilities.

(a) Firefighting unit. An assisted living facility must be served by a professional or volunteer firefighting unit and must have a water supply that meets the firefighting unit's requirements and approval.

(b) Correction of hazards. An assisted living facility must correct a site or building condition that HHSC staff identifies to be a fire, health, or physical hazard.

(c) Parking.

[~~(1)~~] An assisted living facility must provide or arrange for nearby parking spaces for the private vehicles of residents and visitors.

[~~(2) An assisted living facility must provide a minimum of one parking space for every four residents in its licensed capacity, and for any fraction thereof, or per local requirements, whichever is more stringent.~~]

(d) Ramps.

(1) An assisted living facility must ensure a ramp, walk, or step is of slip-resistive texture and is uniform, without irregularities.

(2) An assisted living facility must ensure a ramp does not exceed a slope of one foot in 12 feet.

(3) An assisted living facility must ensure any new ramp has a clear width of at least 36 inches. A new ramp is one that was installed or constructed on or after August 31, 2021.

[~~(e) Site conditions. An assisted living facility must provide a guardrail, fence, or handrail where a grade makes an abrupt change in level.~~]

(e) [~~(f)~~] Outside grounds. An assisted living facility must ensure that each outside area, grounds, and any adjacent buildings are maintained in good condition and kept free of rubbish, garbage, and untended growth that may constitute a fire or health hazard.

(f) [~~(g)~~] Drainage. An assisted living facility must ensure site grades provide for water drainage away from structures to prevent ponding or standing water at or near a building, unless the ponding or standing water is part of an approved drainage system intended to hold water for a period of time.

(g) [~~(h)~~] 100-year Floodplain. An assisted living facility in a county with more than 3.3 million residents that applies for a new [~~an initial~~] license or that was first [~~is initially~~] licensed on or after December 6, 2022, must not be located in a 100-year floodplain. [~~, if the facility is located in a county of more than 3.3 million residents.~~]

§553.104. Safety Operations.

(a) Local fire marshal inspection.

(1) An assisted living facility must obtain an inspection at least once every 12 months[~~,~~] by the local fire marshal, or the Texas State Fire Marshal's Office in locations where there is no local fire marshal, and must correct any items cited by the local fire marshal, or the Texas State Fire Marshal's Office, to the satisfaction of those authorities.

(2) An assisted living facility must maintain documentation at the facility reflecting the outcome of the most recent annual inspection.

(b) Emergency evacuation floor plan. An assisted living facility, other than a one-story small Type A or a one-story small Type B assisted living facility, must post an emergency evacuation floor plan in a location visible to residents.

(c) Fire safety plan. An assisted living facility must establish a fire safety plan for the protection of all persons in the facility in the event of fire.

(1) The [~~An~~] assisted living facility must follow [~~ensure~~] the fire safety plan [~~is in effect~~] at all times.

(2) The [~~An~~] assisted living facility must provide [~~make~~] written copies of the fire safety plan [~~are available~~] to all supervisory personnel.

(3) The [~~An~~] assisted living facility fire safety plan must cover [~~ensure the fire safety plan addresses~~]:

(A) evacuation to an area of refuge;

(B) evacuation from the building when necessary; and

(C) special staff actions, including fire protection procedures necessary to ensure the safety of any resident.

(4) If the facility is a large Type B assisted living facility, the following provisions also apply. [~~:~~]

(A) An existing large Type B assisted living facility must ensure the fire safety plan includes the provisions described in 19.7.2, Procedure in Case of Fire, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(B) A new large Type B assisted living facility must ensure the fire safety plan includes the provisions described in 18.7.2, Procedure in Case of Fire, in NFPA 101, Chapter 18, New Health Care Occupancies.

(5) The [~~An~~] assisted living facility must review [~~ensure~~] the fire safety plan [~~is reviewed~~] at least once a year or when there are changes in the needs of residents. The facility must keep a written record showing when the fire safety plan was reviewed or changed. [~~annually and revised, as needed, to address the changing needs of residents.~~]

(6) The [~~An~~] assisted living facility must train [~~instruct and inform~~] all employees on what to do in case of a fire and what the employees' roles are in [~~of their duties and responsibilities under~~] the fire safety plan. The facility must conduct this training at least once every year and whenever the plan is updated. The facility must keep a written record showing when each employee was trained on the employee's

duties and responsibilities under the fire safety plan. [at least annually, and when the fire safety plan is revised.]

(7) The [An] assisted living facility must keep a copy of the fire safety plan where it is easy to access. [readily available at all times within the facility.]

(8) The [An] assisted living facility must ensure the fire safety plan is based on residents' physical and cognitive abilities. [reflects the current evacuation capabilities of the residents.]

(d) Fire drills. An assisted living facility must conduct a fire drill on each work shift at least once during each calendar quarter [one quarterly fire drill on each shift] with at least one drill each month. Each drill must meet the following [these] requirements.[:]

(1) The [An] assisted living facility must ensure staff take part in fire drills according to the assisted living facility's fire safety plan.

(2) The [An] assisted living facility must ensure [inform] residents know the [of] evacuation procedures and where all [locations of] exits are.

(3) The [An] assisted living facility must keep a written record of [document] every fire drill. The facility must use [using] the most current version of the HHSC [required Texas Health and Human Services (HHSC) form titled] "Fire Drill Report" available on the HHSC website or a form that includes at least the same information as the HHSC form.

(4) If the assisted living facility is a [A] large Type B assisted living facility, the facility must activate the fire alarm signal during a fire drill held [conducted] between 6:00 a.m. and 9:00 p.m.

(5) An assisted living facility may announce when a fire drill will happen. [to residents in advance.]

(e) Reporting fires.

(1) An assisted living facility must [immediately] report a fire immediately if the fire causes an [causing] injury to a resident or the death of [to] a resident.

(2) An assisted living facility must report a fire [causing damage to the facility or facility equipment] to HHSC within 72 hours after the fire is extinguished if the fire causes damage to the facility or to facility equipment.

(3) After reporting the fire [making a report] by telephone or email, an assisted living facility must file a written report using the most current version of the required HHSC form titled "Fire Report for Long Term Care Facilities" available on the HHSC website.

(f) Smoking policies. An assisted living facility must establish and enforce policies regarding smoking, even if the policy is that smoking will not be permitted. The policy must also address the use of e-cigarettes and vaping devices. If smoking will be permitted, the smoking policies must:

(1) designate smoking areas for residents and staff; and

(2) provide ashtrays of noncombustible material and safe design in smoking areas.

(g) An assisted living facility must comply with the requirements of 4.6.12, Maintenance, Inspection, and Testing, in NFPA 101, Chapter 4, General.

(h) [(g)] Fire alarm system. [An assisted living facility must establish a program to inspect, test, and maintain the fire alarm system according to the requirements of NFPA 72, and according to the requirements of NFPA 720 where carbon monoxide detection is provided, and must execute the program at least once every six months.]

(1) An assisted living facility must ensure the facility's fire alarm system is inspected, tested, and maintained according to NFPA 72.

(2) Where required carbon monoxide detection is provided, an assisted living facility must ensure carbon monoxide detection is inspected, tested, and maintained according to NFPA 720.

(3) [(1)] An assisted living facility must hire [contract with] a company that holds an Alarm Certificate of Registration from the State Fire Marshal's Office to provide the inspection, testing, and maintenance services. [execute the program.]

(4) [(2)] An assisted living facility must ensure a company performing any [that performs a] service [under the contract] required by [under paragraph (1) of] this subsection completes, signs, and dates an inspection form. The inspection form must state the services the company performed. The form must be substantially similar to [like] the inspection and testing form in NFPA 72. [for a service provided under the contract.]

[(3) If a task required by NFPA 72 or NFPA 720 must occur at intervals other than during the contracted visits in this subsection, an assisted living facility must ensure the task is performed and documented by a knowledgeable individual.]

(5) [(4)] An assisted living facility must ensure:

(A) a fire alarm system component that requires visual inspection is visually inspected according to [in accordance with] NFPA 72;

(B) a fire alarm system component that requires testing is tested according to [in accordance with] NFPA 72; and

(C) a fire alarm system component that requires maintenance is maintained according to [in accordance with] NFPA 72.

(6) [(5)] An assisted living facility that provides carbon monoxide detection must ensure:

(A) a carbon monoxide detection component that requires visual inspection is visually inspected according to [in accordance with] NFPA 720;

(B) a carbon monoxide detection component that requires testing is tested according to [in accordance with] NFPA 720; and

(C) a carbon monoxide detection component that requires maintenance is maintained according to [in accordance with] NFPA 720.[; and]

[(D) a facility with a carbon monoxide detection component installed before August 31, 2021, must perform visual inspection, testing, and maintenance of that component beginning no later than August 31, 2022.]

(7) [(6)] A large assisted living facility containing smoke compartments must ensure each required smoke damper is inspected and tested according to [in accordance with] NFPA 101.

(8) [(7)] An assisted living facility must ensure smoke detector sensitivity is checked within one year after installation and every two years thereafter using any of the [in accordance] with test methods in NFPA 72.

(9) [(8)] An assisted living facility must maintain onsite documentation of compliance with this subsection and must maintain record copies of documents regarding the installation of a fire alarm

system, including as-built installation drawings, operation and maintenance manuals, the installation certificate for the system, and written sequences for its operation.

(10) [(9)] An assisted living facility must make documentation described in paragraph (9) [(8)] of this subsection available to HHSC on request.

(i) [(h)] Fire sprinkler system. An assisted living facility with [that is equipped with] a fire sprinkler system, including a fire sprinkler system meeting NFPA 13D, must ensure the facility's fire sprinkler system is inspected, tested, and maintained [establish a program to inspect, test, and maintain the fire sprinkler system] according to [the requirements of] NFPA 25. [, and must execute the program at least once every six months.]

(1) The [An] assisted living facility must hire [contract with] a company that holds an appropriate Sprinkler Certificate of Registration from the State Fire Marshal's Office to provide the inspection, testing, and maintenance services. [execute the program.]

(2) The [An] assisted living facility must ensure a company performing any [that performs a] service [under the contract] required by [under paragraph (1) of] this subsection completes, signs, and dates an inspection form. The inspection form must clearly state the services the company performed. The form must be substantially similar to [like] the inspection and testing form in NFPA 25. [for a service provided under the contract.]

[(3) If a task required by NFPA 25 must occur at intervals other than during the contracted visits in this subsection, an assisted living facility must ensure the task is performed and documented by knowledgeable individuals.]

(3) [(4)] The [An] assisted living facility must ensure:

(A) [that] a sprinkler system component that requires visual inspection is visually inspected according to [in accordance with] NFPA 25;[.]

(B) [(5) An assisted living facility must ensure that] a sprinkler system component that requires testing is tested according to [in accordance with] NFPA 25;[.]

(C) [(6) An assisted living facility must ensure that] a sprinkler system component that requires maintenance is maintained according to [in accordance with] NFPA 25; and[.]

(D) [(7) An assisted living facility must ensure that] an individual sprinkler head is inspected and maintained according to [in accordance with] NFPA 25.

(4) [(8)] The [An] assisted living facility must maintain onsite documentation of compliance with this subsection and must maintain record copies of documents regarding the installation of a fire sprinkler system, including as-built installation drawings, hydraulic calculations, proof of adequate fire sprinkler water supply, and installation certificates for the system.

(5) [(9)] The [An] assisted living facility must make documentation described in paragraph (4) [(8)] of this subsection available to HHSC on request.

(j) [(i)] Portable fire extinguishers.

(1) An assisted living facility must ensure staff are taught how to correctly [appropriately trained in the] use every [of each] type of portable fire extinguisher used in the facility.

(2) An assisted living facility must inspect and maintain portable fire extinguishers and:

(A) ensure that its staff perform regular monthly inspections [or "quick checks"] to ensure extinguishers are located in the designated place, extinguisher locations are not obstructed to access or visibility, and the pressure gauge reading or indicator on the extinguisher is in the operable range or position;

(B) ensure annual maintenance and inspection [or "thorough checks"] are performed according to NFPA 10 by an individual employed by a company holding an appropriate Extinguisher Certificate of Registration from the State Fire Marshal's Office to perform inspection, testing, and maintenance of portable fire extinguishers;

(C) maintain onsite, a record of all fire extinguisher inspections and maintenance performed; and

(D) replace unserviceable fire extinguishers.

(k) [(j)] General facility condition and safety features.

(1) An assisted living facility must ensure staff utilize procedures to avoid cross-contamination between clean and soiled processes, including the handling of linens and cooking utensils.

(2) An assisted living facility must keep all buildings in good repair.

(A) An assisted living facility must ensure that the [maintain] electrical, heating, and cooling systems in the facility are working safely. [so these systems operate in a safe manner. As evidence that these systems operate in a safe manner,] HHSC may require the facility to provide [submit] a report on the safety of these systems. This report must be written [prepared] by one of the following:

(i) the fire marshal;

(ii) the city or county building official having jurisdiction over the location of the facility;

(iii) a licensed electrician; or

(iv) a registered professional engineer.

(B) The [An] assisted living facility must ensure electrical appliances, devices, and lamps do not overload the electrical circuits. [or use extension cords of excessive length.]

(3) An assisted living facility must keep all buildings free of accumulations of dirt, rubbish, dust, and hazards.

(4) An assisted living facility must maintain floors in good condition and clean floors regularly.

(5) An assisted living facility must [structurally] maintain walls and ceilings and must repair, repaint, or clean walls and ceilings whenever needed.

(6) An assisted living facility must keep storage areas and cellars organized and free from obstructions.

(7) An assisted living facility must not store any items or allow the accumulation of waste in attic spaces.

(8) An assisted living facility must ensure all equipment requiring periodic maintenance, testing, and servicing is accessible.

(A) The [An] assisted living facility must ensure equipment that is necessary to conduct maintenance, testing, and services, including ladders, specific tools, and keys, is readily available to staff or maintenance personnel on site.

(B) The [An] assisted living facility must provide access panels, at least 20 inches wide by 20 inches long, for building maintenance and must ensure access panels are located for reasonable

access to equipment and fire or smoke barrier walls installed in the attic or other concealed spaces.

(l) [~~(k)~~] Waste and storage containers.

(1) An assisted living facility must provide metal waste baskets of substantial gauge or any UL- or FM-approved container in each area where smoking is permitted, if applicable, in accordance with the facility's smoking policies required in subsection (f) of this section.

(2) An assisted living facility must provide one or more garbage, waste, or trash containers with close-fitting covers, made of metal or of any UL- or FM-approved material, for use in:

(A) kitchens;[~~,~~]

(B) janitor closets;[~~,~~]

(C) laundry rooms;[~~,~~]

(D) mechanical rooms; [~~or~~]

(E) boiler rooms; and[~~,~~]

(F) rooms used for [~~general~~] storage. [~~rooms, and similar places.~~]

(3) A facility may use disposable plastic liners in [~~the~~] containers for sanitation.

(4) [~~(3)~~] An assisted living facility must ensure all trash, garbage, and waste, including waste classified as Special Waste from Health Care-Related Facilities, is removed [~~trash, and garbage are disposed of~~] from the building regularly, [~~premises at regular intervals~~] according to state and local requirements. [~~The facility may not permit or allow an accumulation of waste on the facility premises, either inside or outside of facility buildings.~~]

(m) [~~(l)~~] Pest control.

(1) An assisted living facility must have an ongoing and effective pest control program executed by [~~facility~~] staff or by contract with a licensed pest control company.

(2) An assisted living facility must ensure [~~the~~] chemicals used to control pests are labeled correctly and stored securely. [~~the least toxic and least flammable chemicals that are effective.~~]

(3) An assisted living facility must ensure each operable window has [~~is provided with~~] an insect screen.

(n) [~~(m)~~] Flammable or combustible liquids. An assisted living facility must not store flammable or combustible liquids, such as gasoline, oil-based paint, charcoal lighter fluid, or similar liquids, [~~products~~] in any [~~a~~] building where [~~that houses~~] residents live.

(o) [~~(n)~~] Storage of oxygen. An assisted living facility must ensure sanitary use and storage of oxygen for the safety of all residents.

(1) An assisted living facility must ensure oxygen cylinders in the possession and under the control of the facility are:

(A) identified by attached labels or stencils naming the contents;

(B) not stored with flammable or combustible materials;

(C) protected from abnormal mechanical shock that[~~, which~~] is liable to damage the cylinder, valve, or safety device;

(D) protected from tamper by unauthorized individuals;

(E) if not supported in a proper cart or stand, properly chained or supported;

(F) stored so the cylinders can be used in the order received from the supplier;

(G) if empty and full cylinders are stored in the same enclosure or room, stored so that empty cylinders are separated from full cylinders; and

(H) if empty, marked to avoid confusion and delay if a full cylinder is needed in a rapid manner.

(2) An assisted living facility must adopt, implement, and enforce procedures for resident use, storage, and handling of oxygen cylinders and liquid oxygen containers in the possession and under the control of residents, to ensure the safety of all residents.

(p) [~~(o)~~] Gas pressure test.

(1) An assisted living facility must obtain an initial pressure test of facility gas lines from the gas meter or propane storage tank to all gas-fired appliances and equipment.

(2) An assisted living facility must obtain an additional gas pressure test when the facility performs major renovations or additions to the gas piping or gas-fired equipment that interrupt gas service or replace gas-fired equipment.

(q) [~~(p)~~] Annual gas heating check.

(1) An assisted living facility must ensure all gas heating systems are checked at least once per year[~~,~~] before [~~prior to~~] the heating season for proper operation and safety by persons who are licensed or approved by the State of Texas to inspect the equipment.

(2) An assisted living facility must maintain records [~~of the testing~~] of the annual gas heating check [~~system~~].

(3) An assisted living facility must correct [~~unsatisfactory~~] conditions that prevent gas heating equipment from operating safely and must ensure gas heating equipment will operate as intended.

(r) [~~(q)~~] Emergency generator. A large assisted living facility that uses an emergency generator to provide power to emergency lighting systems must ensure the generator is tested and maintained according to Chapter 8, Routine Maintenance and Operational Testing, in NFPA 110. Routine maintenance and operational testing required by NFPA 110 includes the following procedures:

(1) a readily available record of inspections, test, exercising, operation, and repairs;

(2) monthly testing of cranking batteries;

(3) weekly inspection of the generator set and other components that make up the emergency power system;

(4) monthly exercise of the generator under load;

(5) monthly test of transfer switches; and

(6) a continuous operational test for at least 1-1/2 hours every three years.

(s) Reduced-size floor plan. An assisted living facility must make a floor plan of each floor and each building of a facility available to HHSC on request. The floor plan should include the facility's room designations and all walls, doors, and windows.

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. BUILDING REHABILITATION

26 TAC §553.107

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendment implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.107. Building Rehabilitation.

~~[(a) Prior to the start of building rehabilitation, other than that classified as repair in subsection (b) of this section, a facility must notify the Texas Health and Human Services commission (HHSC) in Austin, Texas, in writing.]~~

(a) ~~[(b)]~~ Upon completion of building rehabilitation, other than that classified as repair or renovation in this section and NFPA 101, Chapter 43, Building Rehabilitation, a final construction inspection of the facility must be performed by HHSC before [~~prior to~~] occupancy of the rehabilitated area. The facility is responsible for being aware of requirements for approval of the completed construction by [~~must have the written approval of~~] the local AHJ. [~~authority having jurisdiction, including the fire marshal and building official.~~] When construction or building rehabilitation does not alter the licensed capacity of a facility, based on submitted documentation and the scope of the performed building rehabilitation, HHSC may:

(1) permit a facility to use the rehabilitated portion of a facility before completing [~~pending~~] a final construction inspection; or

(2) [~~may~~] determine a final construction inspection is not required.

(b) An assisted living facility undergoing rehabilitation must meet the requirements of NFPA 101, Chapter 43, Building Rehabilitation, unless this subchapter states otherwise. In addition to the requirements of this subchapter and NFPA 101, Chapter 43, a large Type B assisted living facility must meet the following requirements.

(1) An existing large Type B assisted living facility must meet the requirements of 19.1.1.4.3, Rehabilitation, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(2) A new large Type B assisted living facility must meet the requirements of 18.1.1.4.3, Rehabilitation, in NFPA 101, Chapter 18, New Health Care Occupancies.

(3) A large Type B assisted living facility containing a smoke compartment that is not protected by a fire sprinkler system must meet the requirements of 18.4.3, Nonsprinklered Existing Smoke Compartment Rehabilitation, in NFPA 101, Chapter 18, New Health Care Occupancies.

(c) An assisted living facility undergoing any building rehabilitation must meet the requirements of this section.

(1) Repair. An assisted living facility must ensure the patching, restoration, or painting of materials, elements, equipment, or fixtures for maintaining such materials, elements, equipment, or fixtures in good or sound condition is classified as repair and must ensure the repair:

(A) meets the [~~applicable~~] requirements of §553.100(e) of this subchapter (relating to General Requirements), as applicable;

(B) uses like materials, unless such materials are prohibited by NFPA 101, as modified by this subchapter; and

(C) does not make a building less conforming with NFPA 101, as modified by this subchapter, with the applicable sections of this subchapter, or with any alternative arrangements previously approved by HHSC, than it was before the repair was undertaken.

(2) Renovation. An assisted living facility must ensure the replacement in kind, strengthening, or upgrading of building elements, materials, equipment, or fixtures that does not result in a reconfiguration of the building spaces within is classified as renovation and must ensure:

(A) any new work that is part of a renovation meets the [~~applicable~~] requirements of §553.100(e) of this subchapter, as applicable;

(B) any new interior or exterior finishes meet the [~~applicable~~] requirements of §553.100(e)(3) of this subchapter, as applicable; and

(C) does not make a building less conforming with NFPA 101, as modified by this subchapter, with the applicable sections of this subchapter, or with any alternative arrangements previously approved by HHSC, than it was before the renovation was undertaken.

(3) Modification. An assisted living facility must ensure the reconfiguration of any space; addition, relocation, or elimination of any door or window; addition or elimination of load-bearing elements; reconfiguration or extension of any system; installation of any additional equipment; or changes in locking arrangements as defined in §553.101(5)(L) [~~§553.101(6)(L)~~] of this subchapter (relating to Definitions), is classified as modification and must ensure:

(A) a newly constructed element, component, or system meets the [~~applicable~~] requirements of §553.100(e)(3) of this subchapter, as applicable;

(B) all other work in a modification meets, at a minimum, the requirements for a renovation according to paragraph (2) of this subsection; and

(C) where the total rehabilitation work area classified as modification exceeds 50 percent of the total building area, the work is classified as reconstruction subject to paragraph (4) of this subsection.

(4) Reconstruction. An assisted living facility must ensure the reconfiguration of a space that affects an exit or a corridor shared by more than one occupant space, or the reconfiguration of a space

such that the rehabilitation work area is not permitted to be occupied because existing means of egress or fire protection systems are not in place or continuously maintained, is classified as reconstruction and must ensure:

(A) reconstruction of components of the means of egress meets the [~~applicable~~] requirements of §553.100(e) of this subchapter, as applicable, except for the following components, which must meet the specific requirements of §553.100(e)(3) of this subchapter:

(i) illumination of means of egress;

(ii) emergency lighting of means of egress; and

(iii) marking of means of egress, including exit signs;

(B) if the total rehabilitation work area classified as reconstruction on any one floor exceeds 50 percent of the total area of the floor, all means of egress components identified in subparagraph (A) of this paragraph [~~(4)(A)(i) - (iii) of this subsection~~] and located on that floor meet the specific requirements of §553.100(e)(3) of this subchapter;

(C) if the total rehabilitation work area classified as reconstruction exceeds 50 percent of the total building area, all means of egress components identified in subparagraph (A) of this paragraph [~~(4)(A)(i) - (iii) of this subsection~~] and located in the building meet the specific requirements of §553.100(e)(3) of this subchapter; and

(D) all other work classified as reconstruction meets, at a minimum, the requirements for modification according to paragraph (3) of this subsection and renovation according to paragraph (2) of this subsection.

(5) Change of use or level of activity. An assisted living facility must ensure a change in the purpose or level of activity within a facility that involves a change in application of the requirements of this subchapter is classified as a change of use. [~~, including~~]

(A) A [~~a~~] change of a wing or area to a certified Alzheimer's assisted living facility [~~Certified Alzheimer's Disease Assisted Living Facility~~] or certified Alzheimer's assisted living unit is a change of use.[~~, or~~]

(B) A [a] change of a certified Alzheimer's assisted living facility or certified Alzheimer's assisted living unit to ordinary resident use is a change of use. [~~Certified Alzheimer's Disease Assisted Living Facility or unit to ordinary resident use, is classified as a change of use and meets the specific requirements of §553.100(e)(3) of this subchapter.~~]

(C) If the change of use does not create a hazardous area, the assisted living facility must ensure the rehabilitation work area meets the requirements of §553.100(e) of this subchapter, as applicable.

(D) If the change of use creates a hazardous area, the assisted living facility must ensure the rehabilitation work area meets the requirements of §553.100(e)(3) of this subchapter, as applicable.

(6) Change of occupancy. An assisted living facility must ensure a change in the use of a structure or portion of a structure is classified as a change of occupancy and meets the specific requirements of §553.100(e)(3) of this subchapter.

(7) Addition. An assisted living facility must ensure an increase in the building area, aggregate floor area, building height, or number of stories of a structure is classified as an addition and meets the specific requirements of §553.100(e)(3) of this subchapter.

(A) An addition to an existing large Type B assisted living facility must be separated from any existing structure if required by 19.1.1.4.1, Additions, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(B) An addition to a new large Type B assisted living facility must be separated from any existing structure if required by 18.1.1.4.1, Additions, in NFPA 101, Chapter 18, New Health Care Occupancies.

(d) An assisted living facility, or portion of an assisted living facility, undergoing construction, repair, or improvement operations must meet the requirements of 4.6.10, Construction, Repair, and Improvement Operations, in NFPA 101, Chapter 4, General. [~~An assisted living facility undergoing rehabilitation must comply with the requirements of NFPA 101, as modified by this subchapter in accordance with the requirements of NFPA 101, Chapter 43, Building Rehabilitation.~~]

(1) [~~(c)~~] An assisted living facility undergoing rehabilitation to an occupied building that involves means of escape, means of egress, or exits must ensure [~~exit ways, or exit doors must be accomplished without compromising~~] the means of escape, means of egress, or exits are not compromised, and that [~~or creating~~] a dead-end situation is not created at any time.

(2) HHSC may approve temporary exits, or the facility must relocate residents until construction blocking exits is completed. [~~the exit is completed.~~]

(3) The facility must maintain other basic safety features, including fire alarm systems and fire sprinkler systems, in compliance with the [~~their~~] relevant standards and must maintain required emergency power at all times during construction.

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

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DIVISION 4. EXISTING SMALL TYPE A ASSISTED LIVING FACILITIES

26 TAC §§553.111 - 553.113, 553.115, 553.118, 553.119

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and

to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.111. Construction Requirements for an Existing Small Type A Assisted Living Facility.

(a) Structurally sound. An existing small Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads in accordance with applicable building codes.

(b) Separation of occupancies. An existing small Type A assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards, unless otherwise permitted by paragraph (2) of this subsection.

(1) An existing small Type A assisted living facility must be separated from other assisted living facilities, hospitals, or nursing facilities. Beginning August 31, 2021, an existing small Type A assisted living facility must be separated from any new occupancy or new use subject to HHSC licensing. [~~the Texas Health and Human Services commission (HHSC) licensing.~~]

(2) An existing small Type A assisted living facility is not required to be separated from another occupancy not subject to HHSC licensing standards if the two occupancies are so intermingled that construction of a fire barrier having a 2-hour fire resistance rating is impractical and the following conditions are met.

(A) The means of escape, construction, protection, and other safeguards for the entire building must comply with the NFPA 101 requirements for an existing small Type A assisted living facility.

(B) HHSC must be provided [~~given~~] unrestricted and unannounced access at any reasonable time to inspect the other occupancy type for compliance with the NFPA 101 requirements for an existing small Type A assisted living facility.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, an existing small Type A assisted living facility must ensure all buildings used by residents are sheathed with materials providing a fire resistance rating and ensure:

(A) interior wall and ceiling surfaces have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes; and

(B) columns, beams, girders, or trusses that are not enclosed within walls or ceilings are encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for the minimum sheathing requirements under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 19.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 19, Existing Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. An existing small Type A assisted living facility must ensure interior wall, [~~and~~] ceiling, and floor finish materials meet the requirements of 33.2.3.3, Interior Finish, [~~33.2.3.3.2, Interior Wall and Ceiling Finish,~~] in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(e) Vertical openings. An existing small Type A assisted living facility must ensure vertical openings are protected according to the requirements of 33.2.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

§553.112. Space Planning and Utilization Requirements for an Existing Small Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing small Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing small Type A assisted living facility must ensure bedroom-usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC.

(3) An existing small Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~An existing small Type A assisted living facility containing individual living units that include living space for the residents in addition to their bedrooms may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing small Type A assisted living facility may not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.~~]

(4) An existing small Type A assisted living facility may house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing small Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for [~~operable by~~] all residents occupying the bedroom to open and close from the inside without using [~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section.

(4) An existing bedroom window not meeting these requirements may be continued in service with approval from HHSC. [~~subject to approval by HHSC.~~]

(5) An existing small Type A assisted living facility that is not equipped with a fire sprinkler system meeting the requirements of §553.115 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility) must provide at least one window in each bedroom in the facility that, in addition

to meeting the requirements of paragraphs (1) - (4) of this subsection, meets the following requirements.[:]

(A) The bedroom window must meet the requirements of §553.113 of this division (relating to Means of Escape Requirements for an Existing Small Type A Assisted Living Facility) for use as a secondary means of escape from a resident sleeping room.

(B) The bedroom window must not be blocked by bars, shrubs, or any obstacle that could impede evacuation.

(C) The bedroom window must provide an operable section with a clear opening of not less than 5.7 square feet with a minimum width of 20 inches and a minimum height of 24 inches.

(6) An existing small Type A assisted living facility that is protected by an automatic sprinkler system meeting the requirements of §553.115 of this division must provide an operable window in a bedroom. The window opening size may be smaller than the minimum size stated [~~listed~~] in paragraph (5) of this subsection but must be operable according to the requirements of paragraph (2) of this subsection.

(c) Bedroom furnishings. When a resident does not provide [~~their own~~] furnishings, an existing small Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing small Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing small Type A assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing small Type A assisted living facility must provide a staff area on each floor of an existing small Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) An existing small Type A assisted living facility that is not more than two-stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) An existing small Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.115 of this division. [~~(relating to Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility).~~]

(f) Resident toilet and bathing facilities. An existing small Type A assisted living facility must ensure each resident bedroom is served by a separate, private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing small Type A assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) An existing small Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing small Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.117 of this division (relating to Mechanical Requirements for an Existing Small Type A Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~An existing small Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) An existing small Type A assisted living facility must provide at least 15 square feet of common living areas for each resident based on the licensed capacity of the facility. [~~a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.~~]

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common living area.

(ii) A common living area that is smaller than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing small Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) Each common living area used to meet the requirements of this subsection must have appropriate furniture. [~~An existing small Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.~~]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~An existing small Type A assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]

(D) A common living area that is not required to meet the requirements of this subsection is not required to have windows with a view of the outside.

(E) Any path used as an escape route through any common living area must always be free of obstructions.

(2) Common dining areas. [An existing small Type A assisted living facility must provide a dining area with appropriate furniture.]

(A) An existing small Type A assisted living facility must provide at least 15 square feet of dining area for each resident based on the licensed capacity of the facility. [a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.]

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions in this section that allow a reduction in the total minimum common dining area.

(ii) A dining area that is smaller than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing small Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [An existing small Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [An existing small Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [An existing small Type A assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) Any path used as an escape route through a dining area must always be free of obstructions.

(3) Combining common living areas and dining areas. [An existing small Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.]

(A) An existing small Type A assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [An existing small Type A assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once per living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) An existing small Type A assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing small Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.]

[(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.]

[(B) An existing small Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.]

(h) Storage areas. An existing small Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

[(1) An existing small Type A assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]

[(2) An existing small Type A assisted living facility that prepares food on-site must provide a kitchen or dietary area meeting

~~the general food service needs of the residents and must ensure that the kitchen:~~]

[~~(A) is equipped to store, refrigerate, prepare, and serve food;~~]

[~~(B) is equipped to clean and sterilize;~~]

[~~(C) provides for refuse storage and removal; and~~]

[~~(D) meets the requirements of the local fire, building, and health codes.~~]

[~~(3)~~] An existing small Type A assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations as required in §553.116 of this division (relating to Hazardous Area Requirements for an Existing Small Type A Assisted Living Facility).

§553.113. Means of Escape Requirements for an Existing Small Type A Assisted Living Facility.

(a) The provisions of NFPA 101, Chapter 7, Means of Egress, do not apply to an existing small Type A assisted living facility unless explicitly referenced by this section or by NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(b) An existing small Type A assisted living facility must meet the requirements of 33.2.2, Means of Escape, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, except as described in this section.

(c) An existing small Type A assisted living facility must ensure doors meet the requirements of 33.2.2.5, Doors, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, and the additional requirements of this section.

(1) If [~~A resident room door in~~] an existing small Type A assisted living facility does not have [~~not protected throughout by~~] an approved automatic fire sprinkler system complying with the requirements of §553.115 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility), the door to a resident room must meet the requirements of this paragraph, as applicable. [~~must meet one of the following options.~~] A resident room door is not otherwise required to meet the requirements for doors in 33.2.3.6, Construction of Corridor Walls, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies. The door must:

(A) [~~The door must~~] be a solid core wood door at least 1-3/4 inches thick or have a 20-minute opening protection rating and must latch in its frame to resist the passage of smoke; or

(B) [~~The door must~~] be self-closing or automatic-closing and must latch in its frame to resist the passage of smoke.

(2) A resident room door in an existing small Type A assisted living facility protected throughout by an approved automatic fire sprinkler system complying with the requirements of §553.115 of this division must latch in its frame to resist the passage of smoke.

(3) In an existing small Type A assisted living facility comprised of buildings that contain living units with independent cooking equipment within the living unit, a door between the living unit and a corridor or hallway must:

(A) be self-closing or automatic-closing; and

(B) latch in its frame to resist the passage of smoke.

(4) A resident room door or living unit door must not be arranged to prevent the occupant from closing the door.

(d) An existing small Type A assisted living facility providing a bedroom window used as a secondary means of escape must ensure the window meets the requirements for a bedroom window used as a secondary means of escape in §553.112 of this division (relating to Space Planning and Utilization Requirements for an Existing Small Type A Assisted Living Facility).

(e) An existing small Type A assisted living facility providing spaces for use by residents on floors other than the ground floor must provide at least two separate approved stairs.

(1) An existing stair may be continued in service with approval from HHSC. [~~, subject to approval by HHSC.~~]

(2) A stair used as means of escape must meet the requirements of 33.2.2.6, Stairs, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(3) Each stair must be arranged and located so that it is not necessary to go through another room, including a bedroom or bathroom, to reach the stair.

(4) Each stair must be provided with handrails.

(5) Each stair must be provided with normal lighting according to the requirements of §553.118 of this division (relating to Electrical Requirements for an Existing Small Type A Assisted Living Facility).

(6) A stair in an existing building that became an assisted living through conversion must meet the dimensional criteria for existing stairs in 7.2.2.2, Dimensional Criteria, in NFPA 101, Chapter 7, Means of Egress.

(7) An existing stair, previously approved by HHSC, may be rebuilt to the same dimensions but must meet all other requirements for stairs in NFPA 101.

§553.115. Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing small Type A assisted living facility must provide a manual fire alarm system meeting the requirements of [~~section~~] 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. An existing small Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing small Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) An existing small Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) An existing small Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 19, Existing Health Care Occupancies, may install a smoke detection system meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, in lieu of the requirements in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) An existing small Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing small Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

[~~(A)~~] An existing small Type A assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [~~powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.~~]

[~~(B) An existing small Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.~~]

(b) Fire sprinkler system. In accordance with the requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, an existing small Type A assisted living facility may provide:

[~~(1) An existing small Type A assisted living facility may provide one of the following fire sprinkler systems according to the requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.~~]

(1) [~~(A)~~] a [~~A~~] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 33.2.3.5.3.3, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies;

(2) [~~(B)~~] a [~~A~~] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 33.2.3.5.3.4, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies; or

(3) [~~(C)~~] a [~~A~~] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 33.2.3.5.3.2, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

[~~(2) An existing small Type A assisted living facility must provide supervision of any fire sprinkler system where required by 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.~~]

(c) Protection of attics. An existing small Type A assisted living facility that has [~~equipped with~~] a fire sprinkler system must ensure an attic is protected according to the requirements of 33.2.3.5.7, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, not later than August 31, 2026 [~~August 31, 2024~~].

(d) Portable fire extinguishers. An existing small Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing small Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing small Type A assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing small Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:5-B:C according to NFPA 10.

(4) An existing small Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing small Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing small Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

§553.118. Electrical Requirements for an Existing Small Type A Assisted Living Facility.

(a) Electrical system. An existing small Type A assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. An existing small Type A assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[:]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room;~~]

(2) In [~~20 footcandles in~~] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room; and~~]

(3) For [~~50 footcandles for~~] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[~~. Illumination requirements apply when the area is in use for a task it supports, as~~] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. An existing small Type A assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be

posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. An existing small Type A assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[~~(A) be a direct telephone, emergency call system, or intercom;~~]

[~~(B) if it is an existing communication system, be approved by HHSC to be continued in service; and~~]

[~~(C) include at least:~~]

(A) [~~(i)~~] one central notification station accessible to staff at all times [~~at a fixed location~~] that receives all calls processed through the system; and

(B) [~~(ii)~~] one call station or device accessible to residents at all times in each resident's living unit. [~~permanently fixed call station or device in every resident living unit.~~]

(2) An existing small Type A assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) An existing small Type A assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [~~However, a device may not be a substitute for a fixed call station in a resident living unit.~~]

§553.119. Miscellaneous Requirements for an Existing Small Type A Assisted Living Facility.

(a) An existing small Type A assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) An existing small Type A assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 33.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

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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Health and Human Services Commission
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For further information, please call: (512) 438-3161

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DIVISION 5. EXISTING SMALL TYPE B ASSISTED LIVING FACILITIES

26 TAC §§553.121, 553.122, 553.125, 553.128, 553.129

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.121. Construction Requirements for an Existing Small Type B Assisted Living Facility.

(a) Structurally sound. An existing small Type B assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads in accordance with applicable building codes.

(b) Separation of occupancies. An existing small Type B assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards, unless otherwise permitted by paragraph (2) of this subsection.

(1) An existing small Type B assisted living facility must be separated from other assisted living facilities, hospitals, or nursing facilities. Beginning August 31, 2021, an existing small Type A assisted living facility must be separated from any new occupancy or new use subject to HHSC licensing.

(2) An existing small Type B assisted living facility is not required to be separated from another occupancy not subject to HHSC [~~Texas Health and Human Services Commission (HHSC)~~] licensing standards if the two occupancies are so intermingled that construction of a fire barrier having a 2-hour fire resistance rating is impractical and the following conditions are met.

(A) The means of escape, construction, protection, and other safeguards for the entire building must comply with the NFPA 101 requirements for an existing small Type B assisted living facility.

(B) HHSC must be provided [~~given~~] unrestricted and unannounced access at any reasonable time to inspect the other occupancy type for compliance with the NFPA 101 requirements for an existing small Type B assisted living facility.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, an existing small Type B assisted living facility must ensure all buildings used by residents are sheathed with materials providing a fire resistance rating.

(A) Interior wall and ceiling surfaces must have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes.

(B) Columns, beams, girders, or trusses that are not enclosed within walls or ceilings must be encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for the minimum sheathing requirements under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 19.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 19, Existing Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. An existing small Type B assisted living facility must ensure interior wall, [~~and~~] ceiling, and floor finish materials meet the requirements of 33.2.3.3, Interior Finish, [~~33.2.3.3.2, Interior Wall and Ceiling Finish,~~] in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(e) Vertical openings. An existing small Type B assisted living facility must ensure vertical openings are protected according to the requirements of 33.2.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

§553.122. Space Planning and Utilization Requirements for an Existing Small Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing small Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing small Type B assisted living facility must ensure bedroom-usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC [~~the Texas Health and Human Services Commission (HHSC)~~].

(3) An existing small Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~An existing small Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing small Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.~~]

(4) An existing small Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing small Type B assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for all residents [~~operable by all residents~~] occupying the bedroom to open and close from the inside without using any [~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section.

(4) An existing bedroom window not meeting these requirements may be continued in service with approval from HHSC. [~~subject to approval by HHSC.~~]

(c) Bedroom furnishings. When a resident does not provide [~~their own~~] furnishings, an existing small Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must include closable door, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing small Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing small Type B assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing small Type B assisted living facility must provide a staff area on each floor of an existing small Type B assisted living facility and in each separate building containing resident sleeping rooms. An existing small Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.125 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing small Type B assisted living facility must ensure each resident bedroom is served by a separate, private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing small Type B assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) An existing small Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing small Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.127 of this division (relating to Mechanical Requirements for an Existing Small Type B Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~An existing small Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) An existing small Type B assisted living facility must provide at least 15 square feet for common living areas for each resident in the licensed capacity of the facility. [~~a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.~~]

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions in this section that allow a reduction in the total minimum common living area.

(ii) A common living area that is smaller than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing small Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) Each common living area used to meet the requirements of this subsection must have appropriate furniture. [~~An existing small Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.~~]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~An existing small Type B assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]

(D) A common living area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(E) Any path used as an escape route through any common living area must always be free of obstructions.

(2) Common dining areas. [~~An existing small Type B assisted living facility must provide a dining area with appropriate furniture.~~]

(A) An existing small Type B assisted living facility must provide at least 15 square feet of dining area for each resident in the licensed capacity of the facility. [~~a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.~~]

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions in this section that allow a reduction in the total minimum common dining area.

(ii) A dining area that is smaller than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing small Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [~~An existing small Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.~~]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [~~An existing small Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.~~]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~An existing small Type B assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) Any path used as an escape route through a dining area must always be free of obstructions.

(3) Combining common living areas and dining areas. [~~An existing small Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.~~]

(A) An existing small Type B assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [~~An existing small Type B assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.~~]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot

be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) An existing small Type B assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing small Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.]

[(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.]

[(B) An existing small Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.]

(h) Storage areas. An existing small Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

[(1) An existing small Type B assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]

[(2) An existing small Type B assisted living facility that prepares food on-site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:]

[(A) is equipped to store, refrigerate, prepare, and serve food;]

[(B) is equipped to clean and sterilize;]

[(C) provides for refuse storage and removal; and]

[(D) meets the requirements of the local fire, building, and health codes.]

[(3)] An existing small Type B assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations as required in §553.126 of this division (relating to Hazardous Area Requirements for an Existing Small Type B Assisted Living Facility).

§553.125. Fire Protection Systems Requirements for an Existing Small Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing small Type B assisted living facility must provide a manual fire alarm system meeting the requirements of [section] 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. An existing small Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing small Type B assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) An existing small Type B assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) An existing small Type B assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 19, Existing Health Care Occupancies, may install a smoke detection system meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, in lieu of the requirements in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) An existing small Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing small Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

[(A)] An existing small Type B assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.]

[(B) An existing small Type B assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.]

(b) Fire sprinkler system.

(1) In accordance with requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, an existing small Type B assisted living facility must provide: [An existing small Type B assisted living facility must provide one of the following fire sprinkler systems according to the requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.]

(A) a [A] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 33.2.3.5.3, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies; [33.2.3.5.3.3;]

(B) a [A] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 33.2.3.5.3.5, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies; or [33.2.3.5.3.4; or]

(C) a [A] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 33.2.3.5.3.2, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(2) An existing small Type B assisted living facility must ensure a fire sprinkler system is supervised according to 9.7.2, Supervision, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(c) Protection of attics. An existing small Type B assisted living facility that has [equipped with] a fire sprinkler system must ensure an attic is protected according to the requirements of 33.2.3.5.7, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, not later than August 31, 2026 [August 31, 2024].

(d) Portable fire extinguishers. An existing small Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing small Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing small Type B assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing small Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10; or

(B) Other portable fire extinguishers must have a rating of at least 2-A:5-B:C according to NFPA 10.

(4) An existing small Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing small Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing small Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

§553.128. Electrical Requirements for an Existing Small Type B Assisted Living Facility.

(a) Electrical system. An existing small Type B assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. An existing small Type B assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[:]

(1) In [10 footcandles in] resident rooms illumination must be at least 10 footcandles during the day when [during the day--illumination requirements for these areas apply to lighting throughout the space, as] measured anywhere in the space at 30 inches above the floor. [anywhere in the room;]

(2) In [20 footcandles in] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [during the day--illumination requirements for these areas apply to lighting throughout the space, as] measured anywhere in the space at 30 inches above the floor. [anywhere in the room; and]

(3) For [50 footcandles for] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[. Illumination requirements apply when the area is in use for a task it supports, as] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. An existing small Type B assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. An existing small Type B assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[(A) be a direct telephone, emergency call system or intercom;]

[(B) if it is an existing communication system, be approved by the Texas Health and Human Services Commission to be continued in service;]

[(C) include at least:]

(A) [(i)] one central notification station accessible to staff at all times [at a fixed location] that receives all calls processed through the system; and

(B) [(ii)] one [permanently fixed] call station or device accessible to residents at all times in each resident's living unit. [in every resident living unit.]

(2) An existing small Type B assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) An existing small Type B assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [~~However, a device may not be a substitute for a fixed call station in a resident living unit.~~]

§553.129. Miscellaneous Requirements for an Existing Small Type B Assisted Living Facility.

(a) An existing small Type B assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) An existing small Type B assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 33.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

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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Health and Human Services Commission
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DIVISION 6. EXISTING LARGE TYPE A ASSISTED LIVING FACILITIES

26 TAC §§553.131 - 553.133, 553.135, 553.137 - 553.139

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.131. Construction Requirements for an Existing Large Type A Assisted Living Facility.

(a) Structurally sound. An existing large Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads in accordance with applicable building codes.

(b) Separation of occupancies. An existing large Type A assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards, unless otherwise permitted by paragraph [~~paragraphs~~] (1) or (2) of this subsection.

(1) An existing large Type A assisted living facility must be separated from other assisted living facilities, hospitals or nursing facilities. Beginning August 31, 2021, an existing large Type A assisted living facility must be separated from any new occupancy or new use subject to HHSC licensing.

(2) An existing large Type A assisted living facility is not required to be separated from another occupancy not subject to HHSC licensing standards if the two occupancies are so intermingled that construction of a fire barrier having a 2-hour fire resistance rating is impractical and the following conditions are met.

(A) The means of egress, construction, protection, and other safeguards for the entire building must comply with the NFPA 101 requirements for an existing large Type A assisted living facility.

(B) HHSC must be provided [~~given~~] unrestricted and unannounced access at any reasonable time to inspect the other occupancy type for compliance with the NFPA 101 requirements for an existing large Type A assisted living facility.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, an existing large Type A assisted living facility must ensure all buildings used by residents are sheathed with materials providing the following fire resistance ratings.

(A) Interior wall and ceiling surfaces must have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes.

(B) Columns, beams, girders, or trusses that are not enclosed within walls or ceilings must be encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for this minimum sheathing requirement under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 19.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 19, Existing Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. An existing large Type A assisted living facility must ensure interior wall, [~~and~~] ceiling, and floor finish materials meet the requirements of 33.3.3.3, Interior Finish, [~~33.3.3.3.2, Interior Wall and Ceiling Finish,~~] in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(e) Vertical openings. An existing large Type A assisted living facility must ensure vertical openings are protected according to the requirements of 33.3.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

§553.132. Space Planning and Utilization Requirements for an Existing Large Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing large Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing large Type A assisted living facility must ensure bedroom usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC. [~~the Texas Health and Human Services Commission (HHSC).~~]

(3) An existing large Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~An existing large Type A assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing large Type A assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.~~]

(4) An existing large Type A assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing large Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure [~~and~~] meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for all residents [~~operable by a resident~~] occupying the bedroom to open and close from the inside without using any [~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space according to the requirements of subsection (a)(2) of this section.

(4) An existing bedroom window not meeting these requirements may be continued in service with approval from HHSC. [~~, subject to approval by HHSC.~~]

(c) Bedroom furnishings. When a resident does not provide [~~their own~~] furnishings, an existing large Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing large Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing large Type A assisted living facility must ensure a resident room is arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing large Type A assisted living facility must provide a staff area on each floor of an existing large Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) An existing large Type A assisted living facility that is not more than two stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) An existing large Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.135 of this division (relating to Fire Protection Systems Requirements for an Existing Large Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing large Type A assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing large Type A assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) An existing large Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing large Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.137 of this division (relating to Mechanical Requirements for an Existing Large Type A Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~An existing large Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) An existing large Type A assisted living facility must ensure the total space for common living areas is provided on a sliding scale according to the following table. [~~provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number~~

of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.]
Figure: 26 TAC §553.132(g)(1)(A)

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions in this section that allow a reduction in the total minimum common living area.

(ii) A common living area that is smaller than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing large Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) Each common living area used to meet the requirements of this subsection must have appropriate furniture. [An existing large Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [An existing large Type A assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.]
[Figure: 26 TAC §553.132(g)(1)(C)]

(D) A common living area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(E) If a means of egress passes through a common living area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.133 of this division (relating to Means of Egress Requirements for an Existing Large Type A Assisted Living Facility), from the total size of the room when determining the size of the common living area.

(2) Common dining areas. [An existing large Type A assisted living facility must provide a dining area with appropriate furniture.

(A) An existing large Type A assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. [provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.]
Figure: 26 TAC §553.132(g)(2)(A)

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions in this section that allow a reduction in the total minimum common dining area.

(ii) A dining area that is smaller than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing large Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [An existing large Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [An existing large Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [An existing large Type A assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.]
[Figure: 26 TAC §553.132(g)(2)(D)]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) If a means of egress passes through a common dining area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.133 of this division, from the total size of the room when determining the size of the common dining area.

(3) Combining common living areas and dining areas. [An existing large Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.]

(A) An existing large Type A assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [For calculation purposes, where a means of egress passes through a living or dining area, an existing large Type A assisted living facility must deduct a pathway, equal to the minimum corridor width, according to §553.133 of this division (relating to Means of Egress Requirements for an Existing Large Type A Assisted Living Facility), from the measured area of the space.]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) An existing large Type A assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[(5) An existing large Type A assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.]

[(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing large Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.]

[(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.]

[(B) An existing large Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.]

(h) Storage areas. An existing large Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

[(1) An existing large Type A assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]

[(2) An existing large Type A assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.]

(1) [(3)] An existing large Type A assisted living facility that prepares food onsite [on-site] must provide a kitchen or dietary area that includes [to meet the general food service needs of the residents and must include] space for:

(A) storage, refrigeration, preparation, and serving food;

(B) dish and utensil cleaning, which includes:

(i) a three-compartment sink large enough to immerse pots and pans; and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area;

(F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas, unless the facility was licensed before January 6, 2014, and the facility can keep the floor clean. [; and

[(H) a grease trap, if required by local authorities.]

(2) [(4)] An existing large Type A assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit measured throughout the room at five feet above the floor.

(3) [(5)] An existing large Type A assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4) [(6)] An existing large Type A assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5) [(7)] An existing large Type A assisted living facility must maintain a separation between soiled and clean dish areas.

(6) [(8)] An existing large Type A assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) An existing large Type A assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraph (2) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident-use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) An existing large Type A assisted living facility licensed before January 6, 2014, may provide a staff restroom that may be located outside the kitchen area.

(k) Kitchen janitorial facility.

(1) An existing large Type A assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area, except as described in paragraph (2) of this subsection.

(2) An existing large Type A assisted living facility licensed before January 6, 2014, must provide a janitorial facility for the kitchen. The janitorial facility may be located outside the kitchen if sanitary procedures are used to reduce the possibility of cross-contamination.

(3) An existing large Type A assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(4) An existing large Type A assisted living facility must provide floor drains in the kitchen and dishwashing areas unless the facility was licensed before January 6, 2014, and the facility can keep the floors clean.

~~[(5) If required by local authorities, an existing large Type A assisted living facility must provide a grease trap.]~~

(l) Finishes.

(1) An existing large Type A assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls and ceilings.

(2) An existing large Type A assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) An existing large Type A assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors.

(1) An existing large Type A assisted living facility must ensure a door between a kitchen and a dining area, serving area, or resident-use area, is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is located in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(2) Existing doors between kitchens and adjacent spaces that are not provided with vision panels may be continued in service with approval from HHSC. [~~, subject to approval by HHSC.~~]

(n) Auxiliary serving kitchens.

(1) An existing large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) An existing large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this section.

(3) An existing large Type A assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) An existing large Type A assisted living facility must protect cooking facilities using commercial or residential cooking equipment for meal preparation as commercial cooking operations, according to the requirements for commercial cooking equipment in §553.136 of this division (relating to Hazardous Area Requirements for an Existing Large Type A Assisted Living Facility).

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.136 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(p) Food storage areas.

(1) An existing large Type A assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) An existing large Type A assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving, so that food is not stored on the floor.

(A) An existing large Type A assisted living facility must ensure shelves are adjustable wire type shelving.

(B) An existing large Type A assisted living facility licensed before January 6, 2014, may use wood shelves provided the shelves are sealed and clean.

(3) An existing large Type A assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) An existing large Type A assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) An existing large Type A assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time, when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) An existing large Type A assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating, and this separation must extend from the floor to the floor or roof above;

(B) is protected throughout by a fire sprinkler system;

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior that;

(I) must always operate when soiled linen is held in this area; and

(II) may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (A) of this paragraph; [~~subparagraph (1)(A) of this subsection;~~] and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) An existing large Type A assisted living facility must ensure a laundry area for resident use [~~resident-use~~] meets the following requirements.

(A) An existing large Type A assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident use [~~resident-use~~].

(B) When more than three washers and three dryers are provided in one laundry area for resident use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.133. Means of Egress Requirements for an Existing Large Type A Assisted Living Facility.

(a) An existing large Type A assisted living facility must meet the requirements of 33.3.2, Means of Egress, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, except as described in this section.

(b) The provisions of 33.3.2.11.2, Lockups, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, are not permitted.

(c) An existing large Type A assisted living facility must ensure doors meet the requirements of 33.3.2.2.2, Doors, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, and the additional requirements of this section.

(1) A resident room door in an existing large Type A assisted living facility must latch in its frame to resist the passage of smoke.

(2) In an existing large Type A assisted living facility comprised of buildings that contain living units with independent cooking equipment within the living unit, a door between the living unit and a corridor or hallway must:

(A) be self-closing or automatic-closing; and

(B) latch in its frame to resist the passage of smoke.

(3) A resident room door or living unit door must not be arranged to prevent the occupant from closing the door.

(4) An existing large Type A assisted living facility must ensure doors in a means of egress that are required to swing in the direction of egress travel, according to NFPA 101, are inspected and tested according to 33.7.7, Inspection of Door Openings, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(d) An existing large Type A assisted living facility providing spaces for use by residents on floors other than the ground floor must provide at least two separate approved stairs and must ensure stairs used as a means of egress meet the requirements of 33.3.2.2.3, Stairs, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(e) An existing large Type A assisted living facility must ensure means of egress are marked according to the requirements of 33.3.2.10, Marking of Means of Egress, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(f) An existing large Type A assisted living facility containing more than 25 sleeping rooms must provide emergency lighting, according to the requirements of 33.3.2.9, Emergency Lighting, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, unless each sleeping room has a direct exit to the outside at the finished ground level.

§553.135. Fire Protection Systems Requirements for an Existing Large Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing large Type A assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. An existing large Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing large Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) - (D) of this paragraph.

(B) An existing large Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) An existing large Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 19, Existing Health Care Occupancies, may install a smoke detection system meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, in lieu of the requirements found in subparagraphs (A) and (B) of this paragraph.

(D) An existing large Type A assisted living facility comprised of buildings containing living units with independent cooking equipment must additionally have:

(i) a smoke alarm or smoke detector installed in all [~~in~~] resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens and laundries within the living unit, that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(3) Alarm control panel.

(A) An existing large Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing large Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) An existing large Type A assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

[~~(A)~~] An existing large Type A assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [~~a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.~~]

[~~(B) An existing large Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.~~]

(5) Emergency forces notification. An existing large Type A assisted living facility not equipped with a fire alarm system that automatically notifies emergency forces must immediately notify the fire department by telephone or other means.

(b) Fire sprinkler system.

(1) An existing large Type A assisted living facility may provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 33.3.3.5.1, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(2) An existing large Type A assisted living facility located in a building that is four or fewer stories in height may provide a fire sprinkler system meeting the requirements of NFPA 13R in accordance with 33.3.3.5.1.1, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(3) An existing large Type A assisted living facility located in a high-rise building must be protected throughout by an approved, supervised automatic fire sprinkler system meeting the requirements of NFPA 13 according to 33.3.3.5.3, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(c) Protection of attics. An existing large Type A assisted living facility that has [~~equipped with~~] a fire sprinkler system must ensure an attic is protected according to the requirements of 33.3.3.5.4, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, not later than August 31, 2026 [~~2024~~].

(d) Portable fire extinguishers. An existing large Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing large Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing large Type A assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing large Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:5-B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen and walk-in mechanical room.

(4) An existing large Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing large Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing large Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

§553.137. Mechanical Requirements for an Existing Large Type A Assisted Living Facility.

(a) Wastewater and water supply.

(1) Wastewater. An existing large Type A assisted living facility must ensure wastewater and sewage are discharged into a sewerage system or an onsite sewerage facility approved by the Water Quality Division of the Texas Commission on Environmental Quality (TCEQ), or to a system regulated by an entity responsible for water quality in that jurisdiction as approved by the Water Quality Division of TCEQ.

(2) Water supply. An existing large Type A assisted living facility must ensure the water supply is of safe, sanitary quality, suitable for use, adequate in quantity and pressure, and obtained from a public or private water supply system or a private well.

(b) Resident-use plumbing fixtures.

(1) Water closets and lavatories.

(A) An existing large Type A assisted living facility must provide at least one water closet and one lavatory for every six residents and for any fraction thereof [~~each additional resident fewer than six~~]. Multiple toilets in a single space must comply with paragraph (2)(B) of this subsection.

(B) An existing large Type A assisted living facility must ensure a lavatory is readily accessible to each water closet.

(C) An existing large Type A assisted living facility must provide at least one water closet, lavatory, and bathing unit, that are accessible to residents, on each floor containing resident sleeping rooms.

(2) Bathing units.

(A) An existing large Type A assisted living facility must provide one tub or shower for every 10 residents, and for any fraction thereof.

(B) Where multiple water closets or bathing units are provided in a single space, an existing large Type A assisted living facility must provide partitions or curtains to separate plumbing fixtures for resident privacy.

(C) An existing large Type A assisted living facility must ensure tubs and showers have non-slip bottoms or floor surfaces, either built-in or applied to the surfaces.

(3) Hot water supply. An existing large Type A assisted living facility must provide a supply of hot water for resident-use. Hot water for lavatories and bathing units accessible to residents must be maintained between 100 and 120 degrees Fahrenheit.

(4) Supplies. An existing large Type A assisted living facility must supply towels, soap, and toilet tissue for individual resident use.

(c) Public and staff-use plumbing fixtures. In addition to the staff toilets required for the dietary staff according to §553.132(j) of this division (relating to Space Planning and Utilization Requirements for an Existing Large Type A Assisted Living Facility), an existing large Type A assisted living facility must provide toilets, including water closets and lavatories, for use by the public and by [~~facility~~] staff as follows:

(1) if licensed for 60 or fewer residents, a toilet for use by the public and by [~~facility~~] staff; or

(2) if licensed for more than 60 residents, a toilet for use by the public and a separate toilet for use by [~~facility~~] staff.

(d) Gas. An existing large Type A assisted living facility must ensure equipment using natural gas or propane and related gas piping meets the requirements of 9.1.1, Gas, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(e) Heating, ventilation, and air-conditioning (HVAC) and exhaust systems.

(1) General requirements. An existing large Type A assisted living facility must ensure HVAC equipment meets the requirements of 33.3.6.2, Heating, Ventilating, and Air-Conditioning, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(2) Heating and cooling. An existing large Type A assisted living facility must provide heating and cooling for resident comfort.

(A) An existing large Type A assisted living facility must ensure air conditioning systems can maintain and do maintain the comfort range of 68 to 82 degrees Fahrenheit in resident-use areas.

(B) An existing large Type A assisted living facility constructed or licensed after August 1, 2004, must have a central air-conditioning system, or a substantially similar air conditioning system, that can maintain and does maintain a temperature range required under subparagraph (A) of this paragraph within areas used by residents.

(C) An existing large Type A assisted living facility may not use an open flame heating device in the facility, except as permitted by subparagraphs (D) - (E) of this section.

(D) An existing large Type A assisted living facility must ensure a fuel-fired heating device, other than a working fireplace, meets the following requirements.

(i) A fuel-fired heating device must be connected to a chimney or vent.

(ii) A fuel-fired heating device must take air for combustion directly from outside.

(iii) A fuel-fired heating device must be designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area.

(iv) A fuel-fired heating device must have safety features to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

(v) A fuel-fired heating device not meeting the requirements of clauses (i) - (iv) of this subparagraph may be continued in service, subject to approval by HHSC.

(E) An existing large Type A assisted living facility must ensure a working fireplace meets the following requirements.

(i) A building containing a working fireplace must be protected by an approved, supervised automatic sprinkler system with listed quick response or listed residential sprinklers.

(ii) A new working fireplace must be installed, maintained and used according to NFPA 54 and NFPA 211.

(iii) A working fireplace may not be located in a resident sleeping room.

(iv) The room where a working fireplace is located must be provided with electrically supervised carbon monoxide detection connected to the fire alarm system according to NFPA 720.

(v) A direct-vent gas fireplace, as defined in NFPA 54, must meet the following requirements.

(I) A direct-vent gas fireplace must include a sealed glass front with a wire mesh panel or screen.

(II) The controls for a direct-vent gas fireplace must be locked or located in a restricted location.

(vi) A solid-fuel burning fireplace must be equipped with:

(I) a raised hearth at least four inches above the surrounding finished floor; and~~,~~

(II) a fireplace enclosure that is guaranteed against breakage up to a temperature of 650 degrees Fahrenheit and constructed of heat-tempered glass or other approved material~~;~~

(vii) An existing working fireplace not meeting the requirements of clauses (i) - (vi) of this subparagraph may be continued in service, subject to approval by HHSC.

(3) Ventilation.

(A) An existing large Type A assisted living facility must be ventilated using windows, mechanical ventilation, or a combination of both.

(B) An existing large Type A assisted living facility with interior areas designated for smoking within the building must provide mechanical ventilation directed to the exterior to remove smoke at the rate of 10 air changes per hour.

(4) Exhaust. An existing large Type A assisted living facility must ensure bathrooms, toilet rooms, janitorial facilities, and other odor-producing rooms or areas for soiled or unsanitary operations are exhausted with operable windows or powered exhaust vented to the exterior for odor control.

§553.138. Electrical Requirements for an Existing Large Type A Assisted Living Facility.

(a) Electrical system. An existing large Type A assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. An existing large Type A assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[:]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room;~~]

(2) In [~~20 footcandles in~~] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room; and~~]

(3) For [~~50 footcandles for~~] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[~~. Illumination requirements apply when the area is in use for a task it supports, as~~] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. An existing large Type A assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. An existing large Type A assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[~~(A) be a direct telephone, emergency call system or intercom;~~]

[~~(B) if it is an existing communication system, be approved by HHSC to be continued in service;~~]

[~~(C) include at least:~~]

(A) [~~(i)~~] one central notification station accessible to staff at all times [~~at a fixed location~~] that receives all calls processed through the system; and

(B) [~~(ii)~~] one [~~permanently fixed~~] call station or device accessible to residents at all times in each resident's living unit. [~~in every resident living unit.~~]

(2) An existing large Type A assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) An existing large Type A assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [~~However, a device may not be a substitute for a fixed call station in a resident living unit~~].

§553.139. Miscellaneous Requirements for an Existing Large Type A Assisted Living Facility.

(a) An existing large Type A assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) An existing large Type A assisted living facility must ensure an elevator, dumbwaiter, or vertical conveyor meets the requirements of 33.3.6.3, Elevators, Dumbwaiters, and Vertical Conveyors, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(c) An existing large Type A assisted living facility must ensure a rubbish chute, incinerator, or laundry chute meets the requirements of 33.3.6.4, Rubbish Chutes, Incinerators, and Laundry Chutes, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(d) An existing large Type A assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 33.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

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 August 18, 2026.

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Karen Ray
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Health and Human Services Commission
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For further information, please call: (512) 438-3161

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DIVISION 7. EXISTING LARGE TYPE B ASSISTED LIVING FACILITIES

26 TAC §§553.141 - 553.143, 553.145, 553.147 - 553.149

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.141. Construction Requirements for an Existing Large Type B Assisted Living Facility.

(a) Structurally sound. An existing large Type B assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes.

(b) Separation of occupancies. An existing large Type B assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards, unless otherwise permitted by paragraph [~~paragraphs~~] (1) or (2) of this subsection.

(1) An existing large Type B assisted living facility is not required to be separated from a hospital or nursing facility unless the separation is required by NFPA 101 or the standards for licensing the hospital or nursing facility. Beginning August 31, 2021, an existing large Type B assisted living facility must be separated from any new occupancy or new use subject to HHSC. [~~the Texas Health and Human Services Commission (HHSC) licensing.~~]

(2) An existing large Type B assisted living facility is not required to be separated from another occupancy not subject to HHSC licensing standards if the two occupancies are so intermingled that construction of a fire barrier having a 2-hour fire resistance rating is impractical and the following conditions are met.

(A) The means of egress, construction, protection, and other safeguards for the entire building must comply with the NFPA 101 requirements for an existing large Type B assisted living facility.

(B) HHSC must be provided [~~given~~] unrestricted and unannounced access at any reasonable time to inspect the other occupancy type for compliance with the NFPA 101 requirements for an existing large Type B assisted living facility.

(c) Construction type. An existing large Type B assisted living facility must ensure a building housing the facility meets the requirements of 19.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(d) Interior finish. An existing Large Type B assisted living facility must ensure interior wall, ceiling, and floor finish materials meet the requirements of 19.3.3, Interior Finish, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(e) Vertical openings. An existing large Type B assisted living facility must ensure vertical openings are protected according to the requirements of 19.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(f) An existing large Type B assisted living facility that meets the definition of a high-rise building in NFPA 101, must meet the requirements of 19.4.2, High-Rise Buildings, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

§553.142. Space Planning and Utilization Requirements for an Existing Large Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing large Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing large Type B assisted living facility must ensure bedroom usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC. [~~the Texas Health and Human Services Commission (HHSC).~~]

(3) If an existing large Type B assisted living facility has individual living units that include both a bedroom and other living space, the facility may make a bedroom for more than one resident up to 10 percent smaller than the required bedroom usable floor space. A bedroom must still meet the minimum dimensional criteria in paragraph (2) of this subsection. A facility must not use this provision at the same time as the provision allowing the reduction of common living areas or common dining areas found in subsection (g) of this section. [~~An existing large Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing large Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.~~]

(4) An existing large Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing large Type B assisted living facility must ensure each bedroom has at least one operable window, with outside exposure meeting[~~, that meets~~] the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for all residents [~~operable by a resident~~] occupying the bedroom to open and close from the inside without using any[~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the windows.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section.

(4) An existing bedroom window that does not meet these requirements may be continued in service with approval from HHSC.[~~, subject to approval by HHSC.~~]

(c) Bedroom furnishings. When a resident does not provide [~~their own~~] furnishings, an existing large Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing large Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing large Type B assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing large Type B assisted living facility must provide a staff area on each floor of an existing large Type B assisted living facility and in each separate building containing resident sleeping rooms. An existing large Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.145 of this division (relating to Fire Protection Systems Requirements for an Existing Large Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing large Type B assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing large Type B assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) An existing large Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing large Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.147 of this division (relating to Mechanical Requirements for an Existing Large Type B Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~An existing large Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) An existing large Type B assisted living facility must ensure the total space for common living areas is provided on a sliding scale according to the following table. [~~provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.~~]
Figure: 26 TAC §553.142(g)(1)(A)

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common living area.

(ii) A common living area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing large Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) Each common living area used to meet the requirements of this subsection must have appropriate furniture. [~~An existing large Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.~~]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~An existing large Type B assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]
[~~Figure: 26 TAC §553.142(g)(1)(C)~~]

(D) A common living area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(E) If a means of egress passes through a common living area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.143 of this division (relating to Means of Egress Requirements for an Existing Large Type B Assisted Living Facility), from the total size of the room when determining the size of the common living area.

(2) Common dining areas. [~~An existing large Type B assisted living facility must provide a dining area with appropriate furniture.~~]

(A) An existing large Type B assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. [~~provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.~~]
Figure: 26 TAC §553.142(g)(2)(A)

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section allowing a reduction in the total minimum common dining area.

(ii) A dining area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) An existing large Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [~~An existing large Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.~~]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [~~An existing~~

large Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [An existing large Type B assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement. [Figure: 26 TAC §553.142(g)(2)(D)]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) If a means of egress passes through a common dining area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.143 of this division, from the total size of the room when determining the size of the common dining area.

(3) Combining common living areas and dining areas. [An existing large Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.]

(A) An existing large Type B assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [For calculation purposes, where a means of egress passes through a living or dining area, an existing large Type B assisted living facility must deduct a pathway, equal to the minimum corridor width, according to §553.143 of this division (relating to Means of Egress Requirements for an Existing Large Type B Assisted Living Facility), from the measured area of the space.]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) An existing large Type B assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[(5) An existing large Type B assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.]

[(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing large Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.]

[(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.]

[(B) An existing large Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.]

(h) Storage areas. An existing large Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

[(1) An existing large Type B assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]

[(2) An existing large Type B assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.]

(1) [(3)] An existing large Type B assisted living facility that prepares food onsite [on-site] must provide a kitchen or dietary area that includes [to meet the general food service needs of the residents and must include] space for:

(A) storage, refrigeration, preparation, and serving of food;

(B) dish and utensil cleaning, which includes:

(i) a three compartment sink large enough to immerse pots and pans; and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser, and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area;

(F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas, unless the facility was licensed before January 6, 2014, and the facility can keep the floor clean.[; and

[(H) a grease trap, if required by local authorities.]

(2) [(4)] An existing large Type B assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit, measured throughout the room at five feet above the floor.

(3) [~~(5)~~] An existing large Type B assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4) [~~(6)~~] An existing large Type B assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5) [~~(7)~~] An existing large Type B assisted living facility must maintain a separation between soiled and clean dish areas.

(6) [~~(8)~~] An existing large Type B assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) An existing large Type B assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraphs (2) and (3) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident-use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) An existing large Type B assisted living facility licensed before January 6, 2014, may provide a staff restroom located outside the kitchen area.

(3) An existing large Type B assisted living facility must ensure a kitchen serving a neighborhood or household provides a restroom accessible to kitchen staff that is in close proximity to the kitchen.

(k) Kitchen janitorial facility.

(1) An existing large Type B assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area, except as described in paragraphs (2) and (3) of this subsection.

(2) An existing large Type B assisted living facility licensed before January 6, 2014, must provide a janitorial facility for the kitchen. The janitorial facility may be located outside the kitchen if sanitary procedures are used to reduce the possibility of cross-contamination.

(3) An existing large Type B assisted living facility must ensure a kitchen serving a neighborhood or household provides a janitorial facility exclusively for the kitchen that is close to the kitchen.

(4) An existing large Type B assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(5) An existing large Type B assisted living facility must provide floor drains in the kitchen and dishwashing areas, unless the facility was licensed before January 6, 2014, and the facility can keep the floors clean.

[~~(6) If required by local authorities, an existing large Type B assisted living facility must provide a grease trap.~~]

(l) Finishes.

(1) An existing large Type B assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls, and ceilings.

(2) An existing large Type B assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) An existing large Type B assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors.

(1) An existing large Type B assisted living facility must ensure a door between a kitchen and a dining, serving, or resident-use area is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(2) Existing doors between kitchens and adjacent spaces that are not provided with vision panels may be continued in service with approval from HHSC. [~~subject to approval by HHSC.~~]

(n) Auxiliary serving kitchens.

(1) An existing large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) An existing large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this section.

(3) An existing large Type B assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) An existing large Type B assisted living facility must protect cooking facilities according to the requirements in §553.146 of this division (relating to Hazardous Area Requirements for an Existing Large Type B Assisted Living Facility) except as provided for in paragraph (3) of this subsection.

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.146 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(3) A facility providing a kitchen serving a neighborhood or household may continue to operate the kitchen without modification subject to approval by HHSC.

(p) Food storage areas.

(1) An existing large Type B assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) An existing large Type B assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving so that food is not stored on the floor.

(A) An existing large Type B assisted living facility must ensure shelves are adjustable wire type shelving.

(B) An existing large Type B assisted living facility licensed before January 6, 2014, may use wood shelves provided the shelves are sealed and clean.

(3) An existing large Type B assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) An existing large Type B assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) An existing large Type B assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) An existing large Type B assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating, which must extend from the floor to the floor or roof above:

(B) is protected throughout by a fire sprinkler system;

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior which;

(I) must always operate when soiled linen is held in this area; and

(II) may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section [~~with~~];

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (A) of this paragraph; and [~~paragraph (1)(A) of this subsection; and~~]

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) An existing large Type B assisted living facility must ensure a laundry area for resident use [~~resident-use~~] meets the following requirements.

(A) An existing large Type B assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident use [~~resident-use~~].

(B) When more than three washers and three dryers are provided in one laundry area for resident use [~~resident-use~~], the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.143. Means of Egress Requirements for an Existing Large Type B Assisted Living Facility.

(a) An existing large Type B assisted living facility must meet the requirements of 19.2, Means of Egress, in NFPA 101, Chapter 19, Existing Health Care Occupancies, except as described in this section.

(b) An existing large Type B assisted living facility must ensure doors meet the requirements of 19.2.2.2, Doors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, and the additional requirements of this section.

(1) A resident room door in an existing large Type B assisted living facility must latch in its frame to resist the passage of smoke.

(2) In an existing large Type B assisted living facility comprised of buildings containing living units, with independent cooking equipment within the living unit, a door between the living unit and a corridor or hallway must:

(A) be self-closing or automatic-closing; and

(B) latch in its frame to resist the passage of smoke.

(3) A resident room door or living unit door must not be arranged to prevent the occupant from closing the door.

(4) An existing large Type B assisted living facility must not use the door-locking arrangements described in 19.2.2.2.5 in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(c) An existing large Type B assisted living facility providing spaces for use by residents on floors other than the ground floor must provide at least two separate approved stairs and must ensure stairs used as a means of egress meet the requirements of 19.2.2.3, Stairs, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(d) An existing large Type B assisted living facility must ensure means of egress are marked according to the requirements of 19.2.10, Marking of Means of Egress, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(e) An existing large Type B assisted living facility must provide emergency lighting according to the requirements of 19.2.9, Emergency Lighting, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(f) An existing large Type B assisted living facility must maintain means of egress according to the requirements of 19.7.3, Maintenance of Means of Egress, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

§553.145. Fire Protection Systems Requirements for an Existing Large Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing large Type B assisted living facility must provide a fire alarm system meeting

the requirements of 19.3.4, Detection, Alarm, and Communications Systems, in NFPA 101, Chapter 19, Existing Health Care Occupancies, as modified by this section.

(1) General. An existing large Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing large Type B assisted living facility must install smoke detectors meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(B) An existing large Type B assisted living facility comprised of buildings containing living units with independent cooking equipment must additionally have:

(i) a smoke alarm or smoke detector installed in all resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, and laundries within the living unit that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(3) Alarm control panel.

(A) An existing large Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing large Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) An existing large Type B assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

[~~(A)~~] An existing large Type B assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [~~a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.~~]

[~~(B) An existing large Type B assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.~~]

(5) Emergency forces notification. An existing large Type B assisted living facility must ensure a fire alarm system automatically notifies emergency forces according to the requirements of 19.3.4.3.2, Emergency Forces Notification, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(b) Fire sprinkler system. An existing large Type B assisted living facility must provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 19.3.5.3, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(c) Portable Fire Extinguishers. An existing large Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing large Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing large Type B assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing large Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:5-B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen, and walk-in mechanical room.

(4) An existing large Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing large Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing large Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

§553.147. Mechanical Requirements for an Existing Large Type B Assisted Living Facility.

(a) Wastewater and water supply.

(1) Wastewater. An existing large Type B assisted living facility must ensure wastewater and sewage are discharged into a sewerage system or an onsite sewerage facility approved by the Water Quality Division of TCEQ, [~~the Texas Commission on Environmental Quality (TCEQ),~~] or to a system regulated by an entity responsible for water quality in that jurisdiction as approved by the Water Quality Division of TCEQ.

(2) Water supply. An existing large Type B assisted living facility must ensure the water supply is of safe, sanitary quality, suitable

for use, adequate in quantity and pressure, and obtained from a public or private water supply system or a private well.

(b) Resident-use plumbing fixtures.

(1) Water closets and lavatories.

(A) An existing large Type B assisted living facility must provide at least one water closet and one lavatory for every [~~each~~] six residents, and for any fraction thereof. [~~and for each additional resident fewer than six.~~] Multiple toilets in a single space must comply with paragraph (2)(B) of this subsection.

(B) An existing large Type B assisted living facility must ensure a lavatory is readily accessible to each water closet.

(C) An existing large Type B assisted living facility must provide at least one water closet, lavatory, and bathing unit, that are accessible to residents, on each floor containing resident sleeping rooms.

(2) Bathing units.

(A) An existing large Type B assisted living facility must provide one tub or shower for every 10 residents, and for any fraction thereof.

(B) Where multiple water closets or bathing units are provided in a single space, an existing large Type B assisted living facility must provide partitions or curtains to separate plumbing fixtures for resident privacy.

(C) An existing large Type B assisted living facility must ensure tubs and showers have non-slip bottoms or floor surfaces, either built-in or applied to the surfaces.

(3) Hot water supply. An existing large Type B assisted living facility must provide a supply of hot water for resident use [~~resident-use~~]. Hot water for lavatories and bathing units accessible to residents must be maintained between 100 and 120 degrees Fahrenheit.

(4) Supplies. An existing large Type B assisted living facility must supply towels, soap, and toilet tissue for individual resident use.

(c) Public and staff-use plumbing fixtures. In addition to the staff toilets required for the dietary staff according to §553.142(j) of this division (relating to Space Planning and Utilization Requirements for an Existing Large Type B Assisted Living Facility), a new large Type B assisted living facility must provide toilets, including water closets and lavatories, for use by the public and by [~~facility~~] staff, as follows:

(1) if licensed for 60 or fewer residents, a toilet for use by the public and by [~~facility~~] staff; or

(2) if licensed for more than 60 residents, a toilet for use by the public and a separate toilet for use by [~~facility~~] staff.

(d) Gas. An existing large Type B assisted living facility must ensure equipment using natural gas or propane and related gas piping meets the requirements of 9.1.1, Gas, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(e) Heating, ventilation, and air-conditioning (HVAC) and exhaust systems.

(1) General requirements. An existing large Type B assisted living facility must ensure HVAC equipment meets the requirements of 19.5.2, Heating, Ventilating and Air-Conditioning, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(2) Heating and cooling. An existing large Type B assisted living facility must provide heating and cooling for resident comfort.

(A) An existing large Type B assisted living facility must ensure air conditioning systems can maintain and do maintain the comfort range of 68 to 82 degrees Fahrenheit in resident-use areas.

(B) An existing large Type B assisted living facility constructed or licensed after August 1, 2004, must have a central air conditioning system, or a substantially similar air conditioning system, that can maintain and does maintain a temperature range required under subparagraph (A) of this paragraph within areas used by residents.

(C) An existing large Type B assisted living facility may not use an open flame heating device in the facility, except as permitted by subparagraphs (D) and [-] (E) of this paragraph.

(D) An existing large Type B assisted living facility must ensure a fuel-fired heating device, other than a working fireplace, meets the following requirements.

(i) A fuel-fired heating device must be connected to a chimney or vent.

(ii) A fuel-fired heating device must take air for combustion directly from outside.

(iii) A fuel-fired heating device must be designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area.

(iv) A fuel-fired heating device must have safety features to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

(v) A fuel-fired heating device not meeting the requirements of clauses (i) - (iv) of this subparagraph may be continued in service with approval from HHSC. [~~, subject to approval by HHSC.~~]

(E) An existing large Type B assisted living facility must ensure a working fireplace meets the following requirements.

(i) A building containing a working fireplace must be protected by an approved, supervised automatic sprinkler system with listed quick response or listed residential sprinklers.

(ii) A new working fireplace must be installed, maintained and used according to NFPA 54 and NFPA 211.

(iii) A working fireplace may not be located in a resident sleeping room.

(iv) The room where a working fireplace is located must be provided with electrically supervised carbon monoxide detection connected to the fire alarm system according to NFPA 720.

(v) A direct-vent gas fireplace, as defined in NFPA 54, must meet the following requirements.

(I) A direct-vent gas fireplace must include a sealed glass front with a wire mesh panel or screen.

(II) The controls for a direct-vent gas fireplace must be locked or located in a restricted location.

(vi) A solid-fuel burning fireplace must be equipped with:

(I) a raised hearth at least four inches above the surrounding finished floor; and

(II) a fireplace enclosure that is guaranteed against breakage up to a temperature of 650 degrees Fahrenheit and constructed of heat-tempered glass or other approved material.

(vii) An existing working fireplace not meeting the requirements of clauses (i) - (vi) of this subparagraph may be continued in service, subject to approval by HHSC.

(F) An existing large Type B assisted living facility must ensure a suspended unit heater meets the requirements of 19.5.2.3(1), in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(G) An existing large Type B assisted living facility must ensure portable space-heating devices, including electric space heaters, meet the requirements of 19.7.8, Portable Space-Heating Devices, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(3) Ventilation.

(A) An existing large Type B assisted living facility must be ventilated using windows or mechanical ventilation, or a combination of both.

(B) An existing large Type B assisted living facility with interior areas designated for smoking within the building must provide mechanical ventilation directed to the exterior to remove smoke at the rate of 10 air changes per hour.

(4) Exhaust. An existing large Type B assisted living facility must ensure bathrooms, toilet rooms, janitorial facilities, and other odor-producing rooms or areas for soiled or unsanitary operations are exhausted with operable windows or powered exhaust vented to the exterior for odor control.

§553.148. Electrical Requirements for an Existing Large Type B Assisted Living Facility.

(a) Electrical system. An existing large Type B assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. An existing large Type B assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[:]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room;~~]

(2) In [~~20 footcandles in~~] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room; and~~]

(3) For [~~50 footcandles for~~] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[~~. Illumination requirements apply when the area is in use for a task it supports, as~~] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. An existing large Type B assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. An existing large Type B assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[~~(A) be a direct telephone, emergency call system, or intercom;~~]

[~~(B) if it is an existing communication system, be approved by the Texas Health and Human Services Commission to be continued in service; and~~]

[~~(C) include at least:~~]

(A) [~~(i)~~] one central notification station accessible to staff at all times [~~at a fixed location~~] that receives all calls processed through the system; and

(B) [~~(ii)~~] one [~~permanently fixed~~] call station or device accessible to residents at all times in each resident's living unit. [~~in every resident living unit.~~]

(2) An existing large Type B assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) An existing large Type B assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [~~However, a device may not be a substitute for a fixed call station in a resident living unit.~~]

§553.149. Miscellaneous Requirements for an Existing Large Type B Assisted Living Facility.

(a) An existing large Type B assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) An existing large Type B assisted living facility must ensure an elevator, escalator, or conveyor meets the requirements of 19.5.3, Elevators, Escalators, and Conveyors, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(c) An existing large Type B assisted living facility must ensure a rubbish chute, incinerator, or laundry chute meets the requirements of 19.5.4, Rubbish Chutes, Incinerators, and Laundry Chutes, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(d) An existing large Type B assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 19.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

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 8. NEW SMALL TYPE A ASSISTED LIVING FACILITIES

26 TAC §§553.211, 553.212, 553.215, 553.218, 553.219

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.211. Construction Requirements for a New Small Type A Assisted Living Facility.

(a) Structurally sound. A new small Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes.

(b) Separation of occupancies. A new small Type A assisted living facility must be separated from other occupancies including other assisted living facilities, hospitals, or nursing facilities, by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, a new small Type A assisted living facility must ensure all buildings used by residents are sheathed with materials providing a fire resistance rating as follows.

(A) Interior wall and ceiling surfaces must have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes.

(B) Columns, beams, girders, or trusses that are not enclosed within walls or ceilings must be encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for the minimum sheathing requirements under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 18.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 18, New Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. A new small Type A assisted living facility must ensure interior wall, [and] ceiling, and floor finish materials meet the requirements of 32.2.3.3, Interior Finish, [~~32.2.3.3.2, Interior Wall and Ceiling Finish,~~] in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(e) Vertical openings. A new small Type A assisted living facility must ensure vertical openings are protected according to the requirements of 32.2.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

§553.212. Space Planning and Utilization Requirements for a New Small Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) A new small Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new small Type A assisted living facility must ensure bedroom usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC. [~~the Texas Health and Human Services Commission.~~]

(3) A new small Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~A new small Type A assisted living facility containing individual living units that include living space for the residents in addition to their bedrooms may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new small Type A assisted living facility may not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.~~]

(4) A new small Type A assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new small Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for [~~operable by~~] all residents occupying the bedroom to open and close from the inside without using[~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by [~~in~~] subsection (a)(2) of this section. [~~(a)(3) of this section.~~]

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new small Type A assisted living facility must

provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must include closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new small Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new small Type A assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new small Type A assisted living facility must provide a staff area on each floor of a new small Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) A new small Type A assisted living facility that is not more than two stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) A new small Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.215 of this division (relating to Fire Protection Systems Requirements for a New Small Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new small Type A assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new small Type A assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) A new small Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new small Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.217 of this division (relating to Mechanical Requirements for a New Small Type A Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~A new small Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) A new small Type A assisted living facility must provide at least 15 square feet for common living areas for each resident in the licensed capacity of the facility. [~~a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.~~]

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common living area.

(ii) A common living area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new small Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) A common living area used to meet the requirements of this subsection must have appropriate furniture. [~~A new small Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.~~]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~A new small Type A assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]

(D) A common living area that is not required to meet the requirements of this subsection is not required to have windows with a view of the outside.

(E) Any path used as an escape route through any common living area must always be free of obstructions.

(2) Common dining areas. [~~A new small Type A assisted living facility must provide a dining area with appropriate furniture.~~]

(A) A new small Type A assisted living facility must provide at least 15 square feet of dining area for each resident in the licensed capacity of the facility. [~~a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.~~]

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common dining area.

(ii) A dining area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new small Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the re-

quired bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [~~A new small Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.~~]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [~~A new small Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.~~]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~A new small Type A assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) Any path used as an escape route through a dining area must always be free of obstructions.

(3) Combining common living areas and dining areas. [~~A new small Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.~~]

(A) A new small Type A assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [~~A new small Type A assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.~~]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) A new small Type A assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[~~(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new small Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.~~]

[~~(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.~~]

[~~(B) A new small Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.~~]

(h) Storage areas. A new small Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

[~~(1) A new small Type A assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.~~]

[~~(2) A new small Type A assisted living facility that prepares food on-site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:~~]

[~~(A) is equipped to store, refrigerate, prepare and serve food;~~]

[~~(B) is equipped to clean and sterilize;~~]

[~~(C) provides for refuse storage and removal; and~~]

[~~(D) meets the requirements of the local fire, building, and health codes.~~]

[~~(3)~~] A new small Type A assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations as required in §553.216 of this division (relating to Hazardous Area Requirements for a New Small Type A Assisted Living Facility).

§553.215. Fire Protection Systems Requirements for a New Small Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new small Type A assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. A new small Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new small Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) A new small Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) A new small Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of 18.3.4.5.3, Nursing Homes, in NFPA 101, Chapter 18, New Health Care Occupancies, in lieu of the requirements found in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) A new small Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new small Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

[~~(A)~~] A new small Type A assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [~~powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.~~]

[~~(B) A new small Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.~~]

(b) Fire sprinkler system.

(1) In accordance with requirements in 32.2.3.5, Extinguishment Requirements in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, a new small Type A assisted living facility must provide: [~~A new small Type A assisted living facility must provide one of the following fire sprinkler systems according to the requirements of 32.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.~~]

(A) a [~~A~~] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 32.2.3.5.3, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies;

(B) a [~~A~~] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 32.2.3.5.3.1, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies; or

(C) a [~~A~~] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 32.2.3.5.3.2, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(2) A new small Type A assisted living facility must ensure a fire sprinkler system is supervised according to 9.7.2, Supervision, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment. [~~provide electrical supervision of any fire sprinkler system according to the requirements of 32.2.3.5.4, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.~~]

(c) Protection of attics. A new small Type A assisted living facility must ensure an attic is protected according to the requirements of 32.2.3.5.7, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) Portable fire extinguishers. A new small Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) A new small Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new small Type A assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new small Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(4) A new small Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) A new small Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new small Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

§553.218. Electrical Requirements for a New Small Type A Assisted Living Facility.

(a) Electrical system. A new small Type A assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. A new small Type A assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[~~:~~]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the~~

space, as] measured anywhere in the space at 30 inches above the floor. [anywhere in the room;]

(2) In [20 footcandles in] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [during the day--illumination requirements for these areas apply to lighting throughout the space, as] measured anywhere in the space at 30 inches above the floor. [anywhere in the room; and]

(3) For [50 footcandles for] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[. Illumination requirements apply when the area is in use for a task it supports, as] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. A new small Type A assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. A new small Type A assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[(A) be a direct telephone, emergency call system or intercom;]

[(B) include at least:]

(A) [(i)] one central notification station accessible to staff at all times [at a fixed location] that receives all calls processed through the system; and

(B) [(ii)] one call station or device accessible to residents at all times in each resident's living unit. [permanently fixed call station or device in every resident living unit.]

(2) A new small Type A assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) A new small Type A assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [However, a device may not be a substitute for a fixed call station in a resident living unit.]

§553.219. Miscellaneous Requirements for a New Small Type A Assisted Living Facility.

(a) A new small Type A assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) A new small Type A assisted living facility must ensure an [any new] elevator, escalator, or conveyor meets the requirements of 32.2.5.3, Elevators, Escalators, and Conveyors, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(c) A new small Type A assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 32.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

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
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DIVISION 9. NEW SMALL TYPE B ASSISTED LIVING FACILITIES

26 TAC §§553.221, 553.222, 553.225, 553.228, 553.229

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.221. Construction Requirements for a New Small Type B Assisted Living Facility.

(a) Structurally sound. A new small Type B assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes.

(b) Separation of occupancies. A new small Type B assisted living facility must be separated from other occupancies, including other assisted living facilities, hospitals or nursing facilities, by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, a new small Type B assisted living facility must ensure all buildings used by residents are sheathed with materials providing a fire resistance rating as follows.

(A) Interior wall and ceiling surfaces must have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes.

(B) Columns, beams, girders, or trusses that are not enclosed within walls or ceilings must be encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for the minimum sheathing requirements under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 18.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 18, New Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. A new small Type B assisted living facility must ensure interior wall, [~~and~~] ceiling, and floor finish materials meet the requirements of 32.2.3.3, Interior Finish, [~~32.2.3.3.2, Interior Wall and Ceiling Finish,~~] in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(e) Vertical openings. A new small Type B assisted living facility must ensure vertical openings are protected according to the requirements of 32.2.3, Protection of Vertical Openings, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

§553.222. Space Planning and Utilization Requirements for a New Small Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) A new small Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new small Type B assisted living facility must ensure bedroom usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC. [~~the Texas Health and Human Services Commission.~~]

(3) A new small Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~A new small Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new small Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.~~]

(4) A new small Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new small Type B assisted living facility must ensure each bedroom has at least one operable window with outside exposure [~~and~~] meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for all residents [~~operable by a resident~~] occupying the bedroom to open and close from the inside without using any [~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(3) of this section.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new small Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new small Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new small Type B assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new small Type B assisted living facility must provide a staff area on each floor of a new small Type B assisted living facility and in each separate building containing resident sleeping rooms. A new small Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.225 of this division (relating to Fire Protection Systems Requirements for a New Small Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new small Type B assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new small Type B assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) A new small Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new small Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.227 of this division (relating to Mechanical Requirements for a New Small Type B Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [A new small Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.]

(A) A new small Type B assisted living facility must provide at least 15 square feet for common living areas for each resident in the licensed capacity of the facility. [a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.]

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common living area.

(ii) A common living area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new small Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) A common living area used to meet the requirements of this subsection must have appropriate furniture. [A new small Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [A new small Type B assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.]

(D) A common living area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(E) Any path used as an escape route through any common living area must always be free of obstructions.

(2) Common dining areas. [A new small Type B assisted living facility must provide a dining area with appropriate furniture.]

(A) A new small Type B assisted living facility must provide at least 15 square feet of dining area for each resident in the licensed capacity of the facility. [a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.]

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common dining area.

(ii) A dining area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new small Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [A new small Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [A new small Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one window with a view of the outside. [A new small Type B assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) Any path used as an escape route through a dining area must always be free of obstructions.

(3) Combining common living areas and dining areas. [A new small Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.]

(A) A new small Type B assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [A new small Type B assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) A new small Type B assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new small Type B assisted living facility containing indi-

vidual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.]

[(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.]

[(B) A new small Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.]

(h) Storage areas. A new small Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

[(1) A new small Type B assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]

[(2) A new small Type B assisted living facility that prepares food on-site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:]

[(A) is equipped to store, refrigerate, prepare, and serve food;]

[(B) is equipped to clean and sterilize;]

[(C) provides for refuse storage and removal; and]

[(D) meets the requirements of the local fire, building, and health codes.]

[(3)] A new small Type B assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations, as required in §553.226 of this division (relating to Hazardous Area Requirements for a New Small Type B Assisted Living Facility).

§553.225. Fire Protection Systems Requirements for a New Small Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new small Type B assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. A new small Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new small Type B assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) A new small Type B assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) A new small Type B assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of 18.3.4.5.3, Nursing Homes, in NFPA 101, Chapter 18, New Health Care Occupancies, in lieu of the requirements found in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) A new small Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new small Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

[(A)] A new small Type B assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.]

[(B) A new small Type B assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.]

(b) Fire sprinkler system.

(1) In accordance with 32.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, a new small Type B assisted living facility must provide: [A new small Type B assisted living facility must provide one of the following fire sprinkler systems according to the requirements of 32.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.]

(A) a [A] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 32.2.3.5.3, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, not later than August 31, 2026;

(B) a [A] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 32.2.3.5.3.1, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, not later than August 31, 2026; or

(C) a [A] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 32.2.3.5.3.2, in NFPA 101, Chapter

32, New Residential Board and Care Occupancies, not later than August 31, 2026.

(2) A new small Type B assisted living facility must ensure a fire sprinkler system is supervised according to 9.7.2, Supervision, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment. [~~provide electrical supervision of any fire sprinkler system according to the requirements of 32.2.3.5.4, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.~~]

(c) Protection of attics. A new small Type B assisted living facility must ensure an attic is protected according to the requirements of 32.2.3.5.7, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) Portable fire extinguishers. A new small Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) A new small Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new small Type B assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new small Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(4) A new small Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) A new small Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new small Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

§553.228. Electrical Requirements for a New Small Type B Assisted Living Facility.

(a) Electrical system. A new small Type B assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. A new small Type B assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following. [~~:~~]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room.~~]

(2) In [~~20 footcandles in~~] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room.~~]

(3) For [~~50 footcandles for~~] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when [~~. Illumination requirements apply when the area is in use for a task it supports, as~~] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. A new small Type B assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. A new small Type B assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[~~(A) be a direct telephone, emergency call system, or intercom;~~]

[~~(B) include at least:~~]

(A) [~~(i)~~] one central notification station accessible to staff at all times [~~at a fixed location~~] that receives all calls processed through the system; and

(B) [~~(ii)~~] one [~~permanently fixed~~] call station or device accessible to residents at all times in their living unit. [~~in every resident living unit.~~]

(2) A new small Type B assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) A new small Type B assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [~~However, a device may not be a substitute for a fixed call station in a resident living unit.~~]

§553.229. Miscellaneous Requirements for a New Small Type B Assisted Living Facility.

(a) A new small Type B assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) A new small Type B assisted living facility must ensure an [~~any new~~] elevator, escalator, or conveyor meets the requirements of 32.2.5.3, Elevators, Escalators, and Conveyors, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(c) A new small Type B assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 32.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

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
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DIVISION 10. NEW LARGE TYPE A ASSISTED LIVING FACILITIES

26 TAC §§553.231 - 553.233, 553.235, 553.237 - 553.239

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.231. Construction Requirements for a New Large Type A Assisted Living Facility.

(a) Structurally sound. A new large Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes.

(b) Separation of occupancies. A new large Type A assisted living facility must be separated from other occupancies, including other assisted living facilities, hospitals or nursing facilities, by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(c) Construction type. A new large Type A assisted living facility must ensure a building housing the facility meets the requirements of 32.3.1.3, Minimum Construction Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) Interior finish. A new large Type A assisted living facility must ensure interior wall, [~~and~~] ceiling, and floor finish materials meet the requirements of 32.3.3.3, Interior Finish, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(e) Vertical openings. A new large Type A assisted living facility must ensure vertical openings are protected according to the requirements of 32.3.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

§553.232. Space Planning and Utilization Requirements for a New Large Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) A new large Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new large Type A assisted living facility must ensure bedroom usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted in paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC.

(3) A new large Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~A new large Type A assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new large Type A assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.~~]

(4) A new large Type A assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new large Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for all residents [~~operable by a resident~~] occupying the bedroom to open and close from the inside without using [~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space according to the requirements of subsection (a)(3) of this section.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new large Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new large Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new large Type A assisted living facility must ensure a resident room is arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new large Type A assisted living facility must provide a staff area on each floor of a new large Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) A new large Type A assisted living facility that is not more than two stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) A new large Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.235 of this division (relating to Fire Protection Systems Requirements for a New Large Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new large Type A assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new large Type A assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) A new large Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new large Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.237 of this division (relating to Mechanical Requirements for a New Large Type A Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~A new large Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) A new large Type A assisted living facility must ensure the total space for common living areas is provided on a sliding scale according to the following table. [~~provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.~~]

Figure: 26 TAC §553.232(g)(1)(A)

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common living area.

(ii) A common living area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new large Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) A common living area used to meet the requirements of this subsection must have appropriate furniture. [~~A new large Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.~~]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~A new large Type A assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]

[~~Figure: 26 TAC §553.232(g)(1)(C)~~]

(D) A common living area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(E) If a means of egress passes through a common living area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.233 of this division (relating to Means of Egress Requirements for a new Large Type A Assisted Living Facility), from the total size of the room when determining the size of the common living area.

(2) Common dining areas. [~~A new large Type A assisted living facility must provide a dining area with appropriate furniture.~~]

(A) A new large Type A assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. [~~provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.~~]

Figure: 26 TAC §553.232(g)(2)(A)

(i) At least one dining area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common dining area.

(ii) A dining area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new large Type A assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [~~A new large Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.~~]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [~~A new large Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.~~]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~A new large Type A assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]
[~~Figure: 26 TAC §553.232(g)(2)(D)~~]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) If a means of egress passes through a common dining area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.233 of this division, from the total size of the room when determining the size of the common dining area.

(3) Combining common living areas and dining areas. [~~A new large Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.~~]

(A) A new large Type A assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [~~For calculation purposes, where a means of egress passes through a living or dining area, a new large Type A assisted living facility must deduct a pathway, equal to the minimum corridor width according to §553.233 of this division (relating to Means of Egress Requirements for a New Large Type A Assisted Living Facility), from the measured area of the space.~~]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) A new large Type A assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[~~(5) A new large Type A assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.~~]

[~~(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new large Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.~~]

[~~(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.~~]

[~~(B) A new large Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.~~]

(h) Storage areas. A new large Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

[~~(1) A new large Type A assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.~~]

[~~(2) A new large Type A assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.~~]

(1) [~~(3)~~] A new large Type A assisted living facility that prepares food onsite [~~on-site~~] must provide a kitchen or dietary area that includes space for: [~~to meet the general food service needs of the residents and must include space for the following:~~]

(A) storage, refrigeration, preparation, and serving food;

(B) dish and utensil cleaning which includes:

(i) a three-compartment sink large enough to immerse pots and pans; and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area; [~~and~~]

(F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas, unless the facility was created through conversion and the facility can keep the floor clean. [~~; and~~]

[~~(H) a grease trap, if required by local authorities.~~]

(2) [~~(4)~~] A new large Type A assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit measured throughout the room at five feet above the floor.

(3) [~~(5)~~] A new large Type A assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4) [~~(6)~~] A new large Type A assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5) [~~(7)~~] A new large Type A assisted living facility must maintain a separation between soiled and clean dish areas.

(6) [~~(8)~~] A new large Type A assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) A new large Type A assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraph (2) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) A new large Type A assisted living facility created through conversion may provide a staff restroom that may be located outside the kitchen area.

(k) Kitchen janitorial facility.

(1) A new large Type A assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area except as described in paragraph (2) of this subsection.

(2) A new large Type A assisted living facility created through conversion must provide a janitorial facility for the kitchen. The janitorial facility may be located outside the kitchen if sanitary procedures are used to reduce the possibility of cross-contamination.

(3) A new large Type A assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(l) Finishes.

(1) A new large Type A assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls and ceilings.

(2) A new large Type A assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) A new large Type A assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors. A new large Type A assisted living facility must ensure a door between a kitchen and a dining area, serving area, or resident-use area, is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is located in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(n) Auxiliary serving kitchens.

(1) A new large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) A new large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this section.

(3) A new large Type A assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) A new large Type A assisted living facility must protect cooking facilities according to the requirements in §553.236 of this division (relating to Hazardous Area Requirements for a New Large Type A Assisted Living Facility).

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.236 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(p) Food storage areas.

(1) A new large Type A assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) A new large Type A assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving, so that food is not stored on the floor, and must ensure shelves are adjustable wire type shelving.

(3) A new large Type A assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) A new large Type A assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) A new large Type A assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time, when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) A new large Type A assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating extending[~~. This separation must extend~~] from the floor to the floor or roof above;

(B) is protected throughout by a fire sprinkler system; [~~and~~]

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior;

(I) the exhaust must always operate when soiled linen is held in this area; and

(II) the area may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (A) of this paragraph; and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) A new large Type A assisted living facility must ensure a laundry area for resident use [~~resident-use~~] meets the following requirements.

(A) A new large Type A assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident use [~~resident-use~~].

(B) When more than three washers and three dryers are provided in one laundry area for resident-use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.233. Means of Egress Requirements for a New Large Type A Assisted Living Facility.

(a) A new large Type A assisted living facility must meet the requirements of 32.3.2, Means of Egress, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, except as described in this section.

(b) The provisions of 32.3.2.11.2, Lockups, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, are not permitted.

(c) A new large Type A assisted living facility must ensure doors meet the requirements of 32.3.2.2.2, Doors, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, and the additional requirements of this section.

(1) A resident room door in a new large Type A assisted living facility must latch in its frame to resist the passage of smoke.

(2) In a new large Type A assisted living facility comprised of buildings that contain living units with independent cooking equipment within the living unit, a door between the living unit and a corridor or hallway must:

(A) be self-closing or automatic-closing; and

(B) latch in its frame to resist the passage of smoke.

(3) A resident room door or living unit door must not be arranged to prevent the occupant from closing the door.

(4) A new large Type A assisted living facility must ensure doors in a means of egress that are required to swing in the direction of egress travel according to NFPA 101 are inspected and tested according to 32.7.7, Inspection of Door Openings, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) A new large Type A assisted living facility providing spaces for use by residents on floors other than the ground floor must provide at least two separate approved stairs and must ensure stairs used as a means of egress meet the requirements of 32.3.2.2.3, Stairs, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(e) A new large Type A assisted living facility must ensure means of egress are marked according to the requirements of 32.3.2.10, Marking of Means of Egress, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(f) A new large Type A assisted living facility must provide emergency lighting according to the requirements of 32.3.2.9, Emergency Lighting, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, unless each sleeping room has a direct exit to the outside at the finished ground level.

§553.235. Fire Protection Systems Requirements for a New Large Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new large Type A assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. A new large Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new large Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, liv-

ing rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) - (D) of this paragraph.

(B) A new large Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) A new large Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of 18.3.4.5.3, Nursing Homes, [~~19.3.4.5.1, Corridors,~~] in NFPA 101, Chapter 18, New Health Care Occupancies, in lieu of the requirements found in subparagraphs (A) and (B) of this paragraph.

(D) A new large Type A assisted living facility comprised of buildings containing living units with independent cooking equipment must additionally have:

(i) a smoke alarm or smoke detector installed in all [~~in~~] resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, and laundries within the living unit, that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(E) A new large Type A assisted living facility is not required to install smoke alarms, as required by 32.3.3.4.7, [~~32.3.4.7,~~] Smoke Alarms, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, in addition to the smoke detectors required by subparagraphs (A) - (D) of this paragraph.

(3) Alarm control panel.

(A) A new large Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new large Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) A new large Type A assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

[~~(A)~~] A new large Type A assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [~~a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.~~]

[~~(B) A new large Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.~~]

(5) Emergency forces notification. A new large Type A assisted living must ensure a fire alarm system provides emergency forces notification according to the requirements of 32.3.3.4.6, Emergency Forces Notification, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(b) Fire sprinkler system. A new large Type A assisted living facility must provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 32.3.3.5, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(c) Portable Fire Extinguishers. A new large Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of 32.3.3.5.7, Portable Fire Extinguishers, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, and the additional requirements of this subsection.

(1) A new large Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new large Type A assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new large Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen and walk-in mechanical room.

(4) A new large Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or is mounted in an approved cabinet.

(5) A new large Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new large Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

§553.237. Mechanical Requirements for a New Large Type A Assisted Living Facility.

(a) Wastewater and water supply.

(1) Wastewater. A new large Type A assisted living facility must ensure wastewater and sewage are discharged into a sewerage system or an onsite sewerage facility approved by the Water Quality Division of TCEQ, or to a system regulated by an entity responsible

for water quality in that jurisdiction as approved by the Water Quality Division of TCEQ.

(2) Water supply. A new large Type A assisted living facility must ensure the water supply is of safe, sanitary quality, suitable for use, adequate in quantity and pressure, and obtained from a public or private water supply system or a private well.

(b) Resident-use plumbing fixtures.

(1) Water closets and lavatories.

(A) A new large Type A assisted living facility must provide at least one water closet and one lavatory for every six residents, and for any fraction thereof [~~each additional resident fewer than six~~]. Multiple toilets in a single space must comply with paragraph (2)(B) of this subsection.

(B) A new large Type A assisted living facility must ensure a lavatory is readily accessible to each water closet.

(C) A new large Type A assisted living facility must provide at least one water closet, lavatory, and bathing unit, that are accessible to residents, on each floor containing resident sleeping rooms.

(2) Bathing units.

(A) A new large Type A assisted living facility must provide one tub or shower for every 10 residents, and for any fraction thereof.

(B) Where multiple water closets or bathing units are provided in a single space, a new large Type A assisted living facility must provide partitions or curtains to separate plumbing fixtures for resident privacy.

(C) A new large Type A assisted living facility must ensure tubs and showers have non-slip bottoms or floor surfaces, either built-in or applied to the surfaces.

(3) Hot water supply. A new large Type A assisted living facility must provide a supply of hot water for resident use [~~resident use~~]. Hot water for lavatories and bathing units accessible to residents must be maintained between 100 and 120 degrees Fahrenheit.

(4) Supplies. A new large Type A assisted living facility must supply towels, soap, and toilet tissue for individual resident use.

(c) Public- and staff-use plumbing fixtures. In addition to the staff toilets required for the dietary staff according to §553.232(j) of this division (relating to Space Planning and Utilization Requirements for a New Large Type A Assisted Living Facility), an existing large Type A assisted living facility must provide toilets, including water closets and lavatories, for use by the public and by [~~facility~~] staff as follows:

(1) if licensed for 60 or fewer residents, a new large Type A assisted living facility must provide a toilet for use by the public and by [~~facility~~] staff; or

(2) if licensed for more than 60 residents, a new large Type A assisted living facility must provide a toilet for use by the public and a separate toilet for use by [~~facility~~] staff.

(d) Gas. A new large Type A assisted living facility must ensure equipment using natural gas or propane and related gas piping meets the requirements of 9.1.1, Gas, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(e) Heating, ventilation, and air-conditioning (HVAC) and exhaust systems.

(1) General requirements. A new large Type A assisted living facility must ensure HVAC equipment meets the requirements of 32.3.6.2, Heating, Ventilating, and Air-Conditioning, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(2) Heating and cooling. A new large Type A assisted living facility must provide heating and cooling for resident comfort.

(A) A new large Type A assisted living facility must ensure air conditioning systems can maintain and does maintain the comfort range of 68 to 82 degrees Fahrenheit in resident-use areas.

(B) A new large Type A assisted living facility must have a central air conditioning system, or a substantially similar air conditioning system, that can maintain and does maintain a temperature range required under subparagraph (A) of this paragraph within areas used by residents.

(C) A new large Type A assisted living facility may not use an open flame heating device in the facility, except as permitted by subparagraphs (D) and [-] (E) of this paragraph.

(D) A new large Type A assisted living facility must ensure a fuel-fired heating device, other than a working fireplace, meets the following requirements.

(i) A fuel-fired heating device must be connected to a chimney or vent.

(ii) A fuel-fired heating device must take air for combustion directly from outside.

(iii) A fuel-fired heating device must be designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area.

(iv) A fuel-fired heating device must have safety features to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

(E) A new large Type A assisted living facility must ensure a working fireplace meets the following requirements.

(i) A building containing a working fireplace must be protected by an approved, supervised automatic sprinkler system with listed quick response or listed residential sprinklers.

(ii) A working fireplace must be installed, maintained and used according to NFPA 54 and NFPA 211.

(iii) A working [~~work~~] fireplace may not be located in a resident sleeping room.

(iv) The room where a working fireplace is located must be provided with electrically supervised carbon monoxide detection connected to the fire alarm system according to NFPA 720.

(v) A direct-vent gas fireplace, as defined in NFPA 54, must meet the following requirements.

(I) A direct-vent gas fireplace must include a sealed glass front with a wire mesh panel or screen.

(II) The controls for a direct-vent gas fireplace must be locked or located in a restricted location.

(vi) A solid-fuel burning fireplace must be equipped with:

(I) a raised hearth at least four inches above the surrounding finished floor; and

(II) a fireplace enclosure that is guaranteed against breakage up to a temperature of 650 degrees Fahrenheit and constructed of heat-tempered glass or other approved material.

(3) Ventilation.

(A) A new large Type A assisted living facility must be ventilated using windows, mechanical ventilation, or a combination of both.

(B) A new large Type A assisted living facility with interior areas designated for smoking within the building must provide mechanical ventilation directed to the exterior to remove smoke at the rate of 10 air changes per hour.

(4) Exhaust. A new large Type A assisted living facility must ensure bathrooms, toilet rooms, janitorial facilities, and other odor-producing rooms or areas for soiled or unsanitary operations are exhausted with powered exhaust vented to the exterior for odor control.

§553.238. Electrical Requirements for a New Large Type A Assisted Living Facility.

(a) Electrical system. A new large Type A assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. A new large Type A assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[:]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room;~~]

(2) In [~~20 footcandles in~~] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [~~during the day--illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room; and~~]

(3) For [~~50 footcandles for~~] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[~~. Illumination requirements apply when the area is in use for a task it supports, as~~] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. A new large Type A assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. A new large Type A assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[~~(A) be a direct telephone, emergency call system or intercom;~~]

[~~(B) include at least:~~]

(A) [~~(i)~~] one central notification station accessible to staff at all times [~~at a fixed location~~] that receives all calls processed through the system; and

(B) [~~(ii)~~] one [~~permanently fixed~~] call station or device accessible to residents at all times in each resident's living unit. [~~in every resident living unit.~~]

(2) A new large Type A assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification station; or

(B) additional call stations or devices in private or common resident areas.

(3) A new large Type A assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [~~However, a device may not be a substitute for a fixed call station in a resident living unit.~~]

(e) Generator.

(1) A new large Type A assisted living facility that provides a system to supply, distribute, and control electricity for emergency lighting and illumination of exit signs required by NFPA 101, such as a system that uses a generator set as an alternate source of power, must comply with the requirements of Article 700, Emergency Systems, in NFPA 70, Chapter 7, Special Conditions.

(A) The emergency system may not include any systems or equipment except:

(i) emergency lighting, as required by NFPA 101;

(ii) secondary power to ensure illumination of exit signs, as required by NFPA 101; and

(iii) secondary power for detection, alarm, and communications systems, as required by NFPA 72.

(B) A new large Type A assisted living facility must ensure wiring from an emergency source to emergency loads is kept entirely independent of all other wiring and equipment except as permitted by Article 700.10, Wiring, Emergency System, in NFPA 70. Two or more emergency circuits supplied from the same source may be routed in the same raceway, cable, box, or cabinet.

(C) A new large Type A assisted living facility must ensure that transfer equipment for an emergency system does not serve another facility, including a hospital, a nursing facility, or an independent living facility.

(2) A new large Type A assisted living facility that provides a system to supply, distribute, and control electricity for systems and equipment not identified in paragraph (1) of this subsection must comply with the requirements of Article 702, Optional Standby Systems, in NFPA 70.

(3) The alternate power source for the emergency system may supply other emergency loads, legally required standby loads, and optional standby system loads where the source has adequate capacity to ensure adequate power to the different circuits. [~~in the following priority:~~]

[~~(A) emergency circuits for the assisted living facility;~~]

[~~(B) legally required standby circuits, if any; and~~]

[~~(C) optional standby circuits, if any.~~]

§553.239. Miscellaneous Requirements for a New Large Type A Assisted Living Facility.

(a) A new large Type A assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) A new large Type A assisted living facility must ensure an elevator, dumbwaiter, or vertical conveyor meets the requirements of 32.3.6.3, Elevators, Dumbwaiters, and Vertical Conveyors, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(c) A new large Type A assisted living facility must ensure a rubbish chute, incinerator, or laundry chute meets the requirements of 32.3.6.4, Rubbish Chutes, Incinerators, and Laundry Chutes, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) A new large Type A assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 32.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

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 11. NEW LARGE TYPE B ASSISTED LIVING FACILITIES

26 TAC §§553.241 - 553.243, 553.245 - 553.249

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.241. Construction Requirements for a New Large Type B Assisted Living Facility.

(a) Structurally sound. A new large Type B assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes.

(b) Separation of occupancies.

(1) A new large Type B assisted living facility must be separated from other occupancies, including small assisted living facilities or large Type A assisted living facilities, by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(2) A large Type B assisted living facility is not required to be separated from a hospital or nursing facility unless the separation is required by NFPA 101 or the standards for licensing the hospital or nursing facility.

(c) Construction type. A new large Type B assisted living facility must ensure a building housing the facility meets the requirements of 18.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 18, New Health Care Occupancies.

(d) Interior finish. A new Large Type B assisted living facility must ensure interior wall, ceiling, and floor finish materials meet the requirements of 18.3.3, Interior Finish, in NFPA 101, Chapter 18, New Health Care Occupancies.

(e) Vertical openings. A new large Type B assisted living facility must ensure vertical openings are protected according to the requirements of 18.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 18, New Health Care Occupancies.

§553.242. Space Planning and Utilization Requirements for a New Large Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) A new large Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new large Type B assisted living facility must ensure bedroom usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC.

(3) A new large Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the required bedroom usable floor space for a bedroom for more than one resident by up to 10 percent. The bedroom must continue to meet the minimum dimension requirements in paragraph (2) of this subsection. This reduction cannot be used together with the provision for reducing common living areas or common dining areas as described in subsection (g) of this section. [~~A new large Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new large Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.~~]

(4) A new large Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new large Type B assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be easy for all residents [~~operable by a resident~~] occupying the bedroom to open and close from the inside without using any [~~, from the inside, without the use of~~] tools or special devices to unlatch or unlock the window.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section. [~~(a)(3) of this section.~~]

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new large Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new large Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new large Type B assisted living facility must ensure a resident room is arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new large Type B assisted living facility must provide a staff area on each floor of a new large Type B assisted living facility and in each separate building containing resident sleeping rooms. A new large Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.245 of this division (relating to Fire Protection Systems Requirements for a New Large Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new large Type B assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new large Type B assisted living facility that houses individuals of more than one sex [~~gender~~] must provide toilet rooms for each sex, [~~gender,~~] or individual single-occupant toilet rooms for use by either sex [~~any gender~~].

(2) A new large Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new large Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.247 of this division (relating to Mechanical Requirements for a New Large Type B Assisted Living Facility).

(g) Common living areas and dining areas. [~~Resident living areas.~~]

(1) Common living areas. [~~A new large Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.~~]

(A) A new large Type B assisted living facility must ensure the total space for common living areas is provided on a sliding scale according to the following table. [~~provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.~~]
Figure: 26 TAC §553.242(g)(1)(A)

(i) At least one common living area must be at least 120 square feet in area regardless of the number of residents based on the facility's licensed capacity or other provisions of this section that allow a reduction in the total minimum common living area.

(ii) A common living area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) A new large Type B assisted living facility with individual living units that have both a bedroom and other living space may reduce the minimum square footage for the total common living area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common living area. The bedroom must continue to meet the minimum dimension requirements in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. This reduction cannot be used together with the provision for reducing required bedroom usable floor space as described in subsection (a)(3) of this section.

(B) A common living area used to meet the requirements of this subsection must have appropriate furniture. [~~A new large Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.~~]

(C) A common living area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~A new large Type B assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]
[~~Figure: 26 TAC §553.242(g)(1)(C)~~]

(D) A common living area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(E) If a means of egress passes through a common living area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.243 of this division (relating to Means of Egress Requirements for a new Large Type B Assisted Living Facility), from the total size of the room when determining the size of the common living area.

(2) Common dining areas. [~~A new large Type B assisted living facility must provide a dining area with appropriate furniture.~~]

(A) A new large Type B assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. [~~provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of number of residents or other provisions of this section permitting a reduction in the total minimum dining space.~~]
Figure: 26 TAC §553.242(g)(2)(A)

(i) At least one dining area must be at least 120 square feet regardless of the number of residents based on the facil-

ity's licensed capacity or other provisions of this section allowing a reduction in the total minimum common dining area.

(ii) A dining area less than 120 square feet cannot be counted toward meeting the requirements of this paragraph.

(iii) If a new large Type B assisted living facility has individual living units that include both a bedroom and other living space, the facility may reduce the minimum square footage for total common dining area required by this subparagraph by including up to 10 percent of the required bedroom usable floor space in the calculation of the total common dining area. A bedroom must still meet the minimum dimensional criteria in subsection (a)(2) of this section. A facility may only use this provision within the limitations of paragraph (4) of this subsection. A facility must not use this provision at the same time as the provision allowing the reduction of required bedroom usable floor space in subsection (a)(3) of this section.

(B) There must be a covered path from all resident living units or bedrooms to a common dining area. [~~A new large Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.~~]

(C) A dining area used to meet the requirements of this subsection must have furniture suitable for dining use. [~~A new large Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.~~]

(D) A dining area counted toward meeting the requirements of this subsection must have at least one exterior window with a view of the outside. [~~A new large Type B assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.~~]
[~~Figure: 26 TAC §553.242(g)(2)(D)~~]

(E) A dining area that is not required to be counted toward meeting the requirements of this subsection is not required to have windows with a view of the outside.

(F) If a means of egress passes through a common dining area, the facility must subtract the space required for that means of egress, based on the minimum required width for a corridor according to §553.243 of this division, from the total size of the room when determining the size of the common dining area.

(3) Combining common living areas and dining areas. [~~A new large Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.~~]

(A) A new large Type B assisted living facility may have the living area and dining area together in one space as long as the combined space is at least 240 square feet.

(B) Each area within a combined common living area and dining area must have appropriate furniture for the use of the space or area.

(4) Limitations on minimum area reduction. [~~For calculation purposes, where a means of egress passes through a living or dining area, a new large Type B assisted living facility must deduct a pathway, equal to the minimum corridor width according to §553.243 of this division (relating to Means of Egress Requirements for a New Large Type B Assisted Living Facility), from the measured area of the space.~~]

(A) A resident individual living unit area contributed toward total common living area or total common dining area cannot be counted more than once for each living unit. The individual living unit area may be divided between common living area and dining area calculations.

(B) A new large Type B assisted living facility cannot use both the reduction in space for common living or dining areas allowed by this subsection and the reduction in space for bedrooms allowed by subsection (a)(3) of this section at the same time.

[~~(5) A new large Type B assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.~~]

[~~(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new large Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.~~]

[~~(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.~~]

[~~(B) A new large Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.~~]

(h) Storage areas. A new large Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

[~~(1) A new large Type B assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.~~]

[~~(2) A new large Type B assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.~~]

(1) [~~(3)~~] A new large Type B assisted living facility that prepares food onsite [~~on-site~~] must provide a kitchen or dietary area that includes spaces for: [~~to meet the general food service needs of the residents and must include space for the following:~~]

(A) storage, refrigeration, preparation, and serving food;

(B) dish and utensil cleaning which includes:

(i) a three-compartment sink large enough to immerse pots and pans; and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser, and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area;

(F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas. [~~; and~~

[~~(H) a grease trap, if required by local authorities.~~]

(2) [~~(4)~~] A new large Type B assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit measured throughout the room at five feet above the floor.

(3) [~~(5)~~] A new large Type B assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4) [~~(6)~~] A new large Type B assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5) [~~(7)~~] A new large Type B assisted living facility must maintain a separation between soiled and clean dish areas.

(6) [~~(8)~~] A new large Type B assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) A new large Type B assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraph (2) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) A new large Type B facility must ensure a kitchen serving a neighborhood or household provides a restroom accessible to kitchen staff located in close proximity to the kitchen.

(k) Kitchen janitorial facility.

(1) A new large Type B assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area except as described in paragraph (2) of this subsection.

(2) A new large Type B facility must ensure a kitchen serving a neighborhood or household provides a janitorial facility exclusively for the kitchen that is located in close proximity to the kitchen.

(3) A new large Type B assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(l) Finishes.

(1) A new large Type B assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls, and ceilings.

(2) A new large Type B assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) A new large Type B assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors. A new large Type B assisted living facility must ensure a door between a kitchen and a dining area, serving area, or resident-use area, is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is located in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(n) Auxiliary serving kitchens.

(1) A new large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) A new large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this subsection.

(3) A new large Type B assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) A new large Type B assisted living facility must protect cooking facilities according to the requirements in §553.246 of this division (relating to Hazardous Area Requirements for a New [~~new~~] Large Type B Assisted Living Facility).

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.246 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(p) Food storage areas.

(1) A new large Type B assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) A new large Type B assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving so that food is not stored on the floor and must ensure shelves are adjustable wire type shelving.

(3) A new large Type B assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) A new large Type B assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) A new large Type B assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) A new large Type B assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating extending[~~. This separation must extend~~] from the floor to the floor or roof above;

(B) is protected throughout by a fire sprinkler system;

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior;

(I) The exhaust must always operate when soiled linen is held in this area; and

(II) The area may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (A) of this paragraph; and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) A new large Type B assisted living facility must ensure a laundry area for resident use [~~resident-use~~] meets the following requirements.

(A) A new large Type B assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident-use.

(B) When more than three washers and three dryers are provided in one laundry area for resident-use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.243. Means of Egress Requirements for a New Large Type B Assisted Living Facility.

(a) A new large Type B assisted living facility must meet the requirements of 18.2, Means of Egress, in NFPA 101, Chapter 18, New Health Care Occupancies, except as described in this section.

(b) A new large Type B assisted living facility must ensure doors meet the requirements of 18.2.2.2, Doors, in NFPA 101, Chapter 18, New Health Care Occupancies, and the additional requirements of this section.

(1) A resident room door in a new large Type B assisted living facility must latch in its frame to resist the passage of smoke.

(2) In a new large Type B assisted living facility comprised of buildings containing living units with independent cooking equipment within the living unit, a door between the living unit and a corridor or hallway must:

(A) be self-closing or automatic-closing; and

(B) latch in its frame to resist the passage of smoke.

(3) A resident room door or living unit door must not be arranged to prevent the occupant from closing the door.

(4) A new large Type B assisted living facility must not use the door-locking arrangements described in 18.2.2.2.5, in NFPA 101, Chapter 18, New Health Care Occupancies.

(c) A new large Type B assisted living facility providing spaces for use by residents on floors other than the ground floor must provide at least two separate approved stairs and must ensure stairs used as a means of egress meet the requirements of 18.2.2.3, Stairs, in NFPA 101, Chapter 18, New Health Care Occupancies.

(d) A new large Type A assisted living facility must ensure means of egress are marked according to the requirements of 18.2.10, Marking of Means of Egress, in NFPA 101, Chapter 18, New Health Care Occupancies.

(e) A new large Type B assisted living facility must provide emergency lighting according to the requirements of 18.2.9, Emergency Lighting, in NFPA 101, Chapter 18, New Health Care Occupancies.

(f) A new large Type B assisted living facility must maintain means of egress according to the requirements of 18.7.3, Maintenance of Means of Egress, in NFPA 101, Chapter 18, New Health Care Occupancies.

§553.245. Fire Protection Systems Requirements for a New Large Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new large Type B assisted living facility must provide a fire alarm system meeting the requirements of 18.3.4, Detection, Alarm, and Communications Systems, in NFPA 101, Chapter 18, New Health Care Occupancies, as modified by this section.

(1) General. A new large Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new large Type B assisted living facility must install smoke detectors meeting the requirements of 18.3.4.5.3, Nursing Homes, [~~18.3.4.5.1, Corridors,~~] in NFPA 101, Chapter 18, New Health Care Occupancies.

(B) A new large Type B assisted living facility comprised of buildings containing living units with independent cooking equipment within the living unit, must additionally have:

(i) a smoke alarm or smoke detector installed in all resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens and laundries within the living unit, that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(3) Alarm control panel.

(A) A new large Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new large Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) A new large Type B assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

[~~(A)~~] A new large Type B assisted living facility must ensure the power supply source for a fire alarm system is in accordance with NFPA 72. [~~a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.~~]

[~~(B) A new large Type B assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.~~]

(5) Emergency forces notification. A new large Type B assisted living facility must ensure a fire alarm system automatically notifies emergency forces according to the requirements of 18.3.4.3.2, Emergency Forces Notification, in NFPA 101, Chapter 18, New Health Care Occupancies

(b) Fire sprinkler system. A new large Type B assisted living facility must provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 18.3.5, Extinguishment Requirements, in NFPA 101, Chapter 18, New Health Care Occupancies.

(c) Portable Fire Extinguishers. A new large Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) A new large Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new large Type B assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new large Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen, and walk-in mechanical room.

(4) A new large Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) A new large Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new large Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

§553.246. Hazardous Area Requirements for a New Large Type B Assisted Living Facility.

(a) A new large Type B assisted living facility must meet the requirements of 18.3.2, [~~19.3.2,~~] Protection from Hazards, in NFPA 101, Chapter 18, [~~Chapter 19,~~] New Health Care Occupancies.

(b) A new large Type B assisted living facility must not store [~~ensure~~] flammable or combustible liquids, including gasoline, oil-based paint, charcoal lighter fluid, or similar liquids [~~products are not stored~~] in any [~~a~~] building where residents live. [~~housing residents.~~]

(c) A new large Type B assisted living facility must protect any cooking operation according to the requirements of 18.3.2.5, Cooking Facilities, in NFPA 101, Chapter 18, New Health Care Occupancies.

§553.247. Mechanical Requirements for a New Large Type B Assisted Living Facility.

(a) Wastewater and water supply.

(1) Wastewater. A new large Type B assisted living facility must ensure wastewater and sewage are discharged into a sewerage system or an onsite sewerage facility approved by the Water Quality Division of TCEQ, or to a system regulated by an entity responsible for water quality in that jurisdiction as approved by the Water Quality Division of TCEQ.

(2) Water supply. A new large Type B assisted living facility must ensure the water supply is of safe, sanitary quality, suitable for use, adequate in quantity and pressure, and obtained from a public or private water supply system or a private well.

(b) Resident-use plumbing fixtures.

(1) Water closets and lavatories.

(A) A new large Type B assisted living facility must provide at least one water closet and one lavatory for every [~~each~~] six residents and for any fraction thereof. [~~each additional resident fewer than six.~~] Multiple toilets in a single space must comply with paragraph (2)(B) of this subsection.

(B) A new large Type B assisted living facility must ensure a lavatory is readily accessible to each water closet.

(C) A new large Type B assisted living facility must provide at least one water closet, lavatory, and bathing unit, that are accessible to residents, on each floor containing resident sleeping rooms.

(2) Bathing units.

(A) A new large Type B assisted living facility must provide one tub or shower for every 10 residents and for any fraction thereof.

(B) Where multiple water closets or bathing units are provided in a single space, a new large Type B assisted living facility must provide partitions or curtains to separate plumbing fixtures for resident privacy.

(C) A new large Type B assisted living facility must ensure tubs and showers have non-slip bottoms or floor surfaces, either built-in or applied to the surfaces.

(3) Hot water supply. A new large Type B assisted living facility must provide a supply of hot water for resident use [~~resident-use~~]. Hot water for lavatories and bathing units accessible to residents must be maintained between 100 and 120 degrees Fahrenheit.

(4) Supplies. A new large Type B assisted living facility must supply towels, soap, and toilet tissue for individual resident use [~~resident-use~~].

(c) Public- and staff-use plumbing fixtures. In addition to the staff toilets required for the dietary staff according to §553.242(j) of this division (relating to Space Planning and Utilization Requirements for a New Large Type B Assisted Living Facility), a new large Type B assisted living facility must provide toilets, including water closets and lavatories, for use by the public and by [~~facility~~] staff as follows:

(1) if licensed for 60 or fewer residents, a new large Type B assisted living facility must provide a toilet for use by the public and by [~~facility~~] staff; or

(2) if licensed for more than 60 residents, a new large Type B assisted living facility must provide a toilet for use by the public and a separate toilet for use by [~~facility~~] staff.

(d) Gas. A new large Type B assisted living facility must ensure equipment using natural gas or propane and related gas piping meets the requirements of 9.1.1, Gas, in NFPA, Chapter 9, Building Service and Fire Protection Equipment.

(e) Heating, ventilation, and air-conditioning (HVAC) and exhaust systems.

(1) General requirements. A new large Type B assisted living facility must ensure HVAC equipment meets the requirements of 18.5.2, Heating, Ventilating and Air-Conditioning, in NFPA 101, Chapter 18, New Health Care Occupancies.

(2) Heating and cooling. A new large Type B assisted living facility must provide heating and cooling for resident comfort.

(A) A new large Type B assisted living facility must ensure air conditioning systems can maintain and does maintain the comfort range of 68 to 82 degrees Fahrenheit in resident-use areas.

(B) A new large Type B assisted living facility must have a central air conditioning system, or a substantially similar air conditioning system, that can maintain and does maintain a temperature range required under subparagraph (A) of this paragraph within areas used by residents.

(C) A new large Type B assisted living facility may not use an open flame heating device in the facility, except as permitted by subparagraphs (D) - (F) of this paragraph.

(D) A new large Type B assisted living facility must ensure any heating device, other than a central heating plant, suspended unit heater, or working fireplace, meets the requirements of 18.5.2.2, in NFPA 101, Chapter 18, New Health Care Occupancies.

(E) A new large Type B assisted living facility must ensure a suspended unit heater meets the requirements of 18.5.2.3(1), in NFPA 101, Chapter 18, New Health Care Occupancies.

(F) A new large Type B assisted living facility must ensure a working fireplace meets the following requirements.

(i) A direct-vent gas fireplace must meet the requirements of 18.5.2.3(2), in NFPA 101, Chapter 18, New Health Care Occupancies.

(ii) A solid fuel-burning fireplace must meet the requirements of 18.5.2.3(3), in NFPA 101, Chapter 18, New Health Care Occupancies.

(G) A new large Type B assisted living facility must ensure portable space heating devices, including electric space heaters, meet the requirements of 18.7.8, Portable Space-Heating Devices, in NFPA 101, Chapter 18, New Health Care Occupancies.

(3) Ventilation.

(A) A new large Type B assisted living facility must be ventilated using mechanical ventilation.

(B) A new large Type B assisted living facility with interior areas designated for smoking within the building must provide mechanical ventilation directed to the exterior to remove smoke at the rate of 10 air changes per hour.

(4) Exhaust. A new large Type B assisted living facility must ensure bathrooms, toilet rooms, janitorial facilities, and other odor-producing rooms or areas for soiled or unsanitary operations are exhausted with powered exhaust vented to the exterior for odor control.

§553.248. Electrical Requirements for a New Large Type B Assisted Living Facility.

(a) Electrical system. A new large Type B assisted living facility must ensure an electrical system meets the requirements of 9.1.2, Electrical Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(b) Lighting. A new large Type B assisted living facility must provide illumination throughout the building. Minimum lighting levels must not be lower than the following.[~~:~~]

(1) In [~~10 footcandles in~~] resident rooms illumination must be at least 10 footcandles during the day when [~~during the day illumination requirements for these areas apply to lighting throughout the space, as~~] measured anywhere in the space at 30 inches above the floor. [~~anywhere in the room.~~]

(2) In [20 footcandles in] each corridor, staff station, dining room, lobby, toilet room, bathroom, bathing facility, laundry room, stairway, and elevator, illumination must be at least 20 footcandles during the day when [during the day--illumination requirements for these areas apply to lighting throughout the space, as] measured anywhere in the space at 30 inches above the floor. [anywhere in the room.]

(3) For [50 footcandles for] each medication preparation or storage area, kitchen, and desk within a staff station, illumination must be at least 50 footcandles when[. Illumination requirements apply when the area is in use for a task it supports, as] measured where the task is being performed, when the area is in use for the task it supports.

(c) Telephone. A new large Type B assisted living facility must provide at least one telephone in the facility that is available to both staff and residents. Emergency telephone numbers must be posted conspicuously at or near the telephone, including fire, police, emergency medical services, and poison control center services.

(d) Communication system. A new large Type B assisted living facility that consists of two or more floors or separate buildings must provide a communication system from each resident living unit to a central staff station.

(1) The communication system must include at least:

[(A) be a direct telephone, emergency call system, or intercom;]

[(B) include at least:]

(A) [(i)] one central notification station accessible to staff at all times [at a fixed location] that receives all calls processed through the system; and

(B) [(ii)] one [permanently fixed] call station or device accessible to residents at all times in each resident's living unit. [in every resident living unit.]

(2) A new large Type B assisted living facility may provide:

(A) additional or portable notification stations or devices in addition to the central notification; or

(B) additional call stations or devices in private or common resident areas.

(3) A new large Type B assisted living facility may provide residents with portable, wireless call transmitters, such as pendants or wrist bands, but these devices must not replace a call station in a resident living unit. [However, a device may not be a substitute for a fixed call station in a resident living unit.]

(e) Generator.

(1) A new large Type B assisted living facility that provides a system to supply, distribute, and control electricity for emergency lighting and illumination of exit signs required by NFPA 101, such as a system that uses a generator set as an alternate source of power, must comply with the requirements of Article 700, Emergency Systems, in NFPA 70, Chapter 7, Special Conditions.

(A) The emergency system may not include any systems or equipment except:

(i) emergency lighting, as required by NFPA 101;

(ii) secondary power to ensure illumination of exit signs, as required by NFPA 101; and

(iii) secondary power for detection, alarm, and communications systems, as required by NFPA 72.

(B) A new large Type B assisted living facility must ensure wiring from an emergency source to emergency loads is kept entirely independent of all other wiring and equipment except as permitted by Article 700.10, Wiring, Emergency System, in NFPA 70. Two or more emergency circuits supplied from the same source may be routed in the same raceway, cable, box, or cabinet.

(C) A new large Type B assisted living facility must ensure that transfer equipment for an emergency system does not serve another facility, including a hospital, a nursing facility or an independent living facility.

(2) A new large Type B assisted living facility that provides a system to supply, distribute, and control electricity for systems and equipment not identified in paragraph (1) of this subsection must comply with the requirements of Article 702, Optional Standby Systems, in NFPA 70.

(3) The alternate power source for the emergency system may supply other emergency loads, legally required standby loads, and optional standby system loads where the source has adequate capacity to ensure adequate power to the different circuits. [in the following priority:]

[(A) emergency circuits for the assisted living facility]

[(B) legally required standby circuits, if any; and]

[(C) optional standby circuits, if any.]

(4) A new large Type B assisted living facility is not required to comply with the requirements of Article 517, Health Care Facilities, in NFPA 70.

§553.249. Miscellaneous Requirements for a New Large Type B Assisted Living Facility.

(a) A new large Type B assisted living facility must provide an elevator if:

(1) the building in which the facility is located is three or more stories in height; or

(2) the facility provides services or social activities to residents in spaces located on a floor other than the floor where the entrance to the facility is located.

(b) A new large Type B assisted living facility must ensure an elevator, escalator, or conveyor meets the requirements of 18.5.3, Elevators, Escalators, and Conveyors, in NFPA 101, Chapter 18, New Health Care Occupancies.

(c) A new large Type B assisted living facility must ensure a rubbish chute, incinerator, or laundry chute meets the requirements of 18.5.4, Rubbish Chutes, Incinerators, and Laundry Chutes, in NFPA 101, Chapter 18, New Health Care Occupancies.

(d) A new large Type B assisted living facility must ensure furnishings, mattresses, and decorations meet the requirements of 18.7.5, Furnishings, Mattresses, and Decorations, in NFPA 101, Chapter 18, New Health Care Occupancies.

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 12. SPECIALIZED ASSISTED LIVING FACILITIES

26 TAC §553.250

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.250. Construction Requirements for a Certified Alzheimer's Assisted Living Facility.

(a) Applicability. This section only applies to a Type B assisted living facility that is a certified Alzheimer's assisted living facility according to the requirements of §553.27 of this chapter (relating to Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders) or §553.29 of this chapter (relating to Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing) that chooses to:

(1) secure the means of escape or exit doors of a certified Alzheimer's assisted living facility using the approved locking arrangements described in this section; or

(2) create one or more certified Alzheimer's assisted living units separated from other parts of the Type B assisted living facility by control doors that use the approved locking arrangements described in this section.

(b) Staff training. An assisted living facility that uses the locking arrangements described in this section for escape or exit doors or for control doors must train all staff in all the methods of unlocking the doors.

(c) Keypads. An assisted living facility may install a keypad, credential reader, switch or button at escape doors, exit doors, and control doors for staff use.

(d) Small, fully locked certified Alzheimer's assisted living facility. A small Type B assisted living facility that has an Alzheimer's certification for the full licensed capacity of the small Type B assisted living facility that chooses to secure control doors or exterior doors using the approved locking arrangements in this subsection must meet the requirements for a small Type B assisted living facility according to §553.100(e) of this subchapter (relating to General Requirements), as applicable, except as modified by this subsection.

(1) Resident living areas.

(A) An existing small Type B assisted living facility must ensure resident living areas meet the requirements of §553.122(g) of this subchapter (relating to Space Planning and Utilization Requirements for an Existing Small Type B Assisted Living Facility).

(B) A new small Type B assisted living facility must ensure resident living areas meet the requirements of §553.222(g) of this subchapter (relating to Space Planning and Utilization Requirements for a New Small Type B Assisted Living Facility).

(C) If a small, fully locked certified Alzheimer's assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident living areas in a small Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing small Type B assisted living facility must ensure resident use plumbing fixtures meet the requirements of §553.127(b) of this subchapter (relating to Mechanical Requirements for an Existing Small Type B Assisted Living Facility).

(B) A new small Type B assisted living facility must ensure resident use plumbing fixtures meet the requirements of §553.227(b) of this subchapter (relating to Mechanical Requirements for a New Small Type B Assisted Living Facility).

(C) If a small, fully locked certified Alzheimer's assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident-use plumbing fixtures in a small Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(3) Staff areas and monitoring stations.

(A) A small, fully locked certified Alzheimer's assisted living facility that occupies only one floor of a building and is not divided into two or more separate certified Alzheimer's assisted living units must have a staff area as follows.

(i) An existing small Type B assisted living facility must provide a staff area as required by §553.122(e) of this subchapter.

(ii) A new small Type B assisted living facility must provide a staff area as required by §553.222(e) of this subchapter.

(B) If a small, fully locked certified Alzheimer's assisted living facility occupies more than one floor of a building or more than one building, the facility must have a staff area meeting the requirements of subparagraph (A) of this paragraph on each floor and in each building.

(C) If a small, fully locked certified Alzheimer's assisted living facility is divided into two or more separate certified Alzheimer's assisted living units on one floor, the facility must have:

(i) a staff area meeting the requirements of subparagraph (A) of this paragraph in one certified Alzheimer's assisted living unit; and

(ii) a monitoring station in each of the other certified Alzheimer's assisted living unit that includes:

(I) a writing surface, such as a desk or counter;

(II) a chair;

(III) task illumination at the task surface;

(IV) a telephone or intercom; and

(V) lockable storage for resident records.

(4) Means of escape.

(A) An existing small Type B assisted living facility must meet the requirements of §553.123 of this subchapter (relating to Means of Escape Requirements for an Existing Small Type B Assisted Living Facility). Each building and each floor must have at least two means of escape, as required by NFPA 101.

(B) A new small Type B assisted living facility must meet the requirements of §553.223 of this subchapter (relating to Means of Escape Requirements for a New Small Type B Assisted Living Facility). Each building and each floor must have at least two means of escape, as required by NFPA 101.

(5) Control doors. Control doors must not be locked in a small, fully locked certified Alzheimer's assisted living facility unless all the following requirements are met.

(A) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(B) The door must unlock when any of the following occurs:

(i) the fire alarm is activated;

(ii) the fire sprinkler system is activated;

(iii) the locking device loses power; or

(iv) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection.

(6) Exterior doors. Exterior doors of a small, fully locked certified Alzheimer's assisted living facility may be locked against escape by one of the following means if the building has an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(A) The locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet all the following requirements:

(i) the door must unlock when any of the following occurs:

(I) the fire alarm is activated;

(II) the fire sprinkler system is activated;

(III) the locking device loses power; or

(IV) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection;

(ii) a manual fire alarm pull must be placed within five feet of every exterior door that uses this type of lock; and

(iii) a sign must be placed next to the fire alarm pull required by clause (ii) of this subparagraph, which must state, "Pull to release door in an emergency," or, "Pull to unlock door in an emergency."

(7) Outdoor area. A small, fully locked certified Alzheimer's assisted living facility must provide an outdoor area meeting the following requirements.

(A) All outdoor areas combined must be at least 600 square feet in size.

(B) Each individual outdoor area must be at least 300 square feet in size.

(C) All outdoor areas must be connected to, be part of, be controlled by, and be directly accessible from the assisted living facility.

(D) The outdoor areas must be enclosed with walls or fences that do not allow climbing or present a hazard to residents.

(i) If a bedroom window faces a wall or fence required by this paragraph, a solid wall or fence must be at least 20 feet from the building. An open wall or fence must be at least 15 feet away from the building.

(ii) If a bedroom window does not face a wall or fence required by this paragraph, a wall or fence must be at least eight feet away from the building, as long as the wall or fence is parallel to the building.

(iii) If site conditions are unusual, or a wall or fence is not parallel to the building, outdoor areas may be configured differently with approval from HHSC.

(iv) The minimum dimensions in this paragraph do not apply to:

(I) additional walls or fences built along the edges of the property;

(II) building setback lines for privacy or for meeting the requirements of local building authorities; or

(III) the locations of other buildings or structures on the facility property.

(E) A small, certified Alzheimer's assisted living facility must have a walkway made of concrete, asphalt, or another approved material. The walkway must extend from the building to at least one gate in the wall or fence.

(i) If any gate in the wall or fence is locked, the gate closest to the building and connected by a walkway must have a lock that unlocks in the manner described in paragraph (5) or (6) of this subsection. The lock must be safe for outdoor use. An existing gate closest to the building that does not meet these requirements may continue in use if approved by HHSC.

(ii) Any gate, other than the gate described in clause (i) of this subparagraph, may be locked using the lock type described in paragraph (5) or (6) of this subsection, or with a keyed lock. If a keyed lock is used, all staff who are on duty must carry a key to the lock.

(iii) All gates may be locked using a keyed lock if all staff on duty carry a key to the lock. The outdoor area must include an area of refuge that meets the following requirements.

(I) If the small Type B assisted living facility received its Alzheimer's certification before January 31, 2027, the area of refuge must extend beyond a line parallel to the building at a distance of at least 30 feet from the building.

(II) If the small Type B assisted living facility received its Alzheimer's certification on or after January 31, 2027, the area of refuge must be located completely beyond a line parallel to the building at a distance of at least 30 feet from the building.

(III) The area of refuge must include at least 15 square feet for each person, including residents, staff, and visitors, who may be present at the time of an emergency.

(e) Small Type B assisted living facility with one or more certified Alzheimer's assisted living units. A small Type B assisted living facility that has a certified Alzheimer's capacity lower than the assisted living facility's full licensed capacity and that has one or more certified Alzheimer's assisted living units must meet the requirements for a small Type B assisted living facility according to §553.100(e) of this subchapter, as applicable, except as modified by this subsection.

(1) Resident living areas.

(A) An existing small Type B assisted living facility must ensure resident living areas meet the requirements of §553.122(g) of this subchapter.

(B) A new small Type B assisted living facility must ensure resident living areas meet the requirements of §553.222(g) of this subchapter.

(C) If a small Type B assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident living areas in a small Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing small Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.127(b) of this subchapter.

(B) A new small Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.227(b) of this subchapter.

(C) If a small Type B assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident-use plumbing fixtures in a small Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(3) Staff areas and monitoring stations.

(A) A small Type B assisted living facility with one or more certified Alzheimer's assisted living unit must provide a staff area as follows.

(i) An existing small Type B assisted living facility must provide a staff area as required by §553.122(e) of this subchapter.

(ii) A new small Type B assisted living facility must provide a staff area as required by §553.222(e) of this subchapter.

(B) If a small Type B assisted living facility occupies more than one floor of a building or more than one building the facility must have a staff area meeting the requirements of subparagraph (A) of this paragraph on each floor and in each building.

(C) A small Type B assisted living facility must have a monitoring station in each certified Alzheimer's assisted living unit that includes:

(i) a writing surface, such as a desk or counter;

(ii) a chair;

(iii) task illumination at a task surface;

(iv) a telephone or intercom; and

(v) lockable storage for resident records.

(4) Means of escape.

(A) An existing small Type B assisted living facility must comply with §553.123 of this subchapter. Each building and each floor must have at least two means of escape, as required by NFPA 101.

(B) A new small Type B assisted living facility must comply with §553.223 of this subchapter. Each building and each floor must have at least two means of escape, as required by NFPA 101.

(5) Control doors. Control doors must not be locked in a small Type B assisted living facility that is not a fully locked certified Alzheimer's assisted living facility and has one or more certified Alzheimer's assisted living units unless all of the following requirements are met.

(A) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(B) The door must unlock when any of the following occurs:

(i) the fire alarm system is activated;

(ii) the fire sprinkler system is activated;

(iii) the locking device loses power; or

(iv) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection.

(6) Exterior doors. Exterior doors of a small Type B assisted living facility that is not a fully locked certified Alzheimer's assisted living facility and has one or more certified Alzheimer's assisted living units may be locked against escape by one of the following means if the building has an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(A) The locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet all of the following requirements:

(i) the door must unlock when any of the following occurs:

(I) the fire alarm is activated;

(II) the fire sprinkler system is activated;

(III) the locking device loses power; or

(IV) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection;

(ii) a manual fire alarm pull must be placed within five feet of every exterior door that uses this type of lock; and

(iii) a sign must be placed next to the fire alarm pull required by clause (ii) of this subparagraph which must state, "Pull to release door in an emergency," or, "Pull to unlock door in an emergency."

(7) Outdoor area. A small Type B assisted living facility that is not a fully locked certified Alzheimer's assisted living facility and has one or more certified Alzheimer's assisted living unit must provide an outdoor area meeting the following requirements.

(A) All outdoor areas combined must be at least 600 square feet in size.

(B) Each individual outdoor area must be at least 300 square feet in size.

(C) All outdoor areas must be connected to, be part of, be controlled by, and be directly accessible from the assisted living facility.

(D) The outdoor areas must be enclosed with walls or fences that do not allow climbing or present a hazard to residents.

(i) If a bedroom window faces a wall or fence required by this paragraph, a solid wall or fence must be at least 20 feet from the building. An open wall or fence must be at least 15 feet away from the building.

(ii) If a bedroom window does not face a wall or fence required by this paragraph, a wall or fence must be at least eight feet away from the building, as long as the wall or fence is parallel to the building.

(iii) If site conditions are unusual, or a wall or fence is not parallel to the building, outdoor areas may be configured differently with approval from HHSC.

(iv) The minimum dimensions in this paragraph do not apply to:

(I) additional walls or fences built along the edges of the property;

(II) building setback lines for privacy or for meeting the requirements of local building authorities; or

(III) the locations of other buildings or structures on the facility property.

(E) A small, certified Alzheimer's assisted living facility must have a walkway made of concrete, asphalt, or another approved material. The walkway must extend from the building to at least one gate in the wall or fence.

(i) If any gate in the fence or wall is locked, the gate closest to the building and connected by a walkway must have a lock that unlocks in the manner described in paragraph (5) or (6) of this subsection. The lock must be safe for outdoor use. An existing gate closest to the building that does not meet these requirements may continue in use if approved by HHSC.

(ii) Any gate other than the gate described in clause (i) of this subparagraph may be locked using the lock type described in paragraph (5) or (6) of this subsection, or with a keyed lock. If a keyed lock is used, all staff who are on duty must carry a key to the lock.

(iii) All gates may be locked with a keyed lock as long as all staff who are on duty carry a key to the lock, and the outdoor area includes an area of refuge meeting the following requirements.

(I) If the small Type B assisted living facility received its Alzheimer's certification before January 31, 2027, the area of refuge must extend beyond a line parallel to the building at a distance of at least 30 feet from the building.

(II) If the small Type B assisted living facility received its Alzheimer's certification on or after January 31, 2027, the area of refuge must be located completely beyond a line parallel to the building at a minimum distance of at least 30 feet from the building.

(III) The area of refuge must include at least 15 square feet for each person, including residents, staff, and visitors, who may be present at the time of an emergency.

(f) Large, fully locked certified Alzheimer's assisted living facility. A large Type B assisted living facility that has an Alzheimer's certification for the full licensed capacity of the large Type B assisted living facility that chooses to secure control doors or exit doors using the approved locking arrangements in this subsection must meet the requirements for a large Type B assisted living facility according to §553.100(e) of this subchapter, as applicable, except as modified by this subsection.

(1) Resident living areas.

(A) An existing large Type B assisted living facility must ensure resident living areas meet the requirements of §553.142(g) of this subchapter (relating to Space Planning and Utilization Requirements for an Existing Large Type B Assisted Living Facility).

(B) A new large Type B Assisted living facility must ensure resident living areas meet the requirements of §553.242(g) of this subchapter (relating to Space Planning and Utilization Requirements for a New Large Type B Assisted Living Facility).

(C) If a large, fully locked certified Alzheimer's assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident living areas in a large Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.147(b) of this subchapter (relating to Mechanical Requirements for an Existing Large Type B Assisted Living Facility).

(B) A new large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.247(b) of this subchapter (relating to Mechanical Requirements for a New Large Type B Assisted Living Facility).

(C) If a large, fully locked certified Alzheimer's assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident-use plumbing fixtures in a large Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(3) Staff areas and monitoring stations.

(A) A large, fully locked certified Alzheimer's assisted living facility that occupies only one floor of a building and is not divided into two or more separate certified Alzheimer's assisted living units must have a staff area as follows.

(i) An existing large Type B assisted living facility must provide a staff area as required by §553.142(e) of this subchapter.

(ii) A new large Type B assisted living facility must provide a staff area as required by §553.242(e) of this subchapter.

(B) If a large, fully locked certified Alzheimer's assisted living facility occupies more than one floor of a building or more than one building the facility must provide a staff area meeting the requirements of subparagraph (A) of this paragraph on each floor and in each building.

(C) If a large, fully locked certified Alzheimer's assisted living facility is divided into two or more separate certified Alzheimer's assisted living units on one floor, the facility must have:

(i) a staff area meeting the requirements of subparagraph (A) of this paragraph in one certified Alzheimer's assisted living unit; and

(ii) a monitoring station in each of the other certified Alzheimer's assisted living unit that includes:

(I) a writing surface, such as a desk or counter;

(II) a chair;

(III) task illumination at the task surface;

(IV) a telephone or intercom; and

(V) lockable storage for resident records.

(4) Means of egress.

(A) An existing large type B assisted living facility must comply with §553.143 of this subchapter (relating to Means of Egress Requirements for an Existing Large Type B Assisted Living Facility). Each building and each floor must have at least two means of egress, as required by NFPA 101.

(B) A new large Type B assisted living facility must comply with §553.243 of this subchapter (relating to Means of Egress Requirements for a New Large Type B Assisted Living Facility). Each building and each floor must have at least two means of egress, as required by NFPA 101.

(5) Control doors. Control doors must not be locked in a large, fully locked certified Alzheimer's assisted living facility unless the following requirements are met.

(A) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(B) The locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(C) the door must unlock when any of the following occurs:

(i) the fire alarm system is activated;

(ii) the fire sprinkler system is activated;

(iii) the locking device loses power; or

(iv) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection.

(6) Exit doors. Exit doors of a large, fully locked certified Alzheimer's assisted living facility must not be locked against egress except by one the following means, and if the building has an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(A) The locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet all of the following requirements:

(i) the door must unlock when any of the following occurs:

(I) the fire alarm system is activated;

(II) the fire sprinkler system is activated;

(III) the locking device loses power; or

(IV) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection;

(ii) a manual fire alarm pull must be placed within five feet of each exit door that uses this type of lock; and

(iii) a sign must be placed next to the fire alarm pull required by clause (ii) of this subparagraph, which must state, "Pull to release door in an emergency," or "Pull to unlock door in an emergency."

(7) Outdoor area. A large, fully locked Alzheimer's assisted living facility must have an outdoor area meeting the following requirements.

(A) The size of outdoor areas must be as follows.

(i) Each individual outdoor area must be at least 400 square feet in size.

(ii) If a facility has a licensed capacity of 17-49 residents, all outdoor areas combined must be at least 800 square feet in size.

(iii) If a facility has a licensed capacity of 50 residents or more, all outdoor areas combined must meet the following requirements.

(I) A large Type B assisted living facility that received its Alzheimer's certification before January 31, 2027, must provide a combined outdoor area of at least 800 square feet.

(II) A large Type B assisted living facility that received its Alzheimer's certification on or after January 31, 2027, must provide at least 15 square feet of outdoor area for each resident with a combined outdoor area of at least 800 square feet.

(B) All outdoor areas must be connected to, be part of, be controlled by, and be directly accessible from the assisted living facility.

(C) The outdoor areas must be enclosed with walls or fences that do not allow climbing or present a hazard to residents.

(i) If a resident's bedroom window looks out onto a wall or fence required by this paragraph, that wall or fence must be at least 20 feet away from the building if the wall or fence is solid, or at least 15 feet away from the building if the wall or fence is open.

(ii) If there are no bedroom windows facing a wall or fence required by this paragraph, that wall or fence must be at least eight feet away from the building, as long as the wall or fence is parallel to the building.

(iii) If site conditions are unusual, or a wall or fence is not parallel to the building, outdoor areas may be configured differently with approval from HHSC.

(iv) The minimum dimensions in this paragraph do not apply to:

(I) additional walls or fences built along the edges of the property;

(II) building setback lines for privacy or for meeting the requirements of local building authorities; or

(III) the locations of buildings or structures on the facility property.

(D) If a building exit discharges into the outdoor area, a large, certified Alzheimer's assisted living facility must ensure there is a walkway made of concrete, asphalt, or another approved material. The walkway must extend from the exit to at least two gates in the wall or fence.

(i) If any gate in the wall or fence is locked, the gate closest to the building exit must be connected to the exit by a continuous walkway. The gate must have a lock that unlocks in the manner described in paragraph (5) or (6) of this subsection. The lock must be safe for outdoor use. An existing gate closest to the building exit, that does not meet these requirements, may continue in use if approved by HHSC.

(ii) Any gate other than the gate described in clause (i) of this subparagraph may be locked using the lock type described in paragraph (5) or (6) of this subsection, or with a keyed lock. If a keyed lock is used, all staff on duty must carry a key to the lock.

(iii) All gates may be locked using a keyed lock if all staff on duty carry a key to the lock. The outdoor area must include an area of refuge that meets the following requirements.

(I) If the large Type B assisted living facility received its Alzheimer's certification before January 31, 2027, the area of refuge must extend beyond a line parallel to the building at a distance of at least 30 feet from the building.

(II) If the large Type B assisted living facility received its Alzheimer's certification on or after January 31, 2027, the area of refuge must be located completely beyond a line parallel to the building at a distance of at least 30 feet from the building.

(III) The area of refuge must include at least 15 square feet for each person, including residents, staff, and visitors, who may be present at the time of an emergency.

(g) Large Type B assisted living facility with one or more certified Alzheimer's assisted living units. A large Type B assisted living facility that has a certified Alzheimer's capacity lower than the assisted living facility's full licensed capacity and that has one or more certified Alzheimer's assisted living units must meet the requirements for a large Type B assisted living facility according to §553.100(e) of this subchapter, as applicable, except as modified by this subsection.

(1) Resident living areas.

(A) An existing large Type B assisted living facility must ensure resident living areas meet the requirements of §553.142(g) of this subchapter.

(B) A new large Type B Assisted living facility must ensure resident living areas meet the requirements of §553.242(g) of this subchapter.

(C) If a large Type B assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident living areas in a large Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.147(b) of this subchapter.

(B) A new large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.247(b) of this subchapter.

(C) If a large Type B assisted living facility has more than one certified Alzheimer's assisted living unit, each certified Alzheimer's assisted living unit must separately meet the requirements for resident-use plumbing fixtures in a large Type B assisted living facility for the capacity of the certified Alzheimer's assisted living unit.

(3) Staff areas and monitoring stations.

(A) A large Type B assisted living facility with one or more certified Alzheimer's assisted living units must provide a staff area as follows.

(i) An existing large Type B assisted living facility must provide a staff area as required by §553.142(e) of this subchapter.

(ii) A new large Type B assisted living facility must provide a staff area as required by §553.242(e) of this subchapter.

(B) If a large Type B assisted living facility occupies more than one floor of a building or more than one building, the facility must provide a staff area meeting the requirements of subparagraph (A) of this paragraph on each floor and in each building.

(C) A large Type B assisted living facility must have a monitoring station in each certified Alzheimer's assisted living unit that includes:

(i) a writing surface, such as a desk or counter;

(ii) a chair;

(iii) task illumination at a task surface;

(iv) a telephone or intercom; and

(v) lockable storage for resident records.

(4) Means of egress.

(A) An existing large type B assisted living facility must comply with §553.143 of this subchapter. Each building and each floor and must have at least two means of egress, as required by NFPA 101.

(B) A new large Type B assisted living facility must comply with §553.243 of this subchapter. Each building and each floor must have at least two means of egress, as required by NFPA 101.

(5) Control doors. Control doors must not be locked in a large Type B assisted living facility that is not a fully locked certified Alzheimer's assisted living facility and has one or more certified Alzheimer's assisted living units unless the following requirements are met.

(A) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(B) The locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(C) the door must unlock when any of the following occurs:

(i) the fire alarm system is activated;

(ii) the fire sprinkler system is activated;

(iii) the locking device loses power; or

(iv) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection.

(6) Exit doors. Exit doors of a large Type B assisted living facility that is not a fully locked certified Alzheimer's assisted living facility and has one or more certified Alzheimer's assisted living unit may not be locked against egress except by one of the following means, and if the building has an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(A) The locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet all of the following requirements:

(i) the door must unlock when any of the following occurs:

(I) the fire alarm system is activated;

(II) the fire sprinkler system is activated;

(III) the locking device loses power; or

(IV) staff activate a switch or button located at any staff area or at any monitoring station required by paragraph (3) of this subsection;

(ii) a manual fire alarm pull must be placed within five feet of each exit door that uses this type of lock; and

(iii) a sign must be placed next to the fire alarm pull required by clause (ii) of this subparagraph, which must state, "Pull to release door in an emergency," or "Pull to unlock door in an emergency."

(7) Outdoor area. A large Type B assisted living facility that has a certified Alzheimer's capacity lower than the assisted living facility's full licensed capacity and that has one or more certified Alzheimer's assisted living unit must have an outdoor area meeting the following requirements.

(A) The size of outdoor areas must be as follows.

(i) An individual outdoor area must be at least 400 square feet in size.

(ii) If a certified Alzheimer's unit has a certified capacity of 17-49 residents, all outdoor areas combined must be at least 800 in size.

(iii) If a certified Alzheimer's unit has a certified capacity of 50 residents or more, all outdoor areas combined must meet the following requirements.

(I) A large Type B assisted living facility that received its Alzheimer's certification before January 31, 2027, must have at least 800 square feet of combined outdoor area.

(II) A large Type B assisted living facility that received its Alzheimer's certification on or after January 31, 2027, must provide at least 15 square feet of outdoor area for residents with a combined outdoor area of at least 800 square feet.

(B) All outdoor areas must be connected to, be part of, be controlled by, and be directly accessible from the assisted living facility.

(C) The outdoor areas must be enclosed with walls or fences that do not allow climbing or present a hazard to residents.

(i) If a bedroom window faces a wall or fence required by this paragraph, a solid wall or fence must be at least 20 feet from the building. An open wall or fence must be at least 15 feet from the building.

(ii) If a bedroom window does not face a wall or fence required by this paragraph, a wall or fence must be at least eight feet from the building, as long as the wall or fence is parallel to the building.

(iii) If site conditions are unusual, or a wall or fence is not parallel to the building, outdoor areas may be configured differently with approval from HHSC.

(iv) The minimum dimensions in this paragraph do not apply to:

(I) additional walls or fences built along the edges of the property;

(II) building setback lines for privacy or for meeting the requirements of local building authorities; or

(III) the locations of buildings or structures on the facility property.

(D) If a building exit discharges into the outdoor area, a large, certified Alzheimer's assisted living facility must ensure there is a walkway made of concrete, asphalt, or another approved material. The walkway must extend from the exit to at least two gates in the wall or fence.

(i) If any gate in the wall or fence is locked, the gate that is closest to the building exit must be connected to the exit by a continuous walkway. The gate must have a lock that unlocks in the manner described in paragraph (5) or (6) of this subsection. The lock must be safe for outdoor use. An existing gate closest to the building exit, that does not meet the requirements, may continue in use if approved by HHSC.

(ii) Any gate other than the gate described in clause (i) of this subparagraph may be locked using the lock type described in paragraph (5) or (6) of this subsection, or with a keyed lock. If a keyed lock is used, all staff on duty must carry a key to the lock.

(iii) All gates may be locked with a keyed lock as long as all staff who are on duty carry a key to the lock, and the outdoor area includes an area of refuge meeting the following requirements.

(I) If the large Type B assisted living facility received its Alzheimer's certification before January 31, 2027, the area of refuge must extend beyond a line parallel to the building at a distance of at least 30 feet from the building.

(II) If the large Type B assisted living facility received its Alzheimer's certification on or after January 31, 2027, the area of refuge must be located completely beyond a line parallel to the building at a distance of at least 30 feet from the building.

(III) The area of refuge must include at least 15 square feet for each person, including residents, staff, and visitors, who may be present at the time of an emergency.

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
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For further information, please call: (512) 438-3161

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SUBCHAPTER E. STANDARDS FOR LICENSURE

26 TAC §§553.253, 553.254, 553.259, 553.261, 553.263, 553.265, 553.267, 553.269, 553.271, 553.273, 553.275,

553.277, 553.279, 553.281, 553.283, 553.285, 553.287, 553.289, 553.291 - 553.293, 553.295

STATUTORY AUTHORITY

The amendments and new sections are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments and new sections implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.253. Employee Qualifications and Training.

(a) Manager qualifications and training. The [~~Each~~] facility must designate, in writing, a manager to be in charge of operating the facility. [~~have authority over the operation.~~]

(1) Qualifications. In small facilities, the manager must have finished high school or received an equivalent certificate [~~proof~~] of graduation. [~~from an accredited high school or certification of equivalency of graduation.~~] In large facilities, a manager must have:

(A) an associate [~~associate's~~] degree in nursing, health care management, or a related field;

(B) a bachelor's degree; or

(C) finished high school or received an equivalent certificate of graduation and worked for at least one year in a management job or in health care. [~~proof of graduation from an accredited high school or certification of equivalency of graduation and at least one year of experience working in management or in health care industry management.~~]

(2) Manager training. A manager must complete a 24-hour training course on the management of assisted living facilities within the first year on the job. The course must cover all requirements listed in this subsection. [~~Training in management of assisted living facilities. A manager must complete at least one educational course on the management of assisted living facilities, which must include information on the assisted living standards; resident characteristics (including dementia), resident assessment and skills working with residents; basic principles of management; food and nutrition services; federal laws, with an emphasis on accessibility requirements under the Americans with Disabilities Act; community resources; ethics, and financial management.~~]

(A) The 24-hour training requirement may not be met through in-services at the facility, but may be met through structured, formalized classes, correspondence courses, training videos, or computer-based education programs. [~~The course must be at least 24 hours in length.~~]

~~*(i)* A manager must complete eight hours of training on the assisted living standards within the first three months of employment.~~]

~~*(ii)* The 24-hour training requirement may not be met through in-services at the facility, but may be met through structured, formalized classes, correspondence courses, training videos, distance learning programs, or off-site training courses. All training must be provided or produced by academic institutions, assisted living corporations, or recognized state or national organizations or associations. Subject matter that deals with the internal affairs of an organization will not qualify for credit.~~]

~~*(iii)* Evidence of training must be on file at the facility and must contain documentation of content, hours, dates, and provider.~~]

(B) The 24-hour training course must be provided or produced by academic institutions or established state or national assisted living organizations or associations. [~~A manager who can show documentation of a previously completed comparable course of study are exempt from the training requirements.~~]

(C) Subject matter that deals with the internal affairs of an organization does not qualify for credit. [~~A manager must complete the training required by subparagraph (A) or (B) of this paragraph, as applicable, by the first anniversary of employment as manager.~~]

(D) The 24-hour training course must include the following course material: [~~An assisted living manager who was employed by a licensed assisted living facility as the manager and changes employment to another licensed assisted living facility as the manager, with a break in employment of no longer than 30 days, is exempt from the 24-hour training requirement.~~]

(i) eight hours focused on assisted living facility rules in this chapter;

(ii) common traits of residents in assisted living facilities, including dementia, and skills for working with residents;

(iii) conducting resident evaluations;

(iv) basic management principles;

(v) food and nutrition services;

(vi) basic ways to prevent and control infections;

(vii) federal laws, with an emphasis on accessibility requirements under the Americans with Disabilities Act;

(viii) how to find and use helpful resources in the community that apply to residents in an assisted living facility;

(ix) ethics; and

(x) financial management.

(E) Evidence of training must be on file at the facility and must contain documentation of content, hours, dates, and provider.

(F) An assisted living manager who begins managing another licensed assisted living facility is exempt from the 24-hour training requirement if the break in employment does not exceed 90 days. All managers must complete the continuing education outlined in paragraph (3) of this subsection.

(3) Continuing education for managers. After the first 12 months as manager, a manager must complete 12 hours of continuing education before the next anniversary of employment as manager. Annual continuing education must include at least two of the following topics: [~~All managers must show evidence of 12 hours of annual continuing education. This requirement will be met during the first year of employment by the 24-hour assisted living management course. The annual continuing education requirement must include at least two of the following areas:~~]

(A) resident and provider rights and responsibilities; [~~, abuse and neglect, and confidentiality;~~]

(B) abuse, neglect and exploitation; [~~basic principles of management;~~]

(C) keeping information about residents and staff private; [~~skills for working with residents, families, and other professional service providers;~~]

(D) basic principles of management; [~~resident characteristics and needs;~~]

(E) skills for working with residents, families, and other professional service providers; [~~community resources;~~]

(F) the different needs and qualities of residents; [~~accounting and budgeting;~~]

(G) information about helpful services in the community that support residents; [~~basic emergency first aid, or~~]

(H) accounting and budgeting; [~~federal laws, such as the Americans with Disabilities Act of 1990, as amended; the Civil Rights Act of 1991; the Rehabilitation Act of 1973, as amended; the Family and Medical Leave Act of 1993; and the Fair Housing Act, as amended.~~]

(I) basic infection prevention and control principles;

(J) basic emergency first aid, including how to help someone who is choking, such as using the Heimlich maneuver or similar methods; and

(K) federal laws, such as the Americans with Disabilities Act, the Civil Rights Act, the Rehabilitation Act, the Family and Medical Leave Act, and the Fair Housing Act.

(4) Manager's responsibilities. The manager must work at the facility for at least 40 hours each week and be in charge of only one facility, except for a manager of a small Type A facility who: [~~be on duty 40 hours per week and may manage only one facility, except for managers of small Type A facilities, who may have responsibility for no more than 16 residents in no more than four facilities. The managers of small Type A facilities must be available by telephone or pager when conducting facility business off-site.~~]

(A) may be responsible for up to 16 residents, but only if those residents are split between no more than four facilities; and

(B) must be reachable by phone for anything related to the facility whenever the manager is working away from the facility.

(5) Manager's absence. [~~An employee competent and authorized to act in the absence of the manager must be designated in writing.~~]

(A) The facility must identify in writing an authorized employee to act when the manager is absent and must update this information as needed.

(B) The facility must ensure the employee designated to act in the manager's absence understands and is able to fulfill the manager's responsibilities.

(b) Attendants. [~~Full-time facility attendants must be at least 18 years old or a high-school graduate.~~]

(1) An attendant must be 18 years old or have finished high school or received an equivalent certificate of graduation. [~~in the facility at all times when residents are in the facility.~~]

(2) At least one attendant must always be present in the facility when residents are present. [~~Attendants are not precluded from performing other functions as required by the facility.~~]

(c) Staffing.

(1) A facility must develop and implement staffing policies, which require staffing ratios based upon the needs of the residents, as identified in their service plans.

(2) On-duty attendants cannot be shared with another facility or provider, such as a nursing home, another assisted living facility, or a home and community support services agency. [~~Prior to admission, a facility must disclose, to prospective residents and their families, the facility's normal 24-hour staffing pattern and post it monthly in accordance with §553.271 of this subchapter (relating to Postings).~~]

(3) A facility must disclose to a prospective resident and the prospective resident's family the facility's normal 24-hour staffing pattern.

(A) A facility must post the normal 24-hour staffing pattern each month as required by §553.291 of this subchapter (relating to Postings).

(B) A facility's posted 24-hour staffing pattern must include:

(i) how many attendants are scheduled to work each shift;

(ii) how many nurses are scheduled to work during each shift, if the facility employs nurses;

(iii) how many medication aides are working during each shift, if the facility employs medication aides; and

(iv) the office hours of the facility manager.

(4) [~~(3)~~] A facility must have sufficient staff to:

(A) maintain order, safety, and cleanliness;

(B) assist with medication regimens;

(C) prepare and serve meals that meet the daily nutritional and special dietary needs of each resident, in accordance with each resident's service plan;

(D) assist with laundry;

(E) ensure that each resident receives the supervision and care necessary to meet basic needs, including required nighttime care or supervision; and [~~assure that each resident receives the kind and amount of supervision and care required to meet his basic needs; and~~]

(F) ensure safe evacuation of the facility in the event of an emergency.

(5) A facility must not use an outside resource or solicit or involve resident family members, friends, or visitors to provide care for a resident to mitigate staffing shortages.

(6) [~~(4)~~] A facility must meet the applicable staffing requirements for night shift [~~described in this subparagraph~~].

(A) Type A facility: Night shift staff in a small facility must be immediately available. In a large facility, the staff must be immediately available and awake.

(B) Type B facility: Night shift staff must be immediately available and awake, regardless of the number of licensed beds.

(d) Staff training. The facility must document that staff [~~members~~] are competent to provide personal care services before

assuming the responsibility of providing personal care services. The facility must document that staff [~~responsibilities and~~] have received the following training.

(1) All staff members must complete four hours of orientation that covers, [~~before assuming any job responsibilities. Training must cover,~~] at a minimum:[~~, the following topics:~~]

(A) reporting of abuse, neglect, and exploitation; [~~and neglect;~~]

(B) confidentiality of resident information;

(C) universal precautions;

(D) conditions about which they should notify the facility manager;

(E) residents' rights; [~~and~~]

(F) basic infection prevention and control principles; and

(G) [~~(F)~~] emergency and evacuation procedures.

(2) In addition to the requirements in paragraph (1) of this subsection, an attendant [~~Attendants~~] must complete 16 hours of on-the-job supervision and training directly [~~within the first 16 hours of employment~~] following orientation. Training must include:

(A) assisting residents [~~providing assistance~~] with the activities of daily living;

(B) health conditions and diagnoses of residents in the facility and how these conditions may affect provision of care; [~~resident's health conditions and how they may affect provision of tasks;~~]

(C) safety measures to prevent accidents and injuries;

(D) emergency first aid procedures, such as the Heimlich maneuver or other choking interventions, and actions to take when a resident falls down, gets a cut, [~~suffers a laceration,~~] or is experiencing [~~experiences~~] a sudden change in physical or mental status;

(E) managing disruptive behavior;

(F) [~~behavior management, for example,~~] prevention of aggressive behavior and de-escalation techniques, [~~practices to decrease the frequency of the use of restraint,~~] and alternatives to restraints; [~~and~~]

(G) basic infection prevention and control principles; and

(H) [~~(G)~~] fall prevention.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, an attendant [~~Direct care staff~~] must complete six documented hours of continuing education annually, based on the individual's hire date. One hour of the annual continuing education must be in fall prevention and one hour must be in behavior management such as preventing aggressive behavior and de-escalation techniques and alternatives to restraints. Both topics must be competency-based. The remaining hours of annual continuing education must address the unique needs of the residents and may include: [~~each employee's hire date. Staff must complete one hour of annual training in fall prevention and one hour of training in behavior management, for example, prevention of aggressive behavior and de-escalation techniques, practices to decrease the frequency of the use of restraint, and alternatives to restraints. Training for these subjects must be competency-based. Subject matter must address the unique needs of the facility. Suggested topics include:~~]

(A) promoting resident dignity, independence, individuality, privacy, and choice;

(B) resident rights and principles of self-determination;

(C) communication techniques for working with residents with hearing, visual, or cognitive impairment;

(D) communicating with families and other persons interested in the resident;

(E) common physical, psychological, social, and emotional conditions and how these conditions affect residents' care;

(F) basic infection prevention and control principles;

(G) [~~(F)~~] essential facts about common physical, emotional, cognitive, and mental disorders such as [~~, for example,~~] arthritis, cancer, dementia, depression, heart and lung diseases, sensory problems, mental illness, and [~~or~~] stroke;

(H) [~~(G)~~] cardiopulmonary resuscitation (CPR);

(I) [~~(H)~~] common medications and side effects, including psychotropic medications [~~, when appropriate~~];

(J) [~~(I)~~] recognizing the symptoms of a mental health concern [~~understanding mental illness~~];

(K) [~~(J)~~] conflict resolution and de-escalation techniques; and

(L) [~~(K)~~] information regarding community resources as they relate to resident needs.

(4) A facility that employs [~~Facilities that employ~~] licensed nurses, certified nurse aides, or certified medication aides must ensure that staff members in these positions receive [~~provide~~] annual in-service training, appropriate to their job responsibilities, from one or more of the following areas:

(A) communication techniques and skills useful when communicating with the hearing, visually, and cognitively impaired; therapeutic touch; and recognizing communication that indicates psychological abuse; [~~providing geriatric care (skills for communicating with the hearing impaired, visually impaired and cognitively impaired; therapeutic touch; recognizing communication that indicates psychological abuse);~~]

(B) assessment and interventions related to the common physical and psychological changes of aging for each body system;

(C) geriatric pharmacology, including treatment for pain management, food and drug interactions, and sleep disorders;

(D) common emergencies of [~~geriatric~~] residents and how to prevent them, such as [~~for example~~] falls, choking on food or medicines, and injuries from restraint use; [~~recognizing sudden changes in physical condition, such as stroke, heart attack, acute abdomen, acute glaucoma; and obtaining emergency treatment;~~]

(E) recognizing sudden changes in physical condition, such as stroke, heart attack, acute abdomen, acute angle-closure glaucoma, respiratory distress, and obtaining emergency treatment;

(F) [~~(E)~~] common mental and cognitive disorders with related nursing implications; and

(G) [~~(F)~~] ethical and legal issues regarding advance directives, abuse, neglect, and exploitation [~~and neglect~~], guardianship, and confidentiality.

§553.254. Training Requirements for Staff Providing Personal Care Services to a Resident with [~~With~~] Alzheimer's Disease or a Related Disorder in a Facility that is Not an Alzheimer's Certified Facility.

(a) A facility must adopt, implement, and enforce a written policy that:

(1) requires a facility employee who provides personal care services to a resident with Alzheimer's disease or a related disorder to complete training on care for residents with Alzheimer's disease and related disorders; and

(2) ensures the care and services provided by a facility employee to a resident with Alzheimer's disease or a related disorder meet the specific identified needs of the resident relating to the diagnosis of Alzheimer's disease or a related disorder.

(b) [~~(a)~~] A facility that provides personal care services to a resident with Alzheimer's disease or a related disorder that is not an Alzheimer's certified facility must require a staff member to complete competency-based training and annual continuing education on Alzheimer's disease and related disorders in accordance with this section. The training required in this section may be included as part of the initial training and continuing education required in §553.253 of this subchapter (relating to Employee Qualifications and Training).

[~~(1) The training required in this section may be included as part of the initial training and continuing education required in §553.253 of this subchapter (relating to Employee Qualifications and Training).~~]

[~~(2) The training required in this section may satisfy the training required by facility policy under §553.255 of this subchapter (relating to All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder).~~]

(c) [~~(b)~~] A facility must require a manager to:

(1) complete four hours of training and pass a competency-based evaluation on:

(A) Alzheimer's disease and related disorders;

(B) provision of person-centered care;

(C) assessment and care planning;

(D) activities of daily living for a resident with Alzheimer's disease or a related disorder;

(E) common behaviors and communications associated with residents with Alzheimer's disease or related disorders;

(F) administrative support services related to information for:

(i) comorbidities management;

(ii) care planning;

(iii) provision of medically appropriate education and support services and resources in the community; and

(iv) including person-centered care to residents with Alzheimer's disease or related disorders and the resident's family;

(G) staffing requirements that will:

(i) facilitate collaboration and cooperation among [~~facility~~] staff members; and

(ii) ensure each staff member obtains appropriate informational materials and training to properly care for and interact with a resident with Alzheimer's disease or a related disorder based on the staff member's position;

(H) establishing a supportive and therapeutic environment for residents with Alzheimer's disease or related disorders to enhance the sense of community among the residents and within the facility; and

(I) transitioning care and coordination of services for residents with Alzheimer's disease or related disorders; and

(2) after the date of successfully completing the training and competency-based evaluation required in paragraph (1) of this subsection, complete two hours of annual continuing education on best practices related to treatment and provision of care to residents with Alzheimer's disease or related disorders.

(d) [~~(c)~~] A facility must require a staff member who provides personal care services to:

(1) complete four hours of training and pass a competency-based evaluation on:

(A) Alzheimer's disease and related disorders;

(B) provision of person-centered care;

(C) assessment and care planning;

(D) activities of daily living for a resident with Alzheimer's disease or a related disorder; and

(E) common behaviors and communications associated with a resident with Alzheimer's disease and related disorders;

(2) complete the requirements in paragraph (1) of this subsection before [~~prior to~~] performing personal care services; and

(3) after successfully completing the training and competency-based evaluation required in paragraph (1) of this subsection, complete two hours of continuing education that includes best practices related to the treatment of and provision of care to residents with Alzheimer's disease or related disorders.

(e) [~~(d)~~] A facility must require each staff member who is not a direct service staff member, including housekeeping staff, front desk staff, maintenance staff, and other staff members with incidental but recurring contact with a resident with Alzheimer's disease or a related disorder, to complete training and pass a competency-based evaluation on:

(1) Alzheimer's disease and related disorders;

(2) provision of person-centered care; and

(3) common behaviors and communications associated with a resident with Alzheimer's disease and related disorders.

(f) [~~(e)~~] A facility must:

(1) provide the training completion certificate to the staff member, including the manager; and

(2) maintain records of each certificate for all staff, including the manager, in accordance with the facility's records retention policies.

(g) [~~(f)~~] A [~~facility~~] staff member who successfully completes the training required by this section, passes the evaluation, and then transfers employment to another facility is not required to satisfy these requirements for the new facility if there is less than a two-year lapse of employment with a facility.

§553.259. Admission Policies and Procedures.

(a) Admission policies and disclosure statement.

(1) A facility must not admit a resident under the age of 18 years unless the person is an emancipated minor.

(2) [~~(1)~~] A facility must not admit or retain a resident whose needs cannot be met by the facility and who cannot secure the necessary services from an outside resource. [~~As part of the facility's general supervision and oversight of the physical and mental well-being of its residents, the facility remains responsible for all care provided at the facility. If the individual is appropriate for placement in a facility, then the decision that additional services are necessary and can be secured is the responsibility of facility management with written concurrence of the resident, resident's attending physician, or legal representative. Regardless of the possibility of "aging in place" or securing additional services, the facility must meet all NFPA 101 and physical plant requirements in Subchapter D of this chapter (relating to Facility Construction), and, as applicable, §553.311 (relating to Physical Plant Requirements for Alzheimer's Units), based on each resident's evacuation capabilities, except as provided in subsection (e) of this section.~~]

(3) [~~(2)~~] The facility must provide [~~There must be~~] a written admission agreement to a resident, the resident's responsible party, or legally authorized representative before admitting the resident to the facility. [~~between the facility and the resident. The agreement must specify such details as services to be provided and the charges for the services. If the facility provides services and supplies that could be a Medicare benefit, the facility must provide the resident a statement that such services and supplies could be a Medicare benefit.~~]

(A) The admission agreement must specify such details as services to be provided and the charges for the services.

(B) The admission agreement must not conflict with the standards set forth in this chapter.

(4) If a facility provides services and supplies that may be covered by Medicare or Medicaid, the facility must provide the resident with a written statement explaining that these services and supplies may be a Medicare benefit. The facility must provide this statement no later than 30 days after admission.

(5) A facility must provide a copy of the facility's disclosure statement and the resident's individual service plan to any outside resource that provides services to the resident. An outside resource must provide the facility with a copy of its care plan, individualized service plan, or plan of care for the resident. The outside resource must document, at the facility, all services provided to the resident on the day the services are provided.

[~~(3) A facility must share a copy of the facility disclosure statement, rate schedule, and individual resident service plan with outside resources that provide any additional services to a resident. Outside resources must provide facilities with a copy of their resident care plans and must document, at the facility, any services provided, on the day provided.~~]

(6) [~~(4)~~] In addition to the facility disclosure statement, a facility that advertises, markets, or otherwise promotes that it provides services, including memory care services, to residents with Alzheimer's disease and related disorders, must provide to each resident the Assisted Living Facility Memory Care Disclosure Statement. The facility must disclose whether the facility is certified to provide specialized care to residents with Alzheimer's disease or related disorders.

(A) A facility that is Alzheimer's certified and provides the Assisted Living Facility Memory Care Disclosure Statement to a resident, must also provide HHSC Form 3641, Alzheimer's Assisted Living Facility Disclosure Statement.

(B) A facility that is not Alzheimer's certified and provides the Assisted Living Facility Memory Care Disclosure Statement[~~,~~] to a resident does not need to provide HHSC Form [~~form~~] 3641, Alzheimer's Assisted Living Disclosure Statement.

[~~(5) Each resident must have a health examination by a physician performed within 30 days before admission or 14 days after admission, unless a transferring hospital or facility has a physical examination in the medical record.~~]

(7) The facility must secure, upon the admission of a resident, or as soon as practicable for an emergency admission, the resident's:

[~~(6)~~] [~~The facility must secure at the time of admission of a resident the following identifying information:~~]

(A) full name; [~~of resident;~~]

(B) Social Security [~~social security~~] number;

(C) usual residence (where the resident lived before admission);

(D) sex;

(E) marital status;

(F) date of birth;

[~~(G) place of birth;~~]

[~~(H) usual occupation (during most of working life);~~]

(G) [~~(I)~~] family, other persons named by the resident, and physician for emergency notification;

(H) [~~(J)~~] pharmacy preference; [~~and~~]

(I) [~~(K)~~] Medicaid/Medicare number, if applicable; and [~~available.~~]

(J) legally authorized representative contact information, if applicable.

(8) A facility that allows pets must establish, implement, and enforce a pet policy. The policy must address:

(A) sanitation, including pest control;

(B) safety, including any vaccination requirements or size or breed restrictions;

(C) compliance with any local codes or ordinances; and

(D) the facility's fees or associated costs.

(9) A facility must have a policy that addresses the use of service animals in accordance with the Americans with Disabilities Act.

(b) Resident evaluation and service plan. [~~Resident assessment and service plan. Within 14 days of admission, a resident comprehensive assessment and an individual service plan for providing care, which is based on the comprehensive assessment, must be completed. The comprehensive assessment must be completed by the appropriate staff and documented on a form developed by the facility. When a facility is unable to obtain information required for the comprehensive assessment, the facility should document its attempts to obtain the information.~~]

(1) Within 14 days after admission, the facility must complete a resident evaluation and develop an individual service plan for providing care that is based on the resident evaluation. The resident evaluation must be performed by the manager, a licensed nurse, or a staff member assigned to oversee all resident care, as applicable to the resident's individual requirements. [~~The comprehensive assessment must include the following items:~~]

[~~(A) the location from which the resident was admitted;~~]

[(B) primary language;]

[(C) sleep-cycle issues;]

[(D) behavioral symptoms;]

[(E) psychosocial issues (e.g., a psychosocial functioning assessment that includes an assessment of mental or psychosocial adjustment difficulty; a screening for signs of depression, such as withdrawal, anger or sad mood; assessment of the resident's level of anxiety; and determining if the resident has a history of psychiatric diagnosis that required in-patient treatment);]

[(F) Alzheimer's disease/dementia history;]

[(G) activities of daily living patterns (e.g., wakened to toilet all or most nights, bathed in morning/night, shower or bath);]

[(H) involvement patterns and preferred activity pursuits (e.g., daily contact with relatives, friends, usually attended religious services, involved in group activities, preferred activity settings, general activity preferences);]

[(I) cognitive skills for daily decision-making (e.g., independent, modified independence, moderately impaired, severely impaired);]

[(J) communication (e.g, ability to communicate with others, communication devices);]

[(K) physical functioning (e.g, transfer status; ambulation status; toilet use; personal hygiene; ability to dress, feed and groom self);]

[(L) continence status;]

[(M) nutritional status (e.g., weight changes, nutritional problems or approaches);]

[(N) oral/dental status;]

[(O) diagnoses;]

[(P) medications (e.g., administered, supervised, self-administers);]

[(Q) health conditions and possible medication side effects;]

[(R) [special treatments and procedures;]

[(S) hospital admissions within the past six months or since last assessment; and]

[(T) preventive health needs (e.g., blood pressure monitoring, hearing-vision assessment).]

(2) The resident evaluation must be documented on a form developed by the facility. When a facility is unable to obtain information required for the resident evaluation, the facility must document its attempts to obtain the information. [The service plan must be approved and signed by the resident or a person responsible for the resident's health care decisions. The facility must provide care according to the service plan. The service plan must be updated annually and upon a significant change in condition, based upon an assessment of the resident.]

(3) The facility must complete a resident evaluation every year and whenever a significant change occurs in the resident's condition. The facility must document and date any changes to the resident's service plan based on the most recent resident evaluation. [For respite clients, the facility may keep a service plan for six months from the date on which it is developed. During that period, the facility may admit the individual as frequently as needed.]

(4) Upon admission, the facility must conduct a resident evaluation on an individual admitted for respite care and develop a service plan based on the evaluation in accordance with this section. The facility may keep the service plan in place for six months from the date on which it is developed. During that period, the facility may admit the individual as frequently as needed. [Emergency admissions must be assessed and a service plan developed for them.]

(5) A resident evaluation must be conducted in person. The evaluation must include information related to the following, as applicable to the resident:

(A) signed consent that names a legally authorized representative to make decisions on the resident's behalf and includes contact information for that person;

(B) primary language;

(C) sleep-cycle issues;

(D) behavioral symptoms;

(E) psychosocial issues including current and past psychiatric diagnoses or related symptoms of a psychiatric disorder;

(F) history of Alzheimer's disease and related disorders;

(G) activities of daily living patterns, such as waking to toilet all or most nights, bathing in the morning or night, and preferring showering or bathing;

(H) involvement patterns and preferred activity pursuits such as daily contact with relatives or friends, attendance at religious services, involvement in group activities, preferred activity settings, and general activity preferences;

(I) cognitive skills for daily decision-making, such as independent, modified independent, moderately impaired, or severely impaired;

(J) communication, such as ability to communicate with others and use of communication devices;

(K) physical functioning, such as transfer status, ambulation status, toilet use, personal hygiene, and ability to dress, feed, and groom oneself;

(L) continence status;

(M) nutritional status including weight changes, nutritional problems or approaches, any food allergies and intolerances, therapeutic diets, and diets in observation of religious practices;

(N) oral/dental status;

(O) diagnoses;

(P) medications including whether administered, supervised, or self-administered;

(Q) health conditions and possible medication side effects;

(R) special treatments and procedures;

(S) hospital admissions within the past six months or since last evaluated;

(T) preventive health needs such as blood pressure monitoring and hearing-vision assessment;

(U) barriers to communicating in spoken English; and

(V) use of assistive devices and durable medical equipment, as defined in §553.3 of this chapter (relating to Definitions), in

order to achieve the highest practicable quality of life and independence.

(6) The service plan must be approved and signed by the resident or, if applicable, the resident's legally authorized representative, or acknowledged in writing by a person chosen by the resident to participate in the resident's care.

(A) The facility must provide care according to the service plan. The service plan must be updated annually and upon a significant change in condition, based upon an assessment of the resident.

(B) The facility must provide a copy of a resident's service plan to the resident or, as applicable, the resident's legally authorized representative as soon as practicable after completion.

(c) Physician evaluation. A resident must receive a health examination by a physician within 30 days before admission or within 30 days after admission. This requirement does not apply if a transferring hospital or facility has included a physical examination in the resident's medical record.

(d) [~~(c)~~] Resident policies.

(1) Upon admission, the facility must [~~Before admitting a resident, facility staff must~~] explain the facility's disclosure statement and provide a copy of it [~~the disclosure statement~~] to the resident[~~, family,~~] or the resident's responsible party. A facility that provides brain injury rehabilitation services must attach to its disclosure statement a specific statement that licensure as an assisted living facility does not indicate state review, approval, or endorsement of the facility's rehabilitative services. The facility must document that a copy of the disclosure statement was delivered and to whom. [~~receipt of the disclosure statement.~~]

(2) The facility must have written policies regarding the characteristics of residents accepted, services provided, charges, refunds, responsibilities of the facility and residents, use of facility space and amenities by residents, and other rules and regulations that residents must follow, and provide a copy to a resident, legally authorized representative, or responsible party. [~~The facility must provide residents with a copy of the Resident's Bill of Rights.~~]

(3) Upon admission, or as soon as practicable, the facility must provide, to a resident, legally authorized representative, or responsible party, and document the applicable party's receipt of: [~~When a resident is admitted, the facility must provide to the resident's immediate family, and document the family's receipt of, the HHSC telephone hotline number to report suspected abuse, neglect, or exploitation, as referenced in §553.273 of this subchapter (relating to Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities).~~]

(A) a copy of the Residents' Bill of Rights;

(B) a document that contains HHSC rules and the facility's policies relating to restraint and seclusion;

(C) the HHSC telephone hotline number for a resident to report suspected abuse, neglect, or exploitation; and

(D) a written copy of the facility's evacuation summary, as required under §553.295(d) of this subchapter (relating to Emergency Preparedness and Response.)

(4) The facility must notify residents and their legally authorized representatives, as applicable, whenever there are any deviations from resident policies referenced in paragraph (2) that result in a change to these policies and procedures. Notification of these changes must be made at least 30 days before the effective date of the changes except in an emergency situation. [~~The facility must have written policies regarding residents accepted, services provided, charges, refunds, responsibilities of facility and residents, privileges of residents, and other rules and regulations.~~]

(5) A facility that uses an electronic method for any documentation or notification required under this subsection must implement a procedure for printing the information for a resident, legally authorized representative, or responsible party who requests a printed copy. [~~The facility must make available copies of the resident policies to staff and to residents or residents' responsible parties at time of admission. Documented notification of any changes to the policies must occur before the effective date of the changes.~~]

[~~(6) Before or upon admission of a resident, a facility must notify the resident and, if applicable, the resident's legally authorized representative, of HHSC rules and the facility's policies related to restraint and seclusion.~~]

[~~(7) The facility must provide a resident and the resident's legally authorized representative with a written copy of the facility's emergency preparedness plan or an evacuation summary, as required under §553.275(d) of this subchapter (relating to Emergency Preparedness and Response).~~]

(e) [~~(d)~~] Advance directives.

(1) The facility must develop, maintain, and enforce written policies for [~~regarding the implementation of~~] advance directives. The policies must include a clear [~~and precise~~] statement of any procedure the facility is unwilling or unable to provide or withhold, such as cardiopulmonary resuscitation (CPR), in accordance with a resident's [~~an~~] advance directive.

(2) A facility that employs a nurse must ensure that policies address nurse interventions during a life-threatening emergency in accordance with applicable standards from the Texas Board of Nursing rules at 22 TAC §217.11 (relating to Standards of Nursing Practice).

(3) [~~(2)~~] The facility must provide written notice of these policies to a resident upon admission to the facility. [~~residents at the time they are admitted to receive services from the facility.~~]

(A) If, at the time notice is to be provided, the resident is incompetent or otherwise incapacitated and unable to receive the notice, the facility must provide the written notice, in the following order of preference, to:

(i) the resident's legal guardian;

(ii) the resident's legally authorized representative; [~~a person responsible for the resident's health care decisions;~~]

(iii) the resident's spouse;

(iv) the resident's adult child; or

(v) the resident's parents.[~~; or~~]

[~~(vi)~~ ~~the person admitting the resident.~~]

(B) If the facility is unable, after diligent search, to locate an individual listed under subparagraph (A) of this paragraph, the facility is not required to give notice.

(4) [~~(3)~~] If a resident who was incompetent or otherwise incapacitated and unable to receive notice regarding the facility's advance directives policies later becomes able to [~~receive the notice~~], the facility must provide the written notice at the time the resident becomes able to receive the notice.

(5) [~~(4)~~] HHSC imposes an administrative penalty of $500 for failure to inform the resident of facility policies regarding the implementation of advance directives.

(A) HHSC sends a facility written notice of the recommendation for an administrative penalty.

(B) Within 20 days after the date on which HHSC sends written notice to a facility, the facility must provide [give] written consent to the penalty or make written request to HHSC for an administrative hearing.

(C) Hearings are held in accordance with the formal hearing procedures at 1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act) [(relating to Hearings Under the Administrative Procedures Act)].

[(e) Inappropriate placement in Type A or Type B facilities.]

[(1) HHSC or a facility may determine that a resident is inappropriately placed in the facility if the resident experiences a change of condition but continues to meet the facility evacuation criteria.]

[(A) If HHSC determines the resident is inappropriately placed and the facility is willing to retain the resident, the facility is not required to discharge the resident if, within 10 working days after receiving the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A, from HHSC, the facility submits the following to the HHSC regional office:]

[(i) Physician's Assessment, Form 1126, indicating that the resident is appropriately placed and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and mental status;]

[(ii) Resident's Request to Remain in Facility, Form 1125, indicating that:]

[(I) the resident wants to remain at the facility; or]

[(II) if the resident lacks capacity to provide a written statement, the resident's family member or legally authorized representative wants the resident to remain at the facility; and]

[(iii) Facility Request, Form 1124, indicating that the facility agrees that the resident may remain at the facility.]

[(B) If the facility initiates the request for an inappropriately placed resident to remain in the facility, the facility must complete and date the forms described in subparagraph (A) of this paragraph and submit them to the HHSC regional office within 10 working days after the date the facility determines the resident is inappropriately placed, as indicated on the HHSC prescribed forms.]

[(2) HHSC or a facility may determine that a resident is inappropriately placed in the facility if the facility does not meet all requirements for the evacuation of a designated resident referenced in §553.5 of this chapter (relating to Types of Assisted Living Facilities).]

[(A) If, during a site visit, HHSC determines that a resident is inappropriately placed at the facility and the facility is willing to retain the resident, the facility must request an evacuation waiver, as described in subparagraph (C) of this paragraph, to the HHSC regional office within 10 working days after the date the facility receives the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A. If the facility is not willing to retain the resident, the facility must discharge the resident within 30 days after receiving the Statement of Licensing Violations and Plan of Correction and the Report of Contact.]

[(B) If the facility initiates the request for a resident to remain in the facility, the facility must request an evacuation waiver, as described in subparagraph (C) of this paragraph, from the HHSC regional office within 10 working days after the date the facility determines the resident is inappropriately placed, as indicated on the HHSC prescribed forms.]

[(C) To request an evacuation waiver for an inappropriately placed resident, a facility must submit to the HHSC regional office:]

[(i) Physician's Assessment, Form 1126, indicating that the resident is appropriately placed and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and mental status;]

[(ii) Resident's Request to Remain in Facility, Form 1125, indicating that:]

[(I) the resident wants to remain at the facility; or]

[(II) if the resident lacks capacity to provide a written statement, the resident's family member or legally authorized representative wants the resident to remain at the facility;]

[(iii) Facility Request, Form 1124, indicating that the facility agrees that the resident may remain at the facility;]

[(iv) a detailed emergency plan that explains how the facility will meet the evacuation needs of the resident, including:]

[(I) specific staff positions that will be on duty to assist with evacuation and their shift times;]

[(II) specific staff positions that will be on duty and awake at night; and]

[(III) specific staff training that relates to resident evacuation;]

[(v) a copy of an accurate facility floor plan, to scale, that labels all rooms by use and indicates the specific resident's room;]

[(vi) a copy of the facility's emergency evacuation plan;]

[(vii) a copy of the facility fire drill records for the last 12 months;]

[(viii) a copy of a completed Fire Marshal/State Fire Marshal Notification, Form 1127, signed by the fire authority having jurisdiction (either the local Fire Marshal or State Fire Marshal) as an acknowledgement that the fire authority has been notified that the resident's evacuation capability has changed;]

[(ix) a copy of a completed Fire Suppression Authority Notification, Form 1129, signed by the local fire suppression authority as an acknowledgement that the fire suppression authority has been notified that the resident's evacuation capability has changed;]

[(x) a copy of the resident's most recent comprehensive assessment that addresses the areas required by subsection (e) of this section and that was completed within 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;]

[(xi) the resident's service plan that addresses all aspects of the resident's care, particularly those areas identified by HHSC, including:]

[(I) the resident's medical condition and related nursing needs;

[(II) hospitalizations within 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;]

[(III) any significant change in condition in the last 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;]

[(IV) specific staffing needs; and]

[(V) services that are provided by an outside provider;]

[(xii) any other information that relates to the required fire safety features of the facility that will ensure the evacuation capability of any resident; and]

[(xiii) service plans of other residents, if requested by HHSC.]

[(D) A facility must meet the following criteria to receive a waiver from HHSC:]

[(i) The emergency plan submitted in accordance with subparagraph (C)(iv) of this paragraph must ensure that:]

[(I) staff is adequately trained;]

[(II) a sufficient number of staff are on all shifts to move all residents to a place of safety;]

[(III) residents will be moved to appropriate locations, given health and safety issues;]

[(IV) all possible locations of fire origin areas and the necessity for full evacuation of the building are addressed;]

[(V) the fire alarm signal is adequate;]

[(VI) there is an effective method for warning residents and staff during a malfunction of the building fire alarm system;]

[(VII) there is a method to effectively communicate the actual location of the fire; and]

[(VIII) the plan satisfies any other safety concerns that could have an effect on the residents' safety in the event of a fire; and]

[(ii) the emergency plan will not have an adverse effect on other residents of the facility who have waivers of evacuation or who have special needs that require staff assistance.]

[(E) HHSC reviews the documentation submitted under this subsection and notifies the facility in writing of its determination to grant or deny the waiver within 10 working days after the date the request is received in the HHSC regional office.]

[(F) Upon notification that HHSC has granted the evacuation waiver, the facility must immediately initiate all provisions of the proposed emergency plan. If the facility does not follow the emergency plan, and there are health and safety concerns that are not addressed, HHSC may determine that there is an immediate threat to the health or safety of a resident.]

[(G) HHSC reviews a waiver of evacuation during the facility's annual renewal licensing inspection.]

[(3) If an HHSC surveyor determines that a resident is inappropriately placed at a facility and the facility either agrees with the determination or fails to obtain the written statements or waiver required in this subsection, the facility must discharge the resident.]

[(A) The resident is allowed 30 days after the date of notice of discharge to move from the facility.]

[(B) A discharge required under this subsection must be made notwithstanding:]

[(i) any other law, including any law relating to the rights of residents and any obligations imposed under the Property Code; and]

[(ii) the terms of any contract.]

[(4) If a facility is required to discharge the resident because the facility has not submitted the written statements required by paragraph (1) of this subsection to the HHSC regional office, or HHSC denies the waiver as described in paragraph (2) of this subsection, HHSC may:]

[(A) assess an administrative penalty if HHSC determines the facility has intentionally or repeatedly disregarded the waiver process because the resident is still residing in the facility when HHSC conducts a future onsite visit; or]

[(B) seek other sanctions, including an emergency suspension or closing order, against the facility under Texas Health and Safety Code, Chapter 247, Subchapter C, if HHSC determines there is a significant risk and immediate threat to the health and safety of a resident of the facility.]

[(5) The facility's disclosure statement must notify the resident and resident's legally authorized representative of the waiver process described in this section and the facility's policies and procedures for aging in place.]

[(6) After the first year of employment and no later than the anniversary date of the facility manager's hire date, the manager must show evidence of annual completion of HHSC training on aging in place and retaliation.]

§553.261. Inappropriate Placement in a Type A or Type B Facility.

(a) This section applies if an HHSC surveyor or a facility determines that a resident is inappropriately placed in the facility because of a change of condition.

(1) If the resident continues to meet the facility evacuation criteria according to §553.5 of this chapter (relating to Types of Assisted Living Facilities), the facility must follow the process in subsection (b) of this section.

(2) If a resident no longer meets the evacuation criteria described in §553.5 of this chapter, the facility must follow the procedures in subsection (c) of this section. This includes applying for an evacuation waiver from HHSC.

(b) If both the resident and the facility agree that the resident should remain at the facility and the resident can still evacuate in accordance with §553.5 of this chapter, the facility is not required to discharge the resident. Within 10 working days after the date the facility determines the resident is inappropriately placed or receives the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A, from HHSC related to the resident's placement, the facility submits to the HHSC regional office:

(1) a completed Physician's Assessment, Form 1126, that includes input from the hospice or supportive palliative care physician and interdisciplinary team, as applicable, indicating that the resident is appropriately placed, and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and cognitive status;

(2) a completed Resident's Request to Remain in Facility, Form 1125, indicating that:

(A) the resident wants to remain at the facility; or

(B) if the resident lacks capacity to provide a written statement, the resident's legally authorized representative or responsible party wants the resident to remain at the facility; and

(3) a completed Facility Request, Form 1124, that shows the facility agrees that the resident may remain at the facility.

(c) If both the resident and the facility agree that the resident should remain at the facility but the resident can no longer evacuate in accordance §553.5 of this chapter, the facility is not required to discharge the resident if, within 15 working days after the date the facility determines the resident is inappropriately placed or receives the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A, from HHSC related to the resident's placement, the facility submits an evacuation waiver, as described in paragraph (1) of this subsection, to the HHSC regional office.

(1) To request an evacuation waiver for an inappropriately placed resident, a facility must submit to the HHSC regional office:

(A) a completed Physician's Assessment, Form 1126, that includes input from the hospice or supportive palliative care physician and interdisciplinary team as applicable, indicating that the resident is appropriately placed, and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and mental status;

(B) a completed Resident's Request to Remain in Facility, Form 1125, indicating that:

(i) the resident wants to remain at the facility; or

(ii) if the resident lacks capacity to provide a written statement, the resident's legally authorized representative or responsible party wants the resident to remain at the facility;

(C) a completed Facility Request, Form 1124, that shows the facility agrees that the resident may remain at the facility;

(D) a detailed emergency plan that describes how the facility will provide for the evacuation needs of the resident named on the evacuation waiver and includes the following information:

(i) specific staff positions that will be on duty to assist with evacuation and the shift times of those specific staff positions;

(ii) specific staff positions that will be on duty and awake at night; and

(iii) specific staff training that relates to resident evacuation;

(E) a copy of an accurate facility floor plan, to scale, that labels all rooms by use and indicates the specific resident's room;

(F) a copy of the facility's emergency evacuation plan;

(G) a copy of the facility fire drill records for the last 12 months;

(H) a copy of a completed Fire Marshal/State Fire Marshal Notification, Form 1127, either:

(i) signed by the fire authority having jurisdiction (either the local Fire Marshal or State Fire Marshal) as an acknowledgement that the fire authority has been notified that the resident's evacuation capability has changed; or

(ii) signed by the facility acknowledging notification to the fire authority having jurisdiction (either the local Fire Marshal or State Fire Marshal) that the resident's evacuation capability has changed;

(I) a copy of a completed Fire Suppression Authority Notification, Form 1129, either:

(i) signed by the local fire suppression authority to show that the authority has been notified the resident's evacuation capability has changed; or

(ii) signed by the facility to show that the facility has notified the local fire suppression authority that the resident's evacuation capability has changed;

(J) a copy of the most recent resident evaluation for the resident that addresses all areas required by subsection (c) of this section, completed within the previous 60 days based on the date stated on the evacuation waiver form submitted to HHSC;

(K) the resident's service plan that addresses all aspects of the resident's care, particularly those areas identified by HHSC, including:

(i) the resident's medical condition and related nursing needs;

(ii) hospitalizations within the previous 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;

(iii) any significant change in condition in the previous 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;

(iv) specific staffing needs; and

(v) services that are provided by an outside resource;

(L) any other information about fire safety features of the facility that will ensure evacuation capability of any resident; and

(M) copies of service plans of other residents, if requested by HHSC.

(2) A facility must meet the following criteria to receive a waiver from HHSC.

(A) The emergency plan submitted to the HHSC regional office in accordance with paragraph (1)(D) of this subsection must ensure that:

(i) staff are properly trained;

(ii) there are enough staff members on duty on every shift to move all residents to a place of safety;

(iii) residents will be moved to appropriate locations, given health and safety issues; and

(iv) the plan covers all possible locations where a fire could start and explains when it would be necessary for full evacuation of the building.

(B) The emergency plan must not hinder another resident's evacuation waiver or negatively impact any residents with special needs that require staff assistance to evacuate.

(3) HHSC reviews the documentation submitted under this section. HHSC provides written notification to the facility of the decision to grant or deny the waiver within 10 working days after receiving the request in the HHSC regional office.

(4) Upon notification that HHSC has granted the evacuation waiver, the facility must immediately initiate all provisions of the proposed emergency plan. If the facility does not follow the emergency plan, and there are health and safety concerns that are not addressed,

HHSC may determine that there is an immediate threat to the health or safety of a resident.

(5) HHSC reviews a waiver of evacuation during a facility's renewal licensing inspection.

(d) If HHSC determines that a resident is inappropriately placed at a facility and the facility either agrees with the determination or fails to obtain the written statements or waiver required in this section, the facility must discharge the resident.

(1) The resident is allowed 30 days after the date of notice of discharge to move from the facility.

(2) A discharge required under this subsection must be made notwithstanding:

(A) any other law, including any law relating to the rights of residents and any obligations imposed under the Texas Property Code; and

(B) the terms of any contract.

(e) If a facility is required to discharge the resident because the facility has not submitted the written statements required by this section to the HHSC regional office, or HHSC denies the waiver as described in subsection (c) of this section, HHSC may:

(1) assess an administrative penalty if HHSC determines the facility has intentionally or repeatedly disregarded the waiver process because the resident is still residing in the facility when HHSC conducts a future onsite visit; or

(2) seek other sanctions, including an emergency suspension or closing order against the facility under Texas Health and Safety Code Chapter 247, Subchapter C, if HHSC determines there is a significant risk and immediate threat to the health and safety of a resident.

(f) The facility's disclosure statement must notify a resident and resident's legally authorized representative of the waiver process described in this section and the facility's policies and procedures for aging in place.

§553.263. Resident Transfer and Discharge.

(a) The facility must have and enforce a policy relating to resident transfer and discharge. The policy must:

(1) ensure a process of written transfer or discharge in accordance with subsection (c) of this section;

(2) be written in a manner the resident and the resident's legally authorized representative, if applicable, understand; and

(3) address whether a facility has a process for appealing a discharge.

(b) A facility may transfer or discharge a resident if:

(1) the transfer or discharge is for the resident's welfare and the resident's needs cannot be met by the facility;

(2) the resident's health is improved sufficiently so the facility services are no longer needed;

(3) the resident's health and safety or the health and safety of another resident would be endangered if the transfer or discharge was not made;

(4) the facility closes or stops participating in the program that pays for the resident's treatment or care;

(5) the resident fails, after reasonable and appropriate notice, to pay the facility for services; or

(6) the resident fails to abide by the facility's policies and procedures agreed upon at admission.

(c) Except in an emergency, as provided in subsection (d) of this section, a facility must provide a resident written notice of transfer or discharge at least 30 days before the date of transfer or discharge. The notice must state:

(1) that the facility intends to transfer or discharge the resident;

(2) the reason for the transfer or discharge;

(3) the effective date of the transfer or discharge;

(4) if the resident is to be transferred, the location to which the resident will be transferred; and

(5) the facility's appeal rights available to the resident, if any.

(d) A facility may immediately transfer or discharge a resident only:

(1) at the request of the resident or the resident's legally authorized representative;

(2) if the resident's medical needs require transfer, such as in a medical emergency; or

(3) if the resident creates a serious or immediate threat to the health, safety, or welfare of another resident.

(e) When a facility transfers or discharges a resident, the facility must ensure that the transfer or discharge is documented in the resident's record and appropriate clinical information is communicated to the receiving provider.

(1) Documentation in the resident's record must include:

(A) the reason for the transfer or discharge;

(B) if the transfer or discharge is related to the facility's inability to meet the resident's needs, the following information:

(i) the specific needs of the resident that cannot be met; and

(ii) all facility attempts to meet the needs of the resident; and

(C) that the facility provided the resident and the resident's legally authorized representative or interested party with contact information for the toll-free number of the Ombudsman Program.

(2) A facility must obtain and retain documentation of the resident's physician's order for transfer or discharge in the resident's record when it is the reason for transfer or discharge.

(3) If the facility transfers a resident, the facility must provide the receiving health care institution or provider with all information necessary to ensure a safe and effective transition of care, including:

(A) contact information for the practitioners responsible for the care of the resident;

(B) the resident's legally authorized representative or responsible party's information, including contact information, if applicable;

(C) the resident's advance directive orders;

(D) all special instructions or precautions for ongoing care, as appropriate; and

(E) the resident's current service plan.

§553.265. Respite Admissions.

(a) An individual admitted for respite services is a resident. A resident admitted for respite services has the same rights and privileges as any other resident, as described in this chapter. A facility must admit a resident for respite services according to §553.259 of this subchapter (relating to Admission Policies and Procedures).

(b) A facility must not provide respite admission for an individual who is receiving hospice services for the purposes of hospice inpatient care or hospice residential care.

(c) A facility must not admit a resident for respite services if it causes the facility to exceed its licensed capacity.

(d) A facility must provide enough staff to meet the needs of each resident admitted for respite care and services.

(e) A facility admitting a resident for respite services must identify and document the expected date of discharge at the time of the resident's admission.

(f) A facility must follow discharge requirements identified in §553.263 of this subchapter (related to Resident Transfer and Discharge) if the facility initiates a discharge before the agreed upon expected date of discharge unless the discharge is requested by the resident or resident's legally authorized representative.

§553.267. Medications.

(a) Medication services.

(1) A facility that provides medication administration, supervision, or storage must create and follow policies and procedures for:

(A) residents who self-administer their medications;

(B) staff assisting with or supervising a resident's medication regimen;

(C) medication administration by staff;

(D) medication storage;

(E) medication disposal; and

(F) if the facility stores controlled drugs, prevention of controlled drug diversions including:

(i) identification and management of controlled drug diversions;

(ii) notification and reporting procedures for identified controlled drug diversions; and

(iii) storage of controlled drugs.

(2) A facility that provides medication administration or supervision must have policies and procedures to ensure staff are available to administer or supervise and assist a resident with a medication according to the prescribing practitioner's orders.

(3) A facility that provides medication administration or supervision must maintain for a resident who receives that service:

(A) a medication profile record that lists, from the prescription label of each prescribed medication, the following information:

(i) name of the medication;

(ii) strength;

(iii) dosage;

(iv) date and quantity received;

(v) directions for use;

(vi) route of administration;

(vii) prescription number; and

(viii) name of dispensing pharmacy; and

(B) a medication administration record that records:

(i) the name of any medication administered;

(ii) the date and time of administration;

(iii) the dose the resident received;

(iv) whether a dose of medication was taken, missed, or refused, and the reason for missed doses; however, the recording of medication administration does not apply when the resident is away from the facility and the facility documents the resident's absence;

(v) parameters for medication, as applicable; and

(vi) identification of the staff who administered the medication.

(4) A facility that provides medication administration or supervision for a resident who is away from the facility must:

(A) provide the amount of medication needed for the resident during the time away from the facility to the resident or the resident's responsible party; and

(B) document that the medication was provided to the resident or the resident's responsible party.

(5) For residents requiring medication administration or supervision for medications with physician-ordered parameters, the facility must maintain:

(A) a current physician's order indicating exact parameters for any medication as applicable;

(B) documentation of staff training related to administration or supervision of a medication with parameters;

(C) contact information for the RN if the facility uses RN delegation for medication administration; and

(D) contact information for the facility manager if the facility provides only medication supervision.

(6) A facility that uses a preferred pharmacy must provide information to each resident about the right to select any licensed pharmacy. The facility must record the resident's pharmacy choice in the resident's record.

(A) If a facility uses a preferred pharmacy, the facility must maintain a written record of the preferred pharmacy that identifies:

(i) the name, address, and phone number of the facility's preferred pharmacy;

(ii) a description of the facility's expectation for medication packaging and delivery including the individual responsible for receiving medication deliveries at the facility; and

(iii) how the facility sets any fee amount for residents who do not choose the facility's preferred pharmacy.

(B) The facility must obtain the signed consent from a resident or the resident's legally authorized representative, if applicable, if the resident receives medication administration or supervision services and chooses to use a licensed pharmacy other than the facility's

preferred pharmacy. The consent must indicate the resident's responsibility for any related costs in the event the resident's chosen pharmacy or arranged delivery service cannot provide a medication timely in accordance with the prescribing practitioner's order.

(b) Self-administration of medication.

(1) A facility must permit and support each resident who can self-administer the resident's own medications without help to do so.

(2) To help a resident self-administer a medication, staff may provide items such as water, juice, cups, and spoons.

(3) The facility must counsel a resident who self-administers the resident's medications to ascertain whether the resident remains capable of doing so and whether security of medications can continue to be maintained:

(A) no less than once every six months;

(B) whenever the resident experiences a significant change in condition, as defined in §553.3 of this chapter (relating to Definitions), that might affect the resident's ability to self-administer the resident's medications; and

(C) if the resident's physician advises that the resident's medication regimen has changed due to suspected medication administration errors or noncompliance with the resident's medication regimen.

(4) The facility must keep a written record of the counseling required in paragraph (3) of this subsection that includes:

(A) resident name and date of counseling;

(B) resident current diagnoses; and

(C) documentation that the resident can identify the medications the resident currently takes and the instructions for taking them, how to report possible side effects to staff, and medication storage requirements.

(c) Supervision of a resident's medication regimen.

(1) A facility may supervise a resident's medication regimen if the resident is incapable of self-administering a medication without assistance. Medication supervision and assistance is limited to:

(A) obtaining medications from a pharmacy and listing the medications on a resident's medication profile record as described in subsection (a) of this section;

(B) reminding a resident to take medications at the prescribed time;

(C) opening containers or packages and replacing lids;

(D) pouring a prescribed dose according to the medication profile record;

(E) handing poured medication to a resident, or using a hand over hand assistance method if the resident needs help getting the medication to the resident's mouth;

(F) monitoring and documenting whether the medication is taken or refused, in accordance with subsection (a) of this section; and

(G) returning medications to the proper locked areas.

(2) The facility must ensure that a person who supervises a resident's medication regimen:

(A) watches the resident take the medication;

(B) records any missed dose in the resident's record, in accordance with subsection (a)(4) of this section; and

(C) reports any concerns about a resident's reaction to a medication or suspected noncompliance with the prescribed medication regimen to the resident's prescribing practitioner and documents it in the resident's record.

(d) Facility administration of medication.

(1) Residents who choose not to or who cannot self-administer their medications must have their medications administered by a person who:

(A) holds a current license to administer the medication;

(B) holds a current medication aide permit and who:

(i) acts under the authority of a person who has a current nursing license under state law that authorizes the licensee to administer medication; and

(ii) functions under the direct supervision of a licensed nurse on duty or on call by the facility; or

(C) is an employee of the facility to whom medication administration has been delegated by an RN who has trained the employee to administer the medications or verified the employee's training in accordance with Texas Board of Nursing rules in 22 TAC Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions).

(2) Each prescribed medication for a resident must be provided by a licensed pharmacy or by the resident's treating practitioner.

(3) Practitioner sample medications may be provided to a resident by the facility if the medication has specific dosage instructions for the resident.

(4) Medications provided to the facility by an entity other than a pharmacy or physician, such as from a resident's family, home health provider, or hospice provider, must have an accompanying active and current prescribing practitioner's order.

(5) A facility that uses pill reminder containers for the administration of medication must do so in accordance with Texas Board of Nursing rules at 22 TAC §225.11 (relating to Delegation of Administration of Medications From Pill Reminder Container).

(e) General.

(1) Staff must, as soon as practicable but within 24 hours, report any identified adverse reaction to a medication to the resident's prescribing practitioner and legally authorized representative, and document it in the resident's record.

(2) The facility must contact a resident's primary health care provider and legally authorized representative whenever health changes occur that may be attributed to the resident's medications.

(3) The facility must document any identified adverse reactions to medications or treatments, actions taken, and monitoring of reactions in the resident's record.

(f) Storage.

(1) The facility must provide a locked area for all medications. Examples of areas include:

(A) a central storage area;

(B) a medication cart; and

(C) a resident's room.

(2) The facility must store each resident's medications separately from all other residents' medications.

(3) A refrigerator must have a designated and locked storage area for medications that require refrigeration unless the refrigerator is inside a locked medication room or the resident's room.

(4) Poisonous substances and medications labeled for "external use only" must be kept separately inside the locked medication area.

(5) A resident who self-administers and keeps prescribed, over-the-counter, or potentially hazardous or dangerous medications or ointments in the resident's room must have a designated storage area that prevents unauthorized access to the medications, such as a lock box or self-locking room door that remains closed when the resident is not present.

(6) Residents who choose to keep medications locked in the central medication storage area may access the area to self-administer medication or treatment regimen. A staff member must be present in or at the storage area the entire time any resident is present.

(g) Disposal.

(1) At least quarterly, a facility must dispose of medications that:

(A) have been discontinued by order of the resident's prescribing practitioner;

(B) remain after a resident is deceased or has transferred or discharged without taking the medications as provided by paragraph (5) of this subsection; or

(C) have passed the expiration date.

(2) Medication destruction must be performed by a licensed pharmacist. Medication destruction may include use of a medication take-back program or a pharmacy disposal drop-off unit.

(3) The facility must inventory and store medications awaiting disposal separately from current resident medications.

(4) Used needles and syringes with needles attached must be disposed of as required by 25 TAC Chapter 1, Subchapter K (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).

(5) A resident's medications must be released, upon transfer or discharge, to the resident when a receipt has been signed by the resident or, as applicable, the resident's legally authorized representative.

§553.269. Accident, Injury, or Acute Illness.

(a) If accident, injury, or death occurs and emergency medical, dental, or nursing care is needed, including cases such as a fall or sudden loss of consciousness, the facility must:

(1) arrange for emergency care or transfer to a suitable place for treatment, such as a practitioner's office, clinic, or hospital, and back to the facility, as applicable;

(2) immediately notify the resident's practitioner and resident's legally authorized representative; and

(3) describe and document the injury, accident, or illness in a report, which must:

(A) have a statement of final disposition; and

(B) be kept as required by §553.285 of this subchapter (relating to Resident Records and Retention)

(b) The facility must keep first aid supplies for treating burns, cuts, and poisoning in one place that is always easy for staff to reach.

(c) Residents who require professional nursing or medical personnel services because of temporary illness or injury may receive these services from qualified individuals. Services must be provided according to §553.7 of this chapter (relating to Assisted Living Facility Services).

(d) In the event of a serious accident or injury that requires emergency medical, dental, or nursing care that may affect the provision of services from outside resources, the facility must report the following to the resident's applicable outside resources:

(1) a brief description of the accident, injury, or acute illness; and

(2) the resident's location at the time of notification and an estimated return date to the facility, if applicable.

§553.271. Health Care Professional.

(a) A health care professional may coordinate the provision of services to a resident within the professional's scope of practice and as authorized under Texas Health and Safety Code, Chapter 247; however, a facility must not provide ongoing services to a resident that are comparable to the services available in a nursing facility licensed under Texas Health and Safety Code, Chapter 242.

(b) A resident may contract to have health care services delivered to the resident at the facility by a home and community support services agency licensed under Chapter 558 of this title (relating to Licensing Standards for Home and Community Support Services Agencies) or with an independent health care professional of the resident's choice.

§553.273. Activities Program.

(a) The facility must plan and offer a daily activity that promotes the physical, mental, and social well-being of the residents.

(b) The facility must encourage but never force a resident to participate in activities.

§553.275. Dietary Services.

(a) Food Preparation.

(1) A facility that prepares food off-site or in a separate building must ensure food is served at the correct temperature and transported in a clean and safe way.

(2) A facility that prepares food onsite must have a kitchen or dietary area that meets the general food service needs of residents. The facility must ensure the kitchen:

(A) is equipped to store, refrigerate, prepare, and serve food;

(B) is equipped to clean and sterilize food preparation surfaces, dishes, cookware and bakeware, cooking utensils, and eating utensils; and

(C) provide for refuse storage and removal.

(3) Areas for refuse must be kept separate from places where food is prepared or stored to stop cross-contamination and to keep pests away.

(b) Dietary staff.

(1) The facility must designate an employee to be responsible for the total food service of the facility.

(2) The facility must ensure that staff who work with or handle unpackaged food, food equipment or utensils, or food contact surfaces, complete an accredited food handler training course approved by the Texas Department of State Health Services or the American National Standards Institute.

(c) Diets and menus.

(1) A facility must provide at least three meals each day, or the equivalent, at regularly scheduled times. Each meal must include all five basic food groups as described in the U.S. Department of Agriculture Dietary Guidelines for Americans: protein, dairy, grains, vegetables, and fruits. No more than 16 hours may pass between a substantial evening meal and breakfast the next morning.

(2) Food must be palatable and vary from week to week.

(3) The facility must provide a therapeutic diet as ordered by a resident's physician according to the resident's service plan.

(4) Therapeutic diets that cannot customarily be prepared by a layperson must be calculated by a qualified dietician.

(5) The facility may prepare and serve a therapeutic diet that can customarily be prepared by a person in a family setting.

(6) The facility must plan and post menus at least one week in advance, in accordance with §553.291 of this subchapter (relating to Postings).The menus must be followed as posted.

(7) If the facility ever has to change the posted menu, the facility must state why and let the residents know as soon as possible.

(8) The facility must prepare menus that provide a nutritious and well-balanced diet. Menus must meet each resident's daily nutritional needs, special dietary needs, and conscientious dietary preferences. Menus must account for food allergies and intolerances, therapeutic diets, and diets observed for religious practices.

(9) The facility must retain records of meals served for at least 30 days following the date of serving.

(d) Food supply and storage.

(1) The facility must:

(A) have sufficient shelf-stable food available to last at least four days and sufficient fresh food to last at least two days;

(B) obtain foods from sources that comply with all laws relating to food and food labeling;

(C) store and label shelf-stable foods removed from their original packaging in plastic containers with tight fitting lids;

(D) store foods requiring refrigeration, such as meat and milk products, at 41 degrees Fahrenheit or below; and

(E) reseal or tightly seal, label, and date foods subject to spoilage.

(2) The facility must prepare and serve food with minimal manual contact. The food must be prepared and served using appropriate utensils and only on surfaces that have been cleaned and sanitized before use to prevent cross-contamination. The facility must:

(A) keep hot foods at 135 degrees Fahrenheit or above during preparation and serving, and reheat foods to a minimum of 165 degrees Fahrenheit;

(B) keep freezers at a temperature of zero degrees Fahrenheit or below; and

(C) keep refrigerators at a temperature of 41 degrees Fahrenheit or below, with the thermometer placed in the warmest area of the refrigerator and freezer to ensure proper temperature.

(e) Dietary hygiene and sanitation.

(1) Dietary staff, including staff who serve food to residents, must wash hands properly and take all necessary steps to prevent food contamination. Disposable gloves must be worn when handling, preparing, or serving food, and gloves must be disposed of correctly.

(2) The facility must ensure that any food service employee who has a sickness that can spread through food, or has a sore, infected cut, or a bad cough, does not work in the kitchen or anywhere near food until the employee has completely recovered.

(3) Effective hair coverings, including facial hair coverings, as applicable, must be worn by any individual assisting with food or working in a food service and preparation area, to prevent contamination of food.

(4) Tobacco products must not be used in the food preparation and service areas.

(5) Kitchen employees must wash their hands before returning to work after using the bathroom.

(6) Dishwashing chemicals used in the kitchen may be stored in plastic containers if they are the original containers in which the manufacturer packaged the chemicals.

(7) A facility must follow sanitary dishwashing procedures and techniques.

(8) A facility must follow all local health laws for storing, preparing, and serving food; cleaning dishes, equipment, and work areas; and storing and disposing of waste.

(9) A facility licensed for 17 or more residents must follow 25 TAC Chapter 228 (relating to Retail Food Establishments).

§553.277. Infection Prevention and Control.

(a) A facility must develop, implement, enforce, and maintain an infection prevention and control program that will provide a safe and sanitary environment and help prevent the development and transmission of disease and infection.

(1) The infection prevention and control program must include policies and procedures that reduce the risk of spreading communicable diseases in the facility, including:

(A) monitoring key infectious agents, including multidrug-resistant organisms, as those terms are defined in §553.3 of this chapter (relating to Definitions);

(B) making a rapid influenza diagnostic test, as defined in §553.3 of this chapter, available to a resident who is exhibiting flu like symptoms;

(C) wearing personal protective equipment, such as gloves, a gown, or a mask when called on for anticipated exposure, and washing hands before and after wearing gloves;

(D) cleaning and disinfecting environmental surfaces, including doorknobs, handrails, light switches, control panels, and remote controls on a regular and as-needed schedule;

(E) using universal precautions for blood and bodily fluids; and

(F) removing all soiled items, like used tissues, bandages, incontinence briefs, and soiled linens, from living areas at least once a day, or more often if someone might have an infection or is sick.

(2) Staff must handle, store, process, and transport linens in a manner that prevents the spread of infection.

(3) If a facility knows or suspects an employee has contracted a disease or illness that can be spread to residents through handling food or providing personal care services, the facility must exclude the employee from providing these services until the employee has fully recovered.

(4) A facility must maintain evidence of compliance with local and state health codes and ordinances regarding employee and resident health status.

(5) A facility must immediately report the name of any resident with a reportable disease as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases), to the city health officer, county health officer, or health unit director having jurisdiction, and implement appropriate infection control procedures as directed by the local health authority.

(b) During a declared public health emergency or disaster that impacts a facility, in addition to the rules in this section, a facility must also follow Chapter 570, Subchapter B of this title (relating to Assisted Living Facilities).

(c) A facility must comply with rules regarding special waste in 25 TAC Chapter 1, Subchapter K (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).

(d) A facility's infection prevention and control program must include a policy to protect residents from vaccine preventable diseases in accordance with Texas Health and Safety Code Chapter 224 and subsection (e) of this section.

(1) The policy must:

(A) require employees and contractors to receive facility-determined vaccines based on the level of risk the employee or contractor presents to residents in routine and direct exposure;

(B) list each vaccine that an employee or contractor must receive, as required by subparagraph (A) of this paragraph;

(C) include procedures for the facility to verify that an employee or contractor has complied with the policy;

(D) include procedures for the facility to exempt an employee or contractor from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention (CDC);

(E) include procedures the employee or contractor must follow to protect residents from exposure to disease from an employee or contractor who is exempt from the required vaccines, based on the level of risk the employee or contractor presents during routine and direct exposure to residents, such as:

(i) use of protective equipment, such as gloves and masks; and

(ii) reassignment of the employee or contractor to work with residents who are vaccinated or have reduced risk of contracting vaccine-preventable diseases;

(F) prohibit discrimination or retaliatory action against an employee or contractor who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the CDC, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action;

(G) require the facility to maintain a written or electronic record of each employee's or contractor's compliance with or exemption from the policy; and

(H) specify the disciplinary actions the facility may use when an employee or contractor does not follow the policy.

(2) The policy may:

(A) include procedures for an employee or contractor to be exempt from the required vaccines based on reasons of conscience, including religious beliefs; and

(B) prohibit an employee or contractor who is exempt from the required vaccines from having contact with residents during a public health disaster, as defined in Texas Health and Safety Code §81.003.

(e) A facility's infection prevention and control program must include a policy to minimize the risk for transmission of tuberculosis (TB).

(1) A facility must screen a new employee for TB within two weeks of employment according to CDC and the Texas Department of State Health Services (DSHS) pre-placement screening requirements and any additional guidance from HHSC.

(A) The facility must provide TB education to employees at least once every 24 months that includes the following:

(i) TB risk factors;

(ii) the signs and symptoms of TB disease; and

(iii) TB infection control policies and procedures.

(B) The facility may request evidence of TB screening and TB education from all persons who provide services under an outside resource contract.

(2) Facility policies and procedures for resident TB screening must follow recommendations of a resident's attending physician and must comply with guidelines from the CDC and DSHS. Resident refusal of TB screening is permitted under §553.287 of this subchapter (relating to Rights).

§553.279. Restraints and Seclusion.

(a) Use of restraints.

(1) All restraints for purposes of behavioral management, staff convenience, or resident discipline are prohibited. Seclusion is prohibited.

(2) As provided in §553.287(a) of this subchapter (relating to Rights), a facility may use physical or chemical restraints only:

(A) if the use is authorized in writing by a physician and specifies:

(i) the circumstances under which a restraint may be used; and

(ii) how long the restraint may be used; or

(B) if the use is necessary in an emergency to protect the resident or others from injury.

(3) For all situations other than a behavioral emergency, a restraint must only be administered by an individual who is licensed, certified, or otherwise authorized to administer health care, including a physician, RN, and licensed vocational nurse.

(4) A behavioral emergency is a situation in which severely aggressive, destructive, violent, or self-injurious behavior is exhibited by a resident and it:

(A) poses a substantial risk of imminent probable death of, or substantial bodily harm to, the resident or others;

(B) has not abated in response to attempted preventive de-escalatory or redirection techniques;

(C) could not reasonably have been anticipated; and

(D) is not addressed in the resident's service plan.

(5) In the event of a behavioral emergency, the facility may use only an acceptable restraint hold.

(A) An acceptable restraint hold is a hold in which the resident's limbs are held close to the body to limit or prevent movement and that does not violate the provisions of paragraph (6) of this subsection.

(B) If a restraint hold has to be used, staff should only use it for as short a time as possible, just long enough to keep the resident and others safe.

(6) Staff must never use a restraint if it:

(A) obstructs the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose;

(B) impairs the resident's breathing by putting pressure on the resident's torso;

(C) interferes with the resident's ability to communicate; or

(D) is applied to a resident who is lying down.

(7) After the use of restraint, the facility must:

(A) with consent from the resident or the resident's legally authorized representative, schedule an appointment with the resident's physician no later than the end of the first working day after restraint is used. The facility must document in the resident's record that the appointment has been scheduled; or

(B) if the resident refuses to see the physician, document the refusal in the resident's record.

(8) As soon as possible, but no later than 24 hours after restraint is used, the facility must notify the following persons that the need to use a restraint has occurred:

(A) the resident's legally authorized representative; or

(B) the resident's responsible party, unless the release of this information would violate other law.

(9) Under the Health Insurance Portability and Accountability Act, if the facility is a "covered entity" as defined in 45 CFR §160.103, any notification provided under paragraph (8) of this subsection must be to a person to whom the facility is allowed to release information under 45 CFR §164.510.

(10) Staff at the facility must use the results of each resident's evaluation, as required by §553.259(b) of this subchapter (relating to Admission Policies and Procedures), to reduce the use of restraints. Staff must know and follow these evaluation results.

(11) A facility may adopt policies that allow less use of restraint than allowed by the rules of this chapter.

(b) Bed rails.

(1) A facility must not use bed rails for restraint.

(2) A facility must not use full bed rails unless ordered by a physician for the resident's safety.

(3) Grab bars, quarter rails, and half rails may be used for resident safety or convenience if installation does not prevent the resident from getting into or out of the bed.

(4) A facility must not use bed rails for a resident who exhibits wandering behaviors, presents a risk for elopement, or has a cognitive impairment that would increase the risk of injury with the use of bed rails.

(5) Before installing a bed rail, staff must discuss possible alternatives to bed rails, including low beds and floor mats, with the resident, legally authorized representative, or interested party, as appropriate. Staff must document this discussion in the resident's record.

(6) Staff must explain the risks and benefits of bed rails allowed by paragraph (3) of this subsection to the resident or resident's legally authorized representative. Staff must obtain and document informed consent before installing bed rails.

(7) A facility that allows the use of bed rails must evaluate:

(A) the resident's ability to use the bed rail for convenience, such as getting in and out of the bed safely, risk of entrapment, and ability to maneuver around the bed rail;

(B) mattress size and fit to ensure no gapping exists between the bed rail that could cause a resident's head or limbs to become caught;

(C) that the bed is the right size for the resident's height and weight; and

(D) the manufacturer's recommendations and specifications for installing and maintaining the bed rails.

(c) Self-release seat belts.

(1) For the purposes of this subsection, a "self-release seat belt" is a seat belt on a resident's wheelchair that the resident can demonstrate the ability to fasten and release without assistance. A self-release seat belt is not a restraint.

(2) Except as provided in paragraph (3) of this subsection, a facility must allow a resident to use a self-release seat belt if:

(A) a request is made by the resident or the resident's legally authorized representative for the resident to use a self-release seat belt;

(B) the resident consistently shows the ability to fasten and unfasten the self-release seat belt without help;

(C) the use of the self-release seat belt is documented in and complies with the resident's individual service plan; and

(D) the facility receives written authorization for the resident to use a self-release seat belt and the authorization must be signed by the resident or the resident's legally authorized representative, as appropriate.

(3) A facility that advertises as a restraint-free facility does not have to allow use of a self-release seat belt by a resident if the facility:

(A) provides a written statement to all residents that the facility is restraint-free and is not required to allow a resident to use a self-release seat belt; and

(B) makes reasonable efforts to address concerns raised by any resident who requests use of a self-release seat belt as described in paragraph (2) of this subsection.

(4) A facility is not required to continue allowing use of a self-release seat belt under paragraph (2) of this subsection if:

(A) the resident does not consistently show the ability to fasten and release the self-release seat belt without assistance;

(B) the use of the self-release seat belt does not comply with the resident's individual service plan; or

(C) the resident or the resident's legal guardian revokes in writing the authorization for the resident to use the self-release seat belt.

§553.281. Health Maintenance Activities.

(a) A facility may allow an attendant to perform an HMA for a resident if:

(1) the activity is performed for a resident with a functional disability as defined in §553.3 of this chapter (relating to Definitions); and

(2) an RN acting on behalf of the facility has:

(A) conducted and documented an assessment of the resident's health status and all other relevant factors in accordance with 22 TAC §225.6 (relating to RN Assessment of the Client); and

(B) determined and documented that all the conditions listed in 22 TAC §225.8(a)(2) (relating to Health Maintenance Activities Not Requiring Delegation) exist.

(3) The facility must ensure that:

(A) the resident, the resident's legally authorized representative, or other adult chosen by the resident, as applicable, is able and agrees in writing to direct an attendant to perform the task without RN supervision; and, if applicable:

(i) the resident's legally authorized representative or other adult chosen by the resident to direct care must be present when the task is performed, or

(ii) the resident's legally authorized representative or other adult chosen by the resident, if not present, has observed the attendant perform the task at least once to ensure the attendant can competently perform the task and will be immediately accessible in person or by telecommunications to the attendant when the task is performed;

(B) the activity addresses a condition that is stable and predictable, as defined in §553.3 of this chapter; and

(C) the activity is performed for a resident who could perform the task but for a functional disability that prevents it.

(b) The RN must reassess a resident's status any time there is a change in the resident's condition that may affect the resident's physical or cognitive abilities, or the stability or predictability of the resident's condition and, at a minimum:

(1) at least once annually; or

(2) at least once every six months, if the resident has been diagnosed with Alzheimer's disease or a related disorder or resides in an Alzheimer's certified facility or unit.

§553.283. RN Delegation of Care Tasks.

(a) If an activity does not qualify as an HMA because an RN has determined under §553.281 of the subchapter (relating to Health Maintenance Activities) that not all of the conditions listed in 22 TAC §225.8(a)(2) (relating to Health Maintenance Activities Not Requiring Delegation) exist, an attendant may perform that activity for the resident only if:

(1) the RN has determined in accordance with 22 TAC Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions) that the activity can be delegated to an attendant;

(2) the activity is consistent with the assisted living facility services listed in §553.7 of this chapter (relating to Assisted Living Facility Services); and

(3) the RN has properly delegated the task to an attendant in accordance with 22 TAC Chapter 225.

(b) An RN providing RN delegation to assisted living staff must be an employee or a contractor of the assisted living facility.

§553.285. Resident Records and Retention.

(a) Resident records.

(1) Records about a resident must remain confidential. All resident records must be protected against unauthorized use, loss, or destruction. A resident record is any record related to the resident by name or other unique identifier.

(2) Resident records must be retained for a minimum of five years after services end.

(3) Resident records must contain:

(A) information located in the facility's standard and customary admission form;

(B) a record of the resident's evaluations, any RN assessments related to HMAs or RN delegated tasks, and counseling related to self-administration of medication;

(C) the resident's service plan;

(D) physician's orders, if any;

(E) advance directives, if any;

(F) medication administration records, if the facility provides medication administration or supervision to the resident;

(G) documentation of a health examination by a physician performed within 30 days before admission or 30 days after admission, unless a transferring facility has a physical examination in the medical record;

(H) documentation of services provided by health care professionals applicable to the resident's medical needs; and

(I) a copy of the most recent court order appointing a guardian of a resident or a resident's estate and letters of guardianship received in response to a request made according to subsection (c) of this section.

(b) Resident charges and finances.

(1) The facility must maintain a financial record of all charges billed to the resident for care and services. The financial record must be available to HHSC. Upon request, the financial record must be made available to the resident and must be provided to the resident or the resident's legally authorized representative within two working days of the request.

(2) A facility must provide residents with a written notice at least 30 days before starting any new fees or increasing the price of services or supplies.

(c) Guardianship record requirements.

(1) A facility must request the current court order appointing a guardian for a resident or the resident's estate and current letters of guardianship for the resident when the facility:

(A) admits an individual; and

(B) becomes aware that a guardian has been appointed for a resident after the resident has been admitted to the facility.

(2) The facility must request an updated copy of the court order appointing a guardian and updated letters of guardianship during each annual evaluation. The facility must retain documentation of any change to the court order or letters of guardianship.

(3) A facility must make at least one additional request within 30 days after making the initial request under paragraph (1) or (2) of this subsection if the facility has not received:

(A) a copy of the court order and letters of guardianship; or

(B) a response that there is no court order or letters of guardianship.

(4) A facility must keep in the resident's record:

(A) documentation of the results of the request for the court order and letters of guardianship; and

(B) a copy of the court order and letters of guardianship.

(d) Release of resident records.

(1) A resident's records must be available to the resident, the resident's legally authorized representative, and HHSC staff.

(2) A resident's records must only be released with the written consent of the resident or, if applicable, the resident's legally authorized representative, except:

(A) to another provider, if the resident transfers residency;

(B) if the release is required by law; and

(C) to HHSC staff during surveys.

(3) The facility must provide a resident or, if applicable, the resident's legally authorized representative with a hard or electronic copy of all or any portion of the resident's records within two working days of the date of written or spoken request.

(e) Destruction of Records.

(1) Resident records destroyed under this chapter must be shredded or incinerated in a manner that protects confidentiality.

(2) Destruction of records must not occur before the retention period ends as required by subsection (a)(2) of this section. At the time of destruction, the facility must record in a log the following required information for each record destroyed:

(A) resident name;

(B) resident record number, if used;

(C) the resident's Social Security number and date of birth, if available; and

(D) date and signature of the person carrying out destruction.

§553.287. Rights.

(a) Residents' rights.

(1) A facility must ensure that the facility's policies and procedures:

(A) enable residents to exercise their rights;

(B) promote the highest practicable quality of life for all residents and do not deliberately or inadvertently prohibit a resident from exercising the rights stated in this section or by the rights of citizenship; and

(C) ensure that a resident, in exercising the resident's rights, does not impede the rights of others in the facility.

(2) A facility must ensure the Residents' Bill of Rights is:

(A) provided in writing to each resident or resident's legally authorized representative; and

(B) posted in English and Spanish in a prominent place in the facility accessible by residents and visitors.

(3) A resident has all the rights, benefits, responsibilities, and privileges stated in the Constitution and laws of this state and the United States, except where lawfully restricted.

(4) A resident has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights.

(5) A resident has the right to be free from physical and mental abuse, including corporal punishment, physical restraints and seclusion, and chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the resident's medical symptoms.

(6) A resident has the right to participate in activities of social, religious, and community groups unless the participation interferes with the rights of others.

(7) A resident has the right to practice the religion of the resident's choice or abstain from religious activities.

(8) A resident with an intellectual disability and who is represented by a court-appointed guardian may participate in a behavior modification program that involves the use of restraints, in accordance with §553.279(a) of this subchapter (relating to Restraints and Seclusion), or adverse stimuli only with the informed consent of the guardian.

(9) A resident has the right to be treated with respect, courtesy, consideration, and recognition of the resident's dignity and individuality. This means that the resident has the right to:

(A) make individualized choices regarding personal affairs, care, benefits, schedules, and services;

(B) be free from abuse, neglect, and exploitation;

(C) be spoken to and about without the use of derogatory language;

(D) quality stewardship of the resident's affairs by designating a legally authorized representative, if protective measures are required and the resident has not been adjudicated cognitively impaired; and

(E) protection of the resident's personal image.

(i) A facility employee must not post or share any photograph or video of a resident on the Internet or social media.

(ii) A facility employee must obtain written consent from the resident or the resident's legally authorized representative to post or share any photograph or video of a resident on the internet or social media.

(10) A resident has the right to a safe, clean, and decent living environment.

(11) A resident has the right to use the resident's native language to communicate with staff and others when receiving or giving any treatment, care, or services.

(12) A resident has the right to make a complaint about the resident's care or treatment.

(A) A resident's complaint may be made anonymously or communicated by a person designated by the resident.

(B) The facility must promptly respond to each resident complaint and provide information on the outcome of the complaint.

(C) The facility must not discriminate or take other punitive action against a resident who makes a complaint.

(D) The facility must not prevent a resident from making a formal complaint to HHSC. The facility must not require a resident to submit a complaint to the facility before filing a formal complaint with HHSC.

(13) A resident has the right to receive and send unopened mail. If mail is not directly delivered to residents by a postal worker, the facility must ensure that the resident's:

(A) outgoing mail is posted via the carrier of the resident's choice; and

(B) incoming mail and packages are delivered to the resident within 24 hours of delivery at the facility.

(14) A resident has the right to unrestricted direct, unaccompanied communication in person and via telecommunications including personal visitation with any person of the resident's choice, such as family members, outside resources, and representatives of advocacy groups and community service organizations, at any reasonable hour or in case of emergency or personal crisis, at no monetary cost to the resident or visitor.

(A) A resident has the right to retain a personal cellular or Internet device, such as a cellphone, computer, and tablet.

(B) The facility must ensure a resident is provided:

(i) personal privacy while attending to personal needs; and

(ii) a private place for receiving visitors or associating with other residents via communication devices or in person.

(C) The facility must ensure a resident's right to privacy includes any medical treatment, written communications, emails, telephone conversations, meeting with visitors, and access to resident councils.

(D) A facility must not request or require a resident to reveal the content of a private conversation with another person.

(15) A resident has the right to have contact with individual community members and social groups. A resident may build relationships with these individuals and groups to support independence, autonomy, and community interaction to the greatest extent possible.

(16) A resident has the right to manage the resident's own financial affairs.

(A) The resident may choose to authorize another person in writing to manage the resident's money.

(B) The resident may select a method for managing money, including a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method. The resident may select the least restrictive method for managing money.

(C) If the facility accepts a resident's request for the facility to hold funds for the resident, the facility must provide the resident an accounting upon request and at least quarterly of financial transactions made on the resident's behalf.

(D) If a resident authorizes a facility to manage any personal finances, the facility must keep a financial record that shows all receipts and expenditures for accountability. The facility must make these records available to HHSC.

(17) A resident has the right to review and receive copies of the resident's records, as stated in §553.285 of this subchapter (relating to Resident Records and Retention).

(18) A resident has the right to choose and retain:

(A) an attending physician and other medical and health care practitioners; and

(B) at least one essential caregiver, in accordance with Chapter 570 of this title (relating to Long-term Care Provider Rules During a Public Health Emergency or Disaster).

(19) A resident has the right to be fully informed in advance about treatment, care, and services provided by the facility.

(20) A resident has the right to take part in creating the individual service plan. The individual service plan must describe medical, nursing, and psychological needs and explain how these needs will be met.

(21) A resident has the right to refuse medical treatment or services. The facility must ensure the resident is advised by the person providing treatment or services of the possible consequences of refusing treatment or services.

(22) A resident has the right to request a shared room with a spouse or other consenting individual who resides in the facility as long as both residents agree.

(23) A resident has the right to keep and use personal possessions, including clothes, furniture, and durable medical equipment as space permits and with consideration of the health and safety of other residents.

(24) A resident has the right to choose dress, hair style, and personal effects according to individual preference.

(25) A resident has the right to keep and use personal property and belongings, such as photographs, keepsakes, and snacks that are properly sealed.

(26) A resident has the right to refuse to perform services for the facility, except as contracted for by the resident and manager.

(27) A resident has the right to not be transferred or discharged without notice or due process in accordance with §553.263 of this subchapter (relating to Resident Transfer and Discharge).

(28) A resident has the right to have access to the State Ombudsman and a certified ombudsman.

(29) A resident has the right to sign an advance directive under Texas Health and Safety Code Chapter 166. This includes the right to give an agent authority under a power of attorney to make health care decisions if the resident becomes unable to make decisions.

(b) Provider rights.

(1) A facility must post a Providers' Bill of Rights in a prominent place in the facility in both English and Spanish.

(2) A provider of assisted living services has the right to:

(A) be shown consideration and respect that recognizes the dignity and individuality of the provider and the facility;

(B) end a resident's contract for just cause after providing a written 30-day notice or immediately, as permitted by Texas Health and Safety Code Chapter 247;

(C) present grievances, file complaints, or provide information to state agencies or other persons without fear of punishment or retaliation;

(D) refuse to perform services for a resident or a resident's family that are not included in the contract between resident and provider;

(E) contract with members of the local community in order to support the highest level of independence, autonomy, interaction, and services to residents;

(F) access information and medical records about a resident who is referred to the facility, which must remain confidential as provided by law;

(G) refuse a person referred to the facility if the referral is inappropriate;

(H) keep the environment free of illegal drugs and weapons per Texas Penal Code §§30.05- 30.07, which allows a facility to ban firearms in the facility by giving proper notice by way of a sign at all entrances; and

(I) be made aware of a resident's problems, including self-abuse, violent behavior, alcoholism, or drug abuse.

(c) Resident councils.

(1) A facility must have a policy that permits residents to create and take part in resident council meetings and activities.

(2) A facility must not prohibit residents from attending resident council meetings.

(3) A facility must assist a resident to attend a resident council meeting in the facility if requested by the resident.

(4) A facility must not use resident council meetings and activities in place of facility activities required in §553.273 of this subchapter (relating to Activities Program).

(d) HHSC and local authority access to residents. A facility must allow an employee of HHSC, or an employee of a local authority, into the facility as necessary to provide services to a resident:

(1) during the provision of emergency and medical services; and

(2) during a facility survey, inspection or investigation, or enforcement action.

(e) Authorized electronic monitoring (AEM).

(1) A facility must permit a resident, or the resident's guardian or legally authorized representative, to monitor the resident's room using an electronic monitoring device.

(2) A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct AEM.

(3) The HHSC Information Regarding Authorized Electronic Monitoring form must be signed by or on behalf of all new residents upon admission. The form must be completed and signed by or on behalf of all current residents. A copy of the form must be maintained in the active portion of a resident's record.
Figure: 26 TAC §553.287(e)(3)

(4) To request AEM, a resident, the resident's guardian, or the resident's legally authorized representative must complete, sign, and date HHSC Form 0066, Request for Authorized Electronic Monitoring. The completed form must be submitted to the manager or designee. A copy of the completed form must be kept in the resident's record.

(A) If a resident has the capacity to request AEM as determined by the resident's physician and has not been judicially declared to lack the required capacity, only the resident may request AEM, notwithstanding the terms of any durable power of attorney or similar instrument.

(B) If a resident has been judicially declared to lack the capacity required to request AEM, only the guardian of the resident may request AEM.

(C) If a resident does not have the capacity to request AEM as determined by the resident's physician but has not been judicially declared to lack the required capacity, only the legally authorized representative of the resident may request AEM.

(i) Documentation of the determination must be in the resident's record.

(ii) When a resident's physician determines the resident lacks the capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legally authorized representative for the limited purpose of requesting AEM:

(I) a person named in the resident's medical power of attorney or other advance directive;

(II) the resident's spouse;

(III) an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision-maker;

(IV) a majority of the resident's reasonably available adult children;

(V) the resident's parents; or

(VI) the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.

(5) A resident, or the resident's guardian or legally authorized representative, who wishes to conduct AEM must also obtain the consent of any other residents residing in the room using HHSC Form 0067, Consent to Authorized Electronic Monitoring. When complete, the form must be submitted to the manager or designee. A copy of the form must be maintained in the resident's record. AEM cannot be conducted without the consent of all residents residing in the room.

(A) Consent for AEM may be provided only by:

(i) the other resident or residents in the room;

(ii) the guardian of the other resident, if the resident has been judicially declared to lack the required capacity; or

(iii) the legally authorized representative of the other resident, determined by following the same procedure established under paragraph (4)(C) of this subsection.

(B) Another resident residing in the room may condition consent on:

(i) pointing the camera away from the consenting resident's bed and personal space, when the proposed electronic monitoring is a video surveillance camera; and

(ii) limiting or prohibiting the use of an electronic monitoring device.

(C) AEM must follow all limits set in the consent provided by or for another resident living in the room. The resident's roommate, or the roommate's guardian or legally authorized representative, is responsible for making sure AEM follows these limits.

(D) If AEM is being conducted in a resident's room, and another resident who has not consented to AEM is moved into the room, AEM must stop. AEM may begin again only after the new resident, or the new resident's guardian or legally authorized representative, provides consent.

(6) When the completed HHSC Form 0066, Request for Authorized Electronic Monitoring and HHSC Form 0067, Consent to Authorized Electronic Monitoring, if applicable, have been submitted to the manager or designee, AEM may begin.

(A) Anyone conducting AEM must post and maintain a conspicuous notice at the entrance to the resident's room. The notice must state that the room is being monitored by an electronic monitoring device.

(B) The resident, or the resident's guardian or legally authorized representative, must pay for all costs associated with conducting AEM, including installation in compliance with life safety and electrical codes, maintenance, removal of the equipment, posting and removal of the notice, or repair following removal of the equipment and notice, other than the cost of electricity.

(C) The facility must ensure that a resident's request to have a video camera obstructed to protect the resident's dignity are met.

(D) The facility must make reasonable physical accommodation for AEM, which includes providing:

(i) a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and

(ii) access to power sources for the video surveillance camera or other electronic monitoring device.

(7) A facility must, regardless of whether AEM is being conducted, post an 8 1/2-inch by 11-inch notice at the main facility entrance. The notice must be entitled "Electronic Monitoring" and must state, in large, easy-to-read type, "The rooms of some residents may be monitored electronically by or on behalf of the residents. Monitoring may not be open and obvious in all cases."

(8) A facility may:

(A) require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room and meet all local and state regulations;

(B) require AEM to be conducted in plain view; and

(C) place a resident in a different room to accommodate a request for AEM.

(9) A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident in the resident's own room. If a facility discovers a covert electronic monitoring device and it is no longer covert as defined in §553.3 of this chapter (relating to Definitions), the resident must meet all the requirements for AEM before monitoring is allowed to continue.

(10) All instances of abuse or neglect must be reported to HHSC, as required by §553.293 of this subchapter (relating to Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities). For purposes of the duty to report abuse or neglect, the following apply.

(A) A person who is conducting electronic monitoring on behalf of a resident is considered to have viewed or listened to a recording made by the electronic monitoring device on or before the 14th day after the date the recording is made.

(B) If a resident who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring provides a recording made by the electronic monitoring device to a person and directs the person to view or listen to the recording to determine whether abuse or neglect has occurred, the person to whom the resident provides the recording is considered to have viewed or listened to the recording on or before the seventh day after the date the person receives the recording.

(C) Reporting abuse is required only when a recording shows an incident of abuse. Reporting neglect is required only when a recording clearly shows that neglect has occurred.

(D) If a report of abuse or neglect of a resident is made to a facility and the facility requests a copy of any recording made by an electronic monitoring device, the person who has the recording must give the facility a copy. The facility must pay for the copy. The cost of the copy must not be more than the usual price in the community. If the recording is changed from the original format, a qualified professional must make the transfer.

(E) If more than one recording is sent to HHSC, each recording must be marked to show where an incident of abuse or evidence of neglect may be found. Each tape or recording must clearly indicate the location on the recording where an incident of abuse or evidence of neglect appears.

§553.289. Access to Residents and Records by the State Long-Term Care Ombudsman Program.

(a) A resident has the right to be visited by the State Ombudsman, a certified ombudsman, or an ombudsman intern.

(b) In accordance with 42 United States Code (U.S.C.) §3058g (b)(1)(A) and 45 CFR §1324.11(e)(2), a facility must allow:

(1) the State Ombudsman, a certified ombudsman, and an ombudsman intern to have:

(A) immediate, private, and unimpeded access to enter the facility at any time during the facility's regular business hours or regular visiting hours;

(B) immediate, private, and unimpeded access to a resident; and

(C) immediate and unimpeded access to the name and contact information of the resident's legally authorized representative, if the State Ombudsman, a certified ombudsman, or an ombudsman intern determines the information is needed to perform a function of the Ombudsman Program; and

(2) the State Ombudsman and a certified ombudsman to have immediate, private, and unimpeded access to enter the facility at a time other than regular business hours or visiting hours, if the State Ombudsman or a certified ombudsman determines access may be required by the circumstances to be investigated.

(c) A facility, as required by 42 U.S.C. §3058g (b)(1)(B) and 45 CFR §1324.11(e)(2), must provide immediate access to the State Ombudsman and a certified ombudsman to:

(1) all files, records, and other information concerning a resident regardless of format in accordance with the Older Americans

Act §712(b)(1)(B) and 45 CFR §1324.11(e)(2), including an incident report involving the resident, if:

(A) the State Ombudsman or certified ombudsman has the consent of the resident or legally authorized representative;

(B) the resident is unable to communicate consent to access and has no legally authorized representative; or

(C) such access is necessary to investigate a complaint and the following occurs:

(i) the resident's legally authorized representative refuses to provide consent to access to the records, files, and other information;

(ii) the State Ombudsman or certified ombudsman has reasonable cause to believe that the legally authorized representative is not acting in the best interests of the resident; and

(iii) if it is the certified ombudsman seeking access to the records, files, or other information, the certified ombudsman obtains the approval of the State Ombudsman to access the records, files, or other information without the legally authorized representative's consent; and

(2) the administrative records, policies, and documents of the facility to which the residents or general public have access.

(d) In accordance with 45 CFR §1324.11(e)(2), the State Ombudsman and a certified ombudsman are entitled, upon request, to a copy of a file, record, and other information to which the State Ombudsman and a certified ombudsman have access in accordance with subsection (c) of this section.

(e) The rules adopted under the Health Insurance Portability and Accountability Act of 1996, 45 CFR Part 164, Subparts A and E, do not preclude a facility from releasing protected health information or other identifying information regarding a resident to the State Ombudsman or a certified ombudsman if the requirements of subsections (b)(1)(C) and (c)(1) of this section are otherwise met. The State Ombudsman and a certified ombudsman are each a "health oversight agency" as that phrase is defined in 45 CFR §164.501.

(f) The facility must not require a complaint to be made to the facility before a complaint is made to the Ombudsman Program. The facility may provide information to the resident about the role of the Ombudsman Program in resolving complaints.

§553.291. Postings.

(a) A facility must prominently and conspicuously post for display in a public area of the facility that is readily available to residents, employees, and visitors:

(1) the license issued under this chapter;

(2) an Alzheimer's certificate if the facility is Alzheimer's certified or has an Alzheimer's certified unit;

(3) a sign, in the form required by HHSC, that explains the complaint procedures in these rules and provides instructions for filing a complaint with HHSC;

(4) a notice, in the form required by HHSC, that states inspection reports and related documents are available at the facility for public review and the notice must include the HHSC toll-free telephone number for obtaining information about the facility;

(5) a copy of the most recent inspection report relating to the facility;

(6) Residents' Bill of Rights;

(7) Providers' Bill of Rights;

(8) the facility's emergency evacuation floor plan, unless the facility is a one-story facility licensed for fewer than 17 residents;

(9) the menu for resident daily meals and snacks for the current week;

(10) the resident daily activities schedule for the current month;

(11) the telephone number of the managing local ombudsman and the toll-free number of the Ombudsman Program, 1-800-252-2412;

(12) the facility's 24-hour staffing pattern for the current month; and

(13) a sign stating: "Cases of Suspected Abuse, Neglect, or Exploitation must be reported to HHSC by calling 1-800-458-9858."

(b) A facility must post emergency telephone numbers, including for fire, police, emergency medical services, and poison control center services, conspicuously at or near facility-maintained telephones.

(c) A facility must post a notice, sized 8 1/2 inches by 11 inches, at the main entrance of the facility. The notice must be titled "Electronic Monitoring." The notice must state, in large and easy-to-read type: "The rooms of some residents may be monitored electronically by or on behalf of the residents. Monitoring may not be open and obvious in all cases." The notice must be posted regardless of whether authorized electronic monitoring is occurring.

(d) Whenever a resident room is being electronically monitored, the facility must post and maintain a conspicuous notice at the entrance to the resident's room stating that an electronic monitoring device is monitoring the room.

§553.292. Advertisements, Solicitations, and Promotional Material.

A facility must include the state-issued facility identification number in all advertisements, solicitations, and promotional materials. This requirement applies to the facility's website, social media accounts, yellow page entries, brochures, and business cards.

§553.293. Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities.

(a) A person, including an owner or employee of the facility, who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect, or exploitation or that the resident has died due to abuse, neglect, exploitation, or an unknown reason, must report the abuse, neglect, or exploitation to:

(1) HHSC Complaint and Incident Intake at 1-800-458-9858 or via the HHSC website; and

(2) the applicable law enforcement agency described in this paragraph:

(A) a municipal law enforcement agency, if the facility is located within the territorial boundaries of a municipality; or

(B) the sheriff's department of the county in which the facility is located if the facility is not located within the territorial boundaries of a municipality.

(b) A facility must create and follow written policies for abuse, neglect, exploitation, and for incidents that must be reported to HHSC, including missing resident, drug diversion, or injury or death of a resident from an unknown source. The policies must address:

(1) prevention of abuse, neglect, and exploitation including the prevention of additional abuse, neglect, and exploitation during an active investigation;

(2) how to identify abuse, neglect, exploitation, or reportable incidents in accordance with this subsection;

(3) how to report abuse, neglect, exploitation, or a reportable incident, as described in this subsection, including timeframes for reporting internally and to HHSC, the Texas Department of Family and Protective Services, or law enforcement;

(4) how to notify applicable individuals, such as a resident's legally authorized representative, at the start and at the end of an investigation of abuse, neglect, exploitation, or a reportable incident; and

(5) investigation procedures, required documentation, and internal reporting chain of command.

(c) The following information must be reported to HHSC:

(1) name, age, and address of the resident;

(2) name and address of the person responsible for the care of the resident, if available;

(3) nature and extent of the elderly or disabled person's condition;

(4) basis of the reporter's knowledge; and

(5) any other relevant information.

(d) A facility must immediately, no later than 24 hours upon learning of an incident or receiving a complaint, make an oral report to HHSC or electronic report via the online portal of:

(1) alleged abuse, neglect, or exploitation;

(2) a missing resident;

(3) drug diversion;

(4) fire;

(5) a resident's injury or death from an unknown source; or

(6) a resident's credible verbal threats or physical actions that pose a serious or immediate threat to the health, safety, or welfare of residents or the facility.

(e) A facility must thoroughly investigate an incident, as described in subsection (d) of this section, by collecting evidence such as interviews and documents to allow the individual assigned to oversee investigations to determine what actions are necessary for the protection of residents.

(f) A facility must submit a report of the investigation on Form 3613-A, SNF, NF, ICF/IID, ALF, DAHS including ISS providers and PPECC Provider Investigation Report with Cover Sheet, to HHSC state office no later than the fifth calendar day after the oral report.

(g) A facility must take actions to stop further possible abuse, neglect, exploitation, or mistreatment of residents while an investigation is ongoing. Actions may include immediate suspension of any alleged perpetrators employed by the facility.

(h) A facility must not retaliate against a person for filing a complaint, presenting a grievance, or providing in good faith information relating to personal care services provided by the facility.

(i) Staff must sign a statement, as a condition of employment, that states criminal liability may result from failing to report abuse, neglect, exploitation, or a reportable incident, as required by this section.

§553.295. Emergency Preparedness and Response.

(a) The following terms in this section have the following meanings, unless the context clearly indicates otherwise.

(1) Designated emergency contact--A person whom a resident, or a resident's legally authorized representative, identifies in writing for the facility to contact in the event of a disaster or emergency.

(2) Disaster or emergency--An impending, emerging, or current situation that:

(A) interferes with normal activities of a facility and its residents;

(B) may:

(i) cause injury or death to a resident or staff member of the facility; or

(ii) cause damage to facility property;

(C) requires the facility to respond immediately to mitigate or avoid the injury, death, damage, or interference; and

(D) except as it relates to an epidemic or pandemic, or to the extent it is incident to another disaster or emergency, does not include a situation that arises from the medical condition of a resident, such as cardiac arrest, obstructed airway, or cerebrovascular accident.

(3) Emergency management coordinator (EMC)--The person appointed by the local mayor or county judge to plan, coordinate, and implement public health emergency preparedness planning and response within the local jurisdiction.

(4) Emergency preparedness coordinator (EPC)--The staff member with the responsibility and authority to direct, control, and manage the facility's response to a disaster or emergency.

(5) Evacuation summary--A current summary of the facility's emergency preparedness and response plan that includes:

(A) the name, address, and contact information for each receiving facility or pre-arranged evacuation destination identified by the facility under subsection (j)(3)(B) of this section;

(B) the procedure for safely transporting residents and any other individuals evacuating a facility;

(C) the name or title and contact information of the staff member to contact for evacuation information;

(D) the facility's main method of communication during a disaster or emergency and another method to communicate if the main method does not work;

(E) how the facility will notify persons referenced in subsection (j)(5) of this section as soon as practicable if an event happens that affects residents, such as an emergency or evacuation, and how the facility will contact residents during the event;

(F) a statement about training available to residents, their legal representatives, and each resident's emergency contact, explaining what they should do if there's an emergency and how the facility's plan affects them; and

(G) the facility's procedures for when a resident evacuates with a person other than a staff member.

(6) Plan--A facility's emergency preparedness and response plan.

(7) Receiving facility--A separate licensed assisted living facility:

(A) from which the facility has documented acknowledgement, from an identified authorized representative of the facility; and

(B) with which the facility has made an advance arrangement to temporarily move some or all residents in the event of a disaster or emergency, if, at the time of evacuation:

(i) the receiving facility can safely receive and accommodate the residents; and

(ii) the receiving facility has all necessary licensure or emergency authorization required to do so.

(8) Risk assessment--Evaluating, documenting, and reviewing possible disasters or emergencies that could cause the greatest harm to the facility. Risk assessment considers the facility's location, building conditions, needs and characteristics of residents, and other important factors. The purpose of risk assessment is to create a strong emergency preparedness and response plan.

(b) A facility must complete and document a risk assessment that meets the definition in subsection (a)(8) of this section. The risk assessment must cover possible emergencies or disasters inside and outside the facility that relate to facility operations and location and present the greatest risk to a facility.

(c) A facility must develop and maintain a written emergency preparedness and response plan based on its risk assessment under subsection (b) of this section that is adequate to protect facility residents and staff in a disaster or emergency.

(1) The plan must address the following eight core functions of emergency management:

(A) direction and control;

(B) warning;

(C) communication;

(D) sheltering arrangements;

(E) evacuation;

(F) transportation;

(G) health and medical needs; and

(H) resource management.

(2) A facility must prepare for a disaster or emergency using the emergency preparedness and response plan. The facility must follow all procedures and requirements in the plan, including contingency procedures, when a disaster or emergency occurs. The emergency preparedness and response plan must include all requirements in this section; and

(A) the contact information for the EMC for the area, as identified by the office of the local mayor or county judge;

(B) a process to communicate with the EMC, both as a preparedness measure and in anticipation of and during a developing and occurring disaster or emergency; and

(C) the location of a current list of the facility's resident population, which must be maintained as required under subsection (j)(3) of this section, that identifies:

(i) residents with Alzheimer's disease or related disorders;

(ii) residents who have an evacuation waiver approved under §553.261 of this subchapter (relating to Inappropriate Placement in a Type A or Type B Facility); and

(iii) residents with mobility limitations or other special needs who may need specialized assistance, either at the facility or in case of evacuation.

(d) A facility must:

(1) maintain a current printed copy of the facility's evacuation summary in a central location that is accessible to all staff, residents, and residents' legally authorized representatives and outside resources that provide care to residents;

(2) at least annually and after an event described in subparagraphs (A) and (B) of this paragraph, review the plan, its evacuation summary, and the contact lists described in subsection (j)(3) of this section, and update each:

(A) to reflect changes in information, including when an evacuation waiver is approved under §553.261 of this subchapter;

(B) within 30 days or as soon as practicable following:

(i) a disaster or emergency if a shortcoming is identified in the plan during the facility's response;

(ii) a drill if, based on the drill, a shortcoming in the plan is identified; and

(iii) a change in a facility policy or HHSC rule that would impact the plan; and

(3) document reviews and updates conducted under paragraph (2) of this subsection, including the date of each review and dated documentation of changes made to the plan based on a review.

(e) If the facility makes a significant change to the evacuation summary, the facility must provide each resident and legally authorized representative a written copy of the updated evacuation summary.

(f) A facility must notify each resident, next of kin, or legally authorized representative, in writing, how to register for evacuation assistance with the Texas Information and Referral Network (2-1-1 Texas).

(g) A facility must register as a provider with 2-1-1 Texas to help the state identify persons who may need help during a disaster or emergency. The facility is not required to identify or register individual residents for evacuation assistance.

(h) The facility's plan must contain a section dedicated to direction and control that:

(1) designates the EPC, as defined in (a)(4) of this section, and an alternate EPC, who is the staff member with the responsibility and authority to act as the EPC if the EPC is unable to serve in that capacity; and

(2) assigns responsibilities to staff by designated function or position and describes the facility's system for ensuring that each staff clearly understands the staff member's own role and how to execute it in the event of a disaster or emergency.

(i) A facility's plan must contain a section for warning that identifies:

(1) applicable procedures, methods, and responsibility for the facility to communicate with the EMC and other outside organizations, based on facility coordination with the EMC and other outside organizations, to notify the EPC or alternate EPC, as applicable, of a disaster or emergency;

(2) the persons to be notified of a disaster or emergency and the methods and procedures for notification by the EPC or alter-

nate EPC, as applicable, including during off hours, weekends, and holidays;

(3) how the facility will keep everyone in the facility updated about its plan for handling a current or possible disaster or emergency happening nearby; and

(4) procedures for monitoring local news and weather reports about a disaster, potential disaster, or emergency, which must consider:

(A) location-specific natural disasters;

(B) whether a disaster is likely to be addressed or forecast in the reports; and

(C) the conditions, natural or otherwise, under which designated staff become responsible for monitoring news and weather reports for a disaster or emergency.

(j) A facility's plan must contain a section dedicated to communication that:

(1) identifies the facility's primary mode of communication to be used during an emergency, the facility's supplemental or alternate mode of communication, and procedures for communication if telecommunication is affected by a disaster or emergency;

(2) includes instructions on when to call 911;

(3) includes the location of a list of current contact information, where it is easily accessible to staff, for each of the following:

(A) the legally authorized representative and designated emergency contacts for each resident;

(B) each receiving facility and pre-arranged evacuation destination, including alternate pre-arrangements, together with the written acknowledgement for each, as defined in subsection (a)(7) of this section;

(C) home and community support services agencies and independent health care professionals that deliver health care services to residents in the facility;

(D) personal contact information for staff; and

(E) the facility's resident population, which must identify residents who may need specialized assistance at the facility or in case of evacuation, as described in subsection (c)(2)(C) of this section;

(4) provides a method for the facility to communicate information to the public about its status during an emergency; and

(5) describes the facility's procedure for notifying at least the following persons, as applicable and as soon as practicable, about facility actions affecting residents during an emergency, including an impending or actual evacuation, and for maintaining ongoing communication for the duration of the emergency or evacuation:

(A) all staff, including off-duty staff;

(B) each facility resident;

(C) any legally authorized representative of a resident;

(D) each resident's designated emergency contacts;

(E) each home and community support services agency or independent health care professional that delivers health care services to a facility resident;

(F) each receiving facility or evacuation destination to be used, if there is an impending or actual evacuation;

(G) the driver of a vehicle transporting residents or staff, medication, records, food, water, equipment, or supplies during an evacuation, and the employer of a driver who is not staff; and

(H) the EMC.

(k) A facility's plan must contain a section dedicated to sheltering arrangements that:

(1) describes the steps for deciding and carrying out the choice to stay in the facility during a disaster or emergency, including:

(A) the arrangements, staff responsibilities, and procedures for accessing and obtaining medication, records, equipment and supplies, water and food, including food to accommodate an individual who has a medical need for a special diet;

(B) facility arrangements and procedures for providing power and ambient temperatures that must not be less than 68 degrees Fahrenheit or more than 82 degrees Fahrenheit in areas used by residents during a disaster or emergency; and

(C) if needed, sheltering staff, emergency staff involved in emergency response, and, as needed and appropriate, family members of those staff; and

(2) includes a procedure for notifying HHSC Regulatory Services regional office for the area in which the facility is located and, in accordance with subsection (j)(5) of this section, the EMC, immediately after the EPC or alternate EPC, as applicable, decides to remain in the facility during a disaster or emergency.

(l) A facility determines when evacuation is necessary to protect the health and safety of residents and staff. A facility must evacuate if the county judge of the county or the mayor of the municipality where the facility is located issues an evacuation order independently or together with the governor. The facility plan must include an evacuation section that:

(1) identifies evacuation destinations and routes, including at least each pre-arranged evacuation destination and receiving facility described in subsection (p) of this section, and includes a map that shows each identified destination and route;

(2) describes the procedure for making and implementing a decision to evacuate some or all residents to one or more receiving facilities or pre-arranged evacuation destinations, with contingency procedures, and a plan for any pets or service animals that reside in the facility;

(3) describes the process for the facility to notify each applicable receiving facility or pre-arranged evacuation destination of the facility's plan to evacuate and to verify with the applicable destination that it is available, ready, and not legally restricted at the time from receiving the evacuated residents, and can do so safely; and

(4) includes the procedure and the staff responsible for:

(A) notifying the HHSC Regulatory Services regional office for the area in which the facility is located and, in accordance with subsection (j)(5) of this section, the EMC, immediately after the EPC or alternate EPC, as applicable, makes a decision to evacuate, or as soon as feasible thereafter, if it is not safe to do so at the time of decision;

(B) ensuring that sufficient staff with qualifications necessary to meet resident needs accompany evacuating residents to the receiving facility, pre-arranged evacuation destination, or other destination to which the facility evacuates, and remain with the residents, providing any necessary care, for the duration of the residents' stay in

the receiving facility or other destination to which the facility evacuates;

(C) ensuring that residents and staff present in the building have been evacuated;

(D) accounting for and tracking the location of residents, staff, and transport vehicles involved in the facility evacuation, both during and after the facility evacuation, through the time the residents and staff return to the evacuated facility;

(E) accounting for residents absent from the facility at the time of the evacuation and residents who evacuate on their own or with a third party, and notifying them that the facility has been evacuated;

(F) overseeing the release of resident information to authorized persons in an emergency to promote continuity of a resident's care;

(G) contacting the EMC to determine if it is safe to return to the geographical area after an evacuation;

(H) making or obtaining, as appropriate, a comprehensive determination whether and when it is safe to re-enter and occupy the facility after an evacuation;

(I) returning evacuated residents to the facility and notifying persons listed in subsection (j)(5) of this section who were not involved in the return of the residents; and

(J) notifying the HHSC Regulatory Services regional office for the area in which the facility is located immediately after each instance when some or all residents have returned to the facility after an evacuation.

(m) A facility's plan must contain a section dedicated to transportation that:

(1) identifies:

(A) current arrangements for access to a sufficient number of vehicles to safely evacuate all residents;

(B) staff designated during an evacuation to drive a vehicle owned, leased, or rented by the facility;

(C) notification procedures to ensure designated staff's availability at the time of an evacuation; and

(D) methods for maintaining communication with vehicles, staff, and drivers transporting facility residents or staff during evacuation, in accordance with subsection (j)(5)(A) and (j)(5)(G) of this section;

(2) includes procedures for safely transporting residents, staff, and any other individuals evacuating a facility; and

(3) includes procedures to ensure that the safe and secure transport of important items such as oxygen, medicine, records, food, water, equipment, and supplies will be safely carried and available to staff when needed during an evacuation.

(n) A facility's plan must contain a section dedicated to health and medical needs that identifies:

(1) any special services that residents use, such as dialysis, oxygen, or hospice services;

(2) procedures to enable each resident, notwithstanding an emergency, to continue to receive from the appropriate provider the services identified under paragraph (1) of this subsection; and

(3) procedures for the facility to notify home and community support services agencies and independent health care professionals that deliver services to residents in the facility of an evacuation in accordance with subsection (j)(5)(E) of this section.

(o) A facility's plan must contain a section dedicated to resource management that:

(1) identifies a plan for identifying, obtaining, transporting, and storing medications, records, food, water, equipment, and supplies needed for both residents and evacuating staff during an emergency;

(2) identifies staff, by position or function, who are assigned to access or obtain the items under paragraph (1) of this subsection and other necessary resources, and ensures their delivery to the facility, as needed, or their transport in the event of an evacuation;

(3) describes the procedure to ensure medications are secure and maintained at the proper temperature throughout an emergency; and

(4) describes procedures and safeguards to protect the confidentiality, security, and integrity of resident records throughout an emergency and any evacuation of residents.

(p) To act as a receiving facility, as defined in subsection (a)(7) of this section, a facility's plan must include steps for accepting residents from another assisted living facility during an emergency. Temporary emergency placement of one or more residents from another assisted living facility may occur only during an emergency and only if:

(1) the facility does not exceed its licensed capacity, unless pre-approved in writing by HHSC and the excess is not more than 10 percent of the facility's licensed capacity;

(2) the facility ensures that the temporary emergency placement of one or more residents evacuated from another assisted living facility does not compromise the health or safety of any evacuated or facility resident, staff, or any other individual;

(3) the facility is able to meet the needs of all evacuated residents and any other persons it receives on a temporary emergency basis while continuing to meet the needs of its own residents, and of any of its own staff or other individuals it is sheltering at the facility during an emergency, in accordance with its plan under subsection (k) of this section;

(4) the facility maintains a log of each additional individual being housed in the facility that includes the individual's name, address, and the date of arrival and departure; and

(5) the receiving facility ensures that each temporarily placed resident has at arrival, or as soon after arrival as practicable and no later than necessary to protect the health of the resident, each of the following necessary to the resident's continuity of care:

(A) necessary physician orders for care;

(B) medications;

(C) a service plan;

(D) existing advance directives; and

(E) contact information for each legally authorized representative and designated emergency contact of an evacuated resident and a record of any notifications that have already occurred.

(q) The facility must:

(1) provide staff training on the emergency preparedness plan at least annually;

(2) train a staff member on the staff member's responsibilities under the plan:

(A) before the staff member assumes job responsibilities; and

(B) when a staff member's responsibilities under the plan change;

(3) conduct at least one unannounced annual drill with staff for severe weather or another emergency identified by the facility as likely to occur, based on the results of the risk assessment required by subsection (b) of this section;

(4) offer training and document, for each, the provision or refusal of such training to each resident or legally authorized representative, if any, and each designated emergency contact, on procedures under the facility's plan that involve or impact each of them, respectively; and

(5) document the facility's compliance with each paragraph of this subsection at the time it is completed.

(r) A facility's plan must contain a section dedicated to procedures to report incidents relating to a disaster or emergency.

(1) A facility must report a fire to HHSC as follows:

(A) via the HHSC online portal or by calling 1-800-458-9858 immediately after the fire or as soon as practicable during an extended fire; and

(B) by submitting a completed HHSC Form 3707, Fire Report for Long Term Care Facilities, within 15 calendar days after the fire.

(2) A facility must report to HHSC any death, serious injury, or threat to resident health or safety that results from an emergency or disaster. Reporting must follow procedures described in this paragraph.

(A) A facility must report to HHSC via the HHSC online portal or by calling 1-800-458-9858 immediately after the incident, or, if the incident is of extended duration, as soon as practicable after the injury, death, or threat to the resident; and

(B) after investigating the emergency and any resulting resident injury, death, or threat.

(i) The facility must submit a completed HHSC Form 3613-A, SNF, NF, ICF/IID, ALF, DAHS including ISS providers and PPECC Provider Investigation Report with a cover sheet.

(ii) The facility must submit the completed form within five working days after making the telephone report required by paragraph (2)(A) of this subsection.

(s) A facility must:

(1) ensure that the facility manager and designee enroll in an emergency communication system in accordance with instructions from HHSC; and

(2) respond to requests for information received through the emergency communication system in the format established by HHSC.

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Karen Ray

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26 TAC §§553.255, 553.261, 553.263, 553.265, 553.267, 553.269, 553.271 - 553.273, 553.275

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.255. All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder.

§553.261. Coordination of Care.

§553.263. Health maintenance activities.

§553.265. Resident Records and Retention.

§553.267. Rights.

§553.269. Access to Residents and Records by the State Long-Term Care Ombudsman Program.

§553.271. Postings.

§553.272. Advertisements, Solicitations, and Promotional Material.

§553.273. Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities.

§553.275. Emergency Preparedness and Response.

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SUBCHAPTER F. ADDITIONAL LICENSING STANDARDS FOR CERTIFIED ALZHEIMER'S ASSISTED LIVING FACILITIES

26 TAC §§553.301, 553.303, 553.305, 553.307, 553.309

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.301. Manager Qualifications and Training for an Alzheimer's certified facility or unit.

(a) The manager of a [~~the~~] certified Alzheimer's facility or the supervisor of a [~~the~~] certified Alzheimer's unit must be 21 years of age or older, and have:

(1) an associate [~~associate's~~] degree in nursing or health care management;

(2) a bachelor's degree in psychology, gerontology, nursing, or a related field; or

(3) proof of graduation from an accredited high school or certification of equivalency of graduation and at least one year of experience working with persons with dementia.

(b) In addition to the manager training requirements in §553.253 of this chapter (relating to Employee Qualifications and Training), the [~~The~~] manager of an Alzheimer's certified facility or the supervisor of an Alzheimer's certified unit must complete six hours of annual continuing education regarding dementia care.

§553.303. Staff Training for Staff of an Alzheimer's Certified Facility or Unit.

(a) In addition to the staff training requirements under §553.253 of this chapter (relating to Employee Qualifications and Training), all staff members must receive four hours of dementia-specific orientation before [~~prior to~~] assuming any job responsibilities. Training must cover, at a minimum, the following topics:

(1) basic information about the causes, symptoms, progression, and management of Alzheimer's disease and related disorders;

(2) managing dysfunctional behavior; [~~and~~]

(3) identifying and alleviating safety risks to residents with Alzheimer's disease and related disorders; and [~~.~~]

(4) basic infection prevention and control principles.

(b) In addition to the staff training requirements under §553.253 of this chapter, attendants must receive 16 hours of on-the-job supervision and training about care and services for individuals residing in the Alzheimer's certified facility or unit before providing care in the unit. [~~within the first 16 hours of employment following orientation.~~] Training must cover:

(1) providing assistance with the activities of daily living to an individual with a diagnosis of Alzheimer's disease or a related disorder;

(2) emergency and evacuation procedures specific to the residents residing in the Alzheimer's certified facility or unit; [~~dementia population;~~]

(3) managing dysfunctional, disruptive, or maladaptive behavior; [~~and~~]

(4) behavior management, including prevention of aggressive behavior and de-escalation techniques[~~, fall prevention,~~] or alternatives to restraints;[~~.~~]

(5) fall and accident prevention;

(6) intimate relationships and consent; and

(7) end-of-life and terminal conditions for a person with Alzheimer's disease or a related disorder.

(c) In addition to [~~the staff training~~] requirements under §553.253 of this chapter, attendants must [~~annually~~] complete 12 hours of annual in-service education focusing on [~~regarding~~] Alzheimer's disease. [~~One hour of annual training must address behavior management, including prevention of aggressive behavior and de-escalation techniques, or fall prevention, or alternatives to restraints. Training for these subjects must be competency-based. Subject matter must address the unique needs of the facility. Additional suggested topics include:~~]

(1) One hour of annual training must address behavior management, including prevention of aggressive behavior, de-escalation techniques, and alternatives to restraints.

(2) One hour of annual training must address preventing falls and accidents.

(3) One hour of annual training must address elopement prevention.

(4) The remaining nine hours of in-service training may include:

(A) [~~(1)~~] assessing resident capabilities and developing and implementing service plans;

(B) [~~(2)~~] promoting resident dignity, independence, individuality, privacy, and choice;

(C) [~~(3)~~] planning and facilitating activities appropriate for the dementia resident;

(D) [~~(4)~~] communicating with families and other persons interested in the resident;

(E) [~~(5)~~] resident rights and principles of self-determination;

(F) [~~(6)~~] care of elderly persons with physical, cognitive, behavioral, and social disabilities;

(G) [~~(7)~~] medical and social needs of the resident;

(H) [~~(8)~~] common psychotropics and side effects; and

(I) [~~(9)~~] local community resources.

§553.305. Staffing for an Alzheimer's Certified Facility or Unit.

(a) A facility must employ sufficient staff to provide services for and meet the needs of and ensure the health and safety of residents residing in the Alzheimer's certified facility or unit based on each resident's: [~~its Alzheimer's residents. In large facilities or units with 17~~

or more residents, two staff members must be immediately available when residents are present.]

(1) cognitive and physical acuity;

(2) behavioral health concerns; and

(3) wandering and elopement precautions.

(b) In a facility or unit licensed for 17 or more residents, at least two staff members must be present and available at all times when residents are present.

§553.307. Admission Procedures, Evaluation, [Assessment,] and Service Plan for Residents in an Alzheimer's Certified Facility or Unit.

(a) Alzheimer's Assisted Living Disclosure Statement form. A facility must use the Alzheimer's Assisted Living Disclosure Statement form. The facility must amend the form if any change in facility operation affects information contained in the form. [and amend the form if changes in the operation of the facility affect the information in the form.]

(b) Pre-admission. The facility must have procedures that include an application process, interviews, and home visits. These procedures must determine whether placement of a prospective resident is appropriate and whether the needs of the prospective resident can be met. [establish procedures, such as an application process, interviews, and home visits, to ensure that the placement of prospective residents is appropriate and that their needs can be met.]

(1) Before [Prior to] admitting a resident, [facility] staff must discuss and explain the Alzheimer's Assisted Living Disclosure Statement form with the resident's legally authorized representative [family] or responsible party.

(2) The facility must give the Alzheimer's Assisted Living Disclosure Statement form to any individual seeking information about the facility's care or treatment of residents with Alzheimer's disease and related disorders.

(c) Evaluation [Assessment]. The facility must conduct a resident evaluation of a resident [make a comprehensive assessment of each resident] within 14 days after admission and annually thereafter. The evaluation [assessment] must include the items listed in §553.259(b) [§553.259(b)(1)] of this chapter (relating to Admission Policies and Procedures).

(d) Service plan. Staff must develop an individualized service plan for each resident. The service plan must be created with input from the family and outside resources, if available, and must be based on the resident evaluation. The service plan must address the individual needs, preferences, and strengths of the resident. The service plan must be designed to help the resident keep the highest possible level of physical, cognitive, and social functioning. Staff must update the service plan every year and when a significant change in condition happens, based on an evaluation of the resident. [Facility staff, with input from the family, if available, must develop an individualized service plan for each resident, based upon the resident assessment, within 14 days after admission. The service plan must address the individual needs, preferences, and strengths of the resident. The service plan must be designed to help the resident maintain the highest possible level of physical, cognitive, and social functioning. The service plan must be updated annually and upon a significant change in condition, based on an assessment of the resident.]

§553.309. Activities Program for Residents in an Alzheimer's Certified Facility or Unit.

(a) A facility must encourage socialization, cognitive awareness, self-expression, and physical activity in a planned and structured activities program. Activities must be individualized, based upon the resident evaluation [assessment], and appropriate for each resident's abilities.

(b) The activity program must contain a balanced mixture of activities addressing cognitive, recreational, and activity of daily living (ADL) needs.

[(1) Cognitive activities include arts, crafts, storytelling, poetry readings, writing, music, reading, discussion, reminiscences, and reviews of current events.]

[(2) Recreational activities include all socially interactive activities, such as board games and cards, and physical exercise. Care of pets is encouraged.]

[(3) Self-care ADLs include grooming, bathing, dressing, oral care, and eating. Occupational ADLs include cleaning, dusting, cooking, gardening, and yard work. Residents must be allowed to perform self-care ADLs as long as they are able, to promote independence and self-worth.]

(c) The facility must encourage but never force residents [Residents must be encouraged, but never forced,] to participate in activities. Residents who choose not to participate in a large group activity must be offered at least one small group or one-on-one activity per day.

(d) A facility [Facilities] must have an employee who is responsible for leading activities.

(1) A facility licensed for [Facilities with] 16 or fewer residents must designate an employee to plan, supply, implement, and record activities.

(2) A facility licensed for [Facilities with] 17 or more residents must employ, at a minimum, an activity director for 20 hours weekly. The activity director must be a qualified professional who:

(A) is a qualified therapeutic recreation specialist or an activities professional who is eligible for certification as a therapeutic recreation specialist, a therapeutic recreation assistant, or an activities professional by a recognized accrediting body, such as the National Council for Therapeutic Recreation Certification, the National Certification Council for Activity Professionals[, or the Consortium for Therapeutic Recreation/Activities Certification, Inc.];

(B) has two years of experience in a social or recreational program within the last five years, one year of which was full-time in an activities program in a health care setting; or

(C) has completed an activity director training course approved by the National Association for Activity Professionals or the National Therapeutic Recreation Society.

(e) The activity director or designee must review each resident's medical and social history, preferences, and dislikes, in determining appropriate activities for the resident. Activities must be tailored to each resident's unique requirements and skills.

(f) The activities program must provide opportunities for group and individual settings. On weekdays, each resident must be offered at least one cognitive activity, two recreational activities, and three ADL activities each day. [The cognitive and recreational activities (structured activities) must be at least 30 minutes in duration, with a minimum of six and a half hours of structured activity for the entire week. At least an hour and a half of structured activities must be provided during the weekend and must include at least one cognitive activity and one physical activity.]

(g) The activity director or designee must create a monthly activities schedule. Structured activities should occur at the same time and place each week to ensure a consistent routine within the facility.

(h) The activity director or designee must annually attend at least six hours of continuing education regarding Alzheimer's disease or related disorders.

(i) Special equipment and supplies necessary to accommodate persons with a physical disability or other persons with special needs must be provided as appropriate.

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26 TAC §553.311

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeal implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.311. Physical Plant Requirements for Alzheimer's Units.

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. INSPECTIONS, INVESTIGATIONS, AND INFORMAL DISPUTE RESOLUTION

26 TAC §§553.327, 553.328, 553.331, 553.333

STATUTORY AUTHORITY

The amendments and new section are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendments and new section implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.327. Inspections, Investigations, and Other Visits.

(a) HHSC inspection and survey personnel perform inspections and surveys, follow-up visits, complaint investigations, investigations of abuse or neglect, and other contact visits from time to time as they deem appropriate, or as required for carrying out the responsibilities of licensing.

(b) In addition to the inspections required under Subchapter B of this chapter (relating to Licensing), HHSC inspects a facility at least once every two years after the initial inspection.

(c) An inspection may be conducted by an individual surveyor or by a team, depending on the purpose of the inspection or survey, size of facility, and service provided by the facility, and other factors.

(d) To determine standard compliance which cannot be verified during regular working hours, HHSC, with the least possible interference to staff and residents, may conduct night or weekend inspections to cover specific aspects of a facility's operation.

(e) Generally, HHSC conducts routine and nonroutine inspections, surveys, complaint investigations and other visits made for the purpose of determining the appropriateness of resident care and day-to-day operations of a facility on an unannounced basis, unless there is justification for an exception.

(f) Certain visits may be announced, including[~~, but not limited to,~~] conditions when certain emergencies arise, such as fire, windstorm, or malfunctioning or nonfunctioning of electrical or mechanical systems.

(g) When HHSC conducts a complaint investigation, HHSC notifies the facility of the complaint received and a summary of the complaint, without identifying the source of the complaint. A complaint is an allegation received by HHSC regarding:

(1) abuse, neglect, or exploitation of a resident; or

(2) a violation of state standards.

(h) The facility must make all books, records, and other documents maintained by or on behalf of a facility accessible to HHSC upon request.

(1) HHSC is authorized to photocopy documents, photograph residents, and use any other available recording devices to preserve all relevant evidence of conditions found during an inspection, survey, or investigation that HHSC reasonably believes threaten the health and safety of a resident.

(2) Records and documents which may be requested and photocopied or otherwise reproduced include[~~, but are not limited to,~~] admission sheets, medication profiles, observation notes, medication refusal notes, and menu records.

(3) When the facility is requested to furnish the copies, the facility may charge HHSC at the rate not to exceed the rate charged by HHSC for copies. Collection must be by billing HHSC. The copying procedure [~~of copying~~] is the responsibility of the manager [~~administrator~~] or [~~his~~] designee. If copying requires removal of the records from the facility, a representative of the facility will be expected to accompany the records and ensure the [~~assure their~~] order and preservation of the records.

(4) HHSC protects the copies for privacy and confidentiality in accordance with recognized standards of medical records practice, applicable state laws, and HHSC policy.

(5) If a facility maintains electronic records, it must have a mechanism for printing all documentation if a surveyor or investigator requests a printed copy.

§553.328. Plan of Removal.

(a) If an onsite inspection by HHSC finds a violation that creates an immediate threat to the health and safety of a resident, the facility must provide documentation and evidence showing that satisfactory action has been taken to remove the immediate threat. The facility must do this by submitting a plan of removal to HHSC immediately.

(b) The plan of removal must include:

(1) a description of steps the facility will take to remove the immediacy of the violation;

(2) a description of how affected or potentially affected residents will be identified;

(3) the immediate actions or changes the facility will make to ensure the violation does not reoccur and the staff responsible for oversight and implementation of the actions;

(4) the steps to be taken to monitor the changes; and

(5) a timeline for implementing all actions identified by the facility in the plan of removal.

(c) The facility must provide a plan of removal upon request from HHSC.

(d) The facility must implement all actions identified in the plan of removal.

§553.331. Determinations and Actions (Investigation Findings).

(a) HHSC determines if a facility meets HHSC licensing rules, including physical plant and facility operation requirements, by conducting inspections, surveys, investigations, and onsite [~~on-site~~] visits.

(b) HHSC lists violations of licensing rules on a report of contact. The report of contact includes a specific reference to a licensing rule that has been violated.

(c) At the conclusion of an inspection, survey, investigation, or onsite [~~on-site~~] visit, an HHSC surveyor conducts an exit conference to advise the facility of the findings resulting from the inspection, survey, investigation, or onsite [~~on-site~~] visit.

(d) At the exit conference, the surveyor provides a copy of the report of contact described in subsection (b) of this section to the facility.

(e) If, after the initial exit conference, an HHSC surveyor cites an additional licensing rule violation, the surveyor conducts another exit conference regarding the newly identified violations and updates the report of contact with a specific reference to the licensing rule that has been violated.

(f) HHSC provides to the facility a written statement of violations from an inspection, survey, investigation, or onsite [~~on-site~~] visit on HHSC Form 3724, Statement of Licensing Violations and Plan of Correction, within 10 days after the final exit conference. The statement of violations includes a clear and concise summary in nontechnical language of each licensing rule violation. The statement of violations does not include names of residents or staff, statements that identify a resident, or other prohibited information.

(g) A facility must submit an acceptable plan of correction to the HHSC regional director for the HHSC surveyor within 10 working days after receiving the statement of violations described in subsection (f) of this section. An acceptable plan of correction must address:

(1) how corrective action will be accomplished for a resident affected by a violation of a licensing rule;

(2) how the facility will identify other residents who may be affected by the violation of the licensing rule;

(3) how the corrective action the facility implements will ensure the violation does not reoccur;

(4) how the facility will monitor its corrective action to ensure the violation is being corrected and will not reoccur; and

(5) dates when corrective action will be completed.

§553.333. Informal Dispute Resolution.

(a) If a facility disputes a violation of a licensing rule, which HHSC cites on a statement of violations in accordance with §553.331(f) of this subchapter (relating to Determinations and Actions (Investigation Findings)), the facility may request informal dispute resolution conducted in accordance with Texas Government Code §526.0202 [~~§531.058~~] and Texas Health and Safety Code §247.051, and, to the extent consistent with those statutes, 1 TAC §393.2 (relating to Informal Dispute Resolution for Assisted Living Facilities).

(b) To request informal dispute resolution, a facility must follow the informal dispute resolution process provided on the HHSC website and submit a completed Informal Dispute Resolution Request Form to HHSC in accordance with the form's instructions no later than 10 calendar days after the facility receives the statement of violations. The request form must summarize each violation that the facility disputes.

(c) If a facility requests informal dispute resolution in accordance with subsection (b) of this section, HHSC sends to the facility a copy of all documents referenced in the disputed statement of violations or on which a cited licensure violation is based in connection with the survey, inspection, investigation, or other regulatory visit, including any notes taken by, or emails or messages sent by, an HHSC employee involved with the survey, inspection, investigation, or other regulatory visit, no later than 20 working days after HHSC receives the facility's request for informal dispute resolution. HHSC does the following to information in documents it sends to the facility [~~HHSC~~

~~redacts or excludes the following information from the documents it sends to the facility~~]:

(1) redacts or excludes the name of any complainant, witness, or informant;

(2) redacts or excludes information that would reasonably lead to the identification of a complainant, witness, or informant;

(3) redacts or excludes information obtained from or contained in the records of the facility;

(4) excludes information that is publicly available; and

(5) redacts or excludes information that is confidential by law.

(d) HHSC may charge a facility $15 per hour for the time HHSC spends to redact the information described in subsection (c)(1) and (2) of this section. A facility must pay any amounts that HHSC charges it in accordance with this subsection.

(e) If a facility requesting informal dispute resolution requests any documents other than documents which HHSC provides under subsection (c) of this section, it must reimburse HHSC for any costs associated with HHSC's preparation, copying, and delivery of information responsive to the facility's request.

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SUBCHAPTER H. ENFORCEMENT
DIVISION 1. GENERAL INFORMATION

26 TAC §553.351, §553.353

STATUTORY AUTHORITY

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The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.351. When may HHSC take an enforcement action?

§553.353. What enforcement actions may HHSC take?

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26 TAC §553.351

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.351. Enforcement General Information.

(a) HHSC may take enforcement action when a facility is in violation of:

(1) this chapter;

(2) the Texas Health and Safety Code Chapter 247;

(3) an order adopted under Texas Health and Safety Code Chapter 247; or

(4) a license issued under Texas Health and Safety Code Chapter 247.

(b) HHSC may take the following enforcement actions:

(1) suspend a license;

(2) order immediate closing of all or part of the facility;

(3) revoke a license;

(4) refer the violation to the Office of the Attorney General for involuntary appointment of a trustee, injunction, or for the assessment of civil penalties; or

(5) assess administrative penalties.

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Karen Ray
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DIVISION 2. ACTIONS AGAINST A LICENSE: SUSPENSION

26 TAC §§553.401, 553.403, 553.405, 553.407, 553.409, 553.411, 553.413, 553.415, 553.417, 553.419, 553.421, 553.423, 553.425, 553.427, 553.429, 553.431, 553.433, 553.435, 553.437, 553.439

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.401. When may HHSC suspend a facility's license?

§553.403. Does HHSC provide notice of a license suspension and the opportunity for a hearing to the applicant, license holder, or a controlling person?

§553.405. May HHSC suspend a license at the same time another enforcement action is occurring?

§553.407. How does HHSC notify a license holder of a proposed suspension?

§553.409. What information does HHSC provide the license holder concerning a proposed suspension?

§553.411. Does the license holder have an opportunity to show compliance with all requirements for keeping the license before HHSC begins proceedings to suspend a license?

§553.413. How does a license holder request an opportunity to show compliance?

§553.415. How much time does a license holder have to request an opportunity to show compliance?

§553.417. What must the request for an opportunity to show compliance contain?

§553.419. How does HHSC conduct the opportunity to show compliance?

§553.421. Does HHSC give the license holder a written affirmation or reversal of the proposed action?

§553.423. How does HHSC notify a license holder of its final decision to suspend a license?

§553.425. May the facility request a formal hearing?

§553.427. How long does a license holder have to request a formal hearing?

§553.429. If a license holder does not appeal, when does the suspension take effect?

§553.431. If a license holder appeals, when does the suspension take effect?

§553.433. May a facility operate during a suspension?

§553.435. How long is the suspension?

§553.437. How does HHSC decide to remove the suspension?

§553.439. Must the license be returned to HHSC during a license suspension?

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26 TAC §553.401

STATUTORY AUTHORITY

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The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.401. Suspension Actions Against a License.

(a) HHSC may suspend a facility's license when the applicant, license holder, or a controlling person violates:

(1) Texas Health and Safety Code Chapter 247; a section, standard, or order adopted under Texas Health and Safety Code Chapter 247; or term of a license issued under Texas Health and Safety Code Chapter 247 in a repeated or substantial manner; or

(2) §553.751 of this subchapter (relating to Administrative Penalties).

(b) If HHSC decides to suspend a facility's license, HHSC provides written notice to the applicant, license holder, or controlling person. The written notice includes information about the right to request a hearing.

(c) HHSC can decide to suspend a license even if it is taking other actions against the facility at the same time.

(d) If HHSC decides to suspend a license, HHSC sends a notification letter to the license holder by mail, by fax, in person, or by email.

(1) If a document was sent by mail, HHSC will presume that it was received no later than three days after mailing.

(2) If a document was sent by fax or email before 5:00 p.m. on a business day, HHSC will presume that the document was received on that day; otherwise, HHSC will presume that the document was received on the next business day.

(e) HHSC provides written notice to the license holder that specifies the actions or events that may result in suspension of the license.

(f) Before HHSC suspends a license, HHSC gives the license holder an opportunity to show compliance (OSC) by allowing the license holder to show that all requirements for keeping the license are being met.

(g) A license holder must send a written request for an OSC to HHSC Regulatory Enforcement.

(h) To obtain an OSC, a written request must be submitted to the office of HHSC Regulatory Enforcement no later than 10 calendar days after the date stated on the notice letter from HHSC. The office of HHSC Regulatory Enforcement must receive the request within 10 calendar days after the notice letter is mailed.

(i) The request to show compliance must include clear proof that the facts or reasons for the suspension are not correct.

(j) HHSC limits its review to documentation submitted by the license holder and information used by HHSC as the basis for its proposed action. The review is not conducted as an adversarial hearing.

(k) After the review, HHSC sends a letter indicating if the proposed action to suspend the license will proceed.

(l) HHSC sends the final decision about the license suspension to the facility by mail, by fax, in person, or by email.

(1) If a document was sent by mail, HHSC will presume that it was received no later than three days after mailing.

(2) If a document was sent by fax or email before 5:00 p.m. on a business day, HHSC will presume that the document was received on that day; otherwise, HHSC will presume that the document was received on the next business day.

(m) The facility may request a formal hearing.

(n) The license holder must submit a request for a formal hearing within 15 calendar days after receiving notice of proposed license suspension by certified mail and regular mail.

(o) If the license holder does not request an appeal, the license suspension begins after the deadline for submitting an appeal request has passed.

(p) If the license holder appeals, the license remains active throughout the appeal process.

(q) Operation of the facility may continue during the period of appeal of a license suspension.

(r) The suspension remains in effect until HHSC determines that the reason for suspension has been corrected, but suspension cannot continue beyond the expiration date of the license.

(s) HHSC conducts an onsite inspection of the facility to determine whether license suspension should be lifted.

(t) The license must be returned to HHSC during the suspension period.

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DIVISION 3. ACTIONS AGAINST A LICENSE: REVOCATION

26 TAC §§553.451, 553.453, 553.455, 553.457, 553.459, 553.461, 553.463, 553.465, 553.467, 553.469, 553.471, 553.473, 553.475, 553.477, 553.479, 553.481, 553.483

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.451. When may HHSC revoke a license?

§553.453. Does HHSC provide notice of a license revocation and opportunity for a hearing to the applicant, license holder, or controlling person?

§553.455. May HHSC take more than one enforcement action at a time against a license?

§553.457. How does HHSC notify a license holder of a proposed revocation?

§553.459. What information does HHSC provide the license holder concerning a proposed revocation?

§553.461. Does the license holder have an opportunity to show compliance with all requirements for keeping the license before HHSC begins proceedings to revoke a license?

§553.463. How does a license holder request an opportunity to show compliance?

§553.465. How much time does a license holder have to request an opportunity to show compliance?
§553.467. What must the request for the opportunity to show compliance contain?
§553.469. How does HHSC conduct the opportunity to show compliance?
§553.471. Does HHSC give the license holder a written affirmation or reversal of the proposed action?
§553.473. Does the license holder have an opportunity for a formal hearing?
§553.475. How long does a license holder have to request a formal hearing?
§553.477. When does the revocation take effect if the license holder does not appeal?
§553.479. When does the revocation take effect if the license holder appeals the revocation?
§553.481. May a facility operate during a revocation?
§553.483. What happens to a license if it is revoked?

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26 TAC §553.451

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.451. Revocation Actions Against a License.

(a) HHSC may revoke a license when the applicant, license holder, or a controlling person:

(1) violates §553.751 of this subchapter (relating to Administrative Penalties);

(2) violates Texas Health and Safety Code Chapter 247; a section, standard, or order adopted under Texas Health and Safety Code Chapter 247; or term of a license issued under Texas Health and Safety Code Chapter 247 in a repeated or substantial manner;

(3) submits false statements on a license application;

(4) submits false statements on license application attachments;

(5) submits misleading statements on a license application;

(6) submits misleading statements on license application attachments;

(7) provides false information or uses other evasive means to obtain a license;

(8) conceals a material fact on a license application that would have been the basis for denying a license under §553.17 of this chapter (relating to Criteria for Licensing);

(9) fails to disclose information, as required by Subchapter B of this chapter (relating to Licensing) that would have been the basis to deny a license in §553.17 of this chapter; or

(10) violates Texas Health and Safety Code §247.021.

(b) HHSC provides written notice of a license revocation and opportunity for a hearing to the applicant, license holder, or controlling person.

(c) HHSC may take more than one enforcement action at a time against a license.

(d) HHSC notifies a license holder of a proposed revocation by mail, by fax, in person, or by email.

(1) If a document was sent by mail, HHSC will presume that it was received no later than three days after mailing.

(2) If a document was sent by fax or email before 5:00 p.m. on a business day, HHSC will presume that the document was received on that day; otherwise, HHSC will presume that the document was received on the next business day.

(e) HHSC provides the license holder with the facts or conduct alleged to warrant the proposed revocation.

(f) The license holder has an Opportunity to Show Compliance (OSC) with all requirements for keeping the license before HHSC begins proceedings to revoke a license.

(g) A license holder must send a written request for an OSC to HHSC Regulatory Enforcement.

(h) A request for an OSC must have a postmark no later than 10 calendar days after the date of the HHSC notice letter. The request must arrive at the office of HHSC Regulatory Enforcement within 10 calendar days after the postmark.

(i) A request for an OSC must include documentation showing the facts or actions used by HHSC to support the proposed revocation are not correct.

(j) HHSC limits its review to documentation submitted by the license holder and information used by HHSC as the basis for its proposed action. The review is not conducted as an adversarial hearing.

(k) HHSC issues a written notice to the license holder stating whether the proposed action is affirmed or reversed.

(l) The license holder has an opportunity for a formal hearing.

(m) The license holder has 15 calendar days from receipt of the certified and first-class mail notice to request a hearing.

(n) If the license holder does not appeal, the revocation takes effect after the deadline for an appeal passes.

(o) The revocation does not take effect until the appeal is complete.

(p) A facility may continue to operate as long as the revocation is under appeal.

(q) If revoked, the license must be returned to HHSC.

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DIVISION 4. ACTIONS AGAINST A LICENSE: TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS

26 TAC §553.501, §553.503

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.501. Why does HHSC refer a facility to the Office of the Attorney General or local prosecuting authority for a temporary restraining order or an injunction?

§553.503. To whom does HHSC refer a facility that is operating without a license?

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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26 TAC §553.501

STATUTORY AUTHORITY

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The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.501. Temporary Restraining Order and Injunctions Against a License.

(a) HHSC refers a facility to the Office of the Attorney General or local prosecuting authority for a temporary restraining order or an injunction when:

(1) a violation creates an immediate threat or threat to the health and safety of residents;

(2) a facility is operating without a license; or

(3) HHSC is denied entry to a facility that is alleged to be operating without a license.

(b) HHSC will refer a facility that is operating without a license to the:

(1) district attorney;

(2) county attorney;

(3) city attorney; or

(4) attorney general.

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DIVISION 5. ACTIONS AGAINST A LICENSE: EMERGENCY LICENSE SUSPENSION AND CLOSING ORDER

26 TAC §§553.551, 553.553, 553.555, 553.557, 553.559, 553.561, 553.563, 553.565, 553.567, 553.569, 553.571, 553.573, 553.575, 553.577, 553.579, 553.581, 553.583, 553.585, 553.587, 553.589, 553.591, 553.593, 553.595, 553.597

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.551. When may HHSC suspend a license or order an immediate closing of all or part of a facility?
§553.553. How does HHSC notify a facility of a license suspension or immediate closing of all or part of a facility?
§553.555. When does an order suspending a license or closing all or part of a facility go into effect?
§553.557. How long is an order suspending a license or closing all or part of a facility valid?
§553.559. May a license holder request a hearing?
§553.561. Where can a license holder find information about administrative hearings?
§553.563. Does a request for an administrative hearing suspend the effectiveness of the order?
§553.565. Does anything happen to a resident's rights or freedom of choice during an emergency relocation?
§553.567. Who does HHSC notify if all or part of a facility is closed?
§553.569. Who must a facility notify if all or part of the facility is closed?
§553.571. Who decides where to relocate a resident?
§553.573. Who arranges the relocation?
§553.575. Is a resident's preference considered?
§553.577. What requirements must the facility a resident chooses for relocation meet?
§553.579. Is a receiving facility allowed to temporarily exceed its licensed capacity?
§553.581. Under what conditions is a receiving facility allowed to temporarily exceed its licensed capacity?
§553.583. What requirements must a facility meet to obtain a temporary waiver?
§553.585. How long can a facility have a temporary waiver?
§553.587. Does HHSC monitor a facility with a temporary waiver?
§553.589. What records, reports, and supplies are sent to the receiving facility for transferred residents?
§553.591. May a resident return to the closed facility if it reopens within 90 calendar days?
§553.593. Do the relocated residents have any special admission rights at the closed facility?
§553.595. What options does a relocated resident have?
§553.597. Are relocated residents who return to the facility considered new admissions?

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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26 TAC §553.551

STATUTORY AUTHORITY

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The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.551. Emergency License Suspension and Closing Order Actions Against a License.

(a) HHSC may suspend a license or order an immediate closing of all or part of a facility when:

(1) the facility is operating in violation of the licensure rules; and

(2) the violation creates an immediate threat to the health and safety of a resident.

(b) HHSC notifies a facility of a license suspension or immediate closing of all or part of a facility by a notice hand-delivered to a staff member.

(c) An order suspending a license or closing all or part of a facility is effective immediately upon receipt of the hand-delivered written notice or on a later date specified in the order.

(d) An order suspending a license or closing all or part of a facility is valid for 10 calendar days after the effective date of the order.

(e) A license holder may request a hearing.

(f) License holders can find information about administrative hearings in 1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act); Texas Government Code Chapter 2001; and 1 TAC Chapter 155 (relating to Rules of Procedure).

(g) A request for an administrative hearing does not suspend the order from taking effect.

(h) A resident's rights or freedom of choice is not affected during an emergency relocation.

(i) If all or part of a facility is closed, HHSC notifies:

(1) the local health department director;

(2) the city or county health authority; and

(3) representatives of the appropriate state agencies.

(j) If all or part of the facility is closed, a facility must notify each resident and, as applicable, the resident's:

(1) guardian or legally authorized representative; and

(2) attending physician.

(k) The resident, resident's legally authorized representative, guardian, or responsible party may select a preferred facility or other arrangements for relocating the resident.

(l) HHSC arranges to relocate residents to other facilities in the area.

(m) HHSC considers residents' relocation preferences.

(n) The following apply when a resident chooses a facility for relocation.

(1) The facility's license must be unrestricted by HHSC.

(2) If the facility is certified under 42 United States Code, Chapter 7, Subchapters XVIII and XIX, it must be in good standing under its contract.

(3) The facility must be able to meet the needs of the resident.

(o) A receiving facility may temporarily allow more residents than licensed capacity if this prevents moving a resident a long distance.

(p) A receiving facility must ensure that acceptance of a resident under a temporary waiver:

(1) does not compromise the health and safety of residents; and

(2) can be accommodated by facility attendants and dietary services staff.

(q) A facility may have a temporary waiver until residents can be transferred to a permanent location.

(r) HHSC may monitor a facility with a temporary waiver to ensure compliance with applicable rules.

(s) The following reports, records, and supplies must be inventoried by the closing facility and sent to the receiving institution for each transferred resident:

(1) a copy of the current physician's orders for:

(A) medication;

(B) treatment;

(C) diet; and

(D) special services required;

(2) personal information, such as name and address of a resident's guardian, legally authorized representative, or responsible party;

(3) the name and phone number of the resident's attending physician;

(4) Medicare and Medicaid identification number, if applicable;

(5) Social Security number;

(6) other identification information as deemed necessary and available;

(7) a copy of the resident's current evaluation and service plan;

(8) all medications dispensed in the resident's name that:

(A) have current physician's orders;

(B) have not passed the expiration date or been discontinued by physician orders; and

(C) the resident takes on a regular or as needed basis;

(9) the resident's personal belongings, clothing, and toilet articles; and

(10) resident trust fund accounts maintained by the closing facility.

(t) A relocated resident has the first right to return to the closed facility if it reopens within 90 calendar days.

(u) A relocated resident may:

(1) return to the reopened facility;

(2) remain in the receiving facility, if that facility agrees to admit the resident; or

(3) choose other accommodations.

(v) A relocated resident who returns to the facility must complete all procedures required for new admissions.

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DIVISION 6. ACTIONS AGAINST A LICENSE: CIVIL PENALTIES

26 TAC §553.601, §553.603

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt

rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.601. When may HHSC refer a facility to the Office of the Attorney General for assessment of civil penalties?

§553.603. What is the amount of the civil penalty that can be assessed for operating without a license?

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26 TAC §553.601

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.601. Civil Penalties.

(a) HHSC may refer a facility to the Office of the Attorney General for assessment of civil penalties for a violation that threatens the health and safety of a resident.

(b) A civil penalty of $1,000 to $10,000 per day may be assessed for operating a facility without a license.

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
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For further information, please call: (512) 438-3161

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DIVISION 7. TRUSTEES: INVOLUNTARY APPOINTMENT OF A TRUSTEE

26 TAC §§553.651, 553.653, 553.655, 553.657, 553.659, 553.661

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.651. When may HHSC petition a court for the involuntary appointment of a trustee to operate a facility?

§553.653. When may HHSC disburse emergency assistance funds?

§553.655. Must a facility reimburse HHSC for emergency assistance funds?

§553.657. When is reimbursement for emergency assistance funds due to HHSC?

§553.659. Who is responsible for reimbursement?

§553.661. What happens if a facility does not reimburse HHSC in one year?

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

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26 TAC §553.651

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.651. Involuntary Appointment of a Trustee.

(a) HHSC may petition a court for the involuntary appointment of a trustee to operate a facility when one or more of the following conditions exist:

(1) the facility is operating without a license;

(2) the facility's license has been suspended or revoked;

(3) an imminent threat to the health and safety of the residents exists and license suspension or revocation procedures are pending against the facility;

(4) an emergency exists that presents an immediate threat to the health and safety of the residents; or

(5) the facility is closing, whether voluntarily or through an emergency closure order, and arrangements for relocation of the residents to other licensed institutions have not been made before closure.

(b) HHSC may provide emergency assistance funds when a court issues an order.

(c) A facility will reimburse HHSC for emergency assistance funds.

(d) Reimbursement for emergency assistance funds is due not later than one year after the date the trustee received the funds.

(e) The owner of the facility at the time the trustee was appointed is responsible for reimbursement.

(f) If a facility does not reimburse emergency assistance funds to HHSC in one year, HHSC refers the license holder to the Office of the Attorney General. HHSC also may deny the facility a Medicaid provider contract.

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 8. TRUSTEES: APPOINTMENT OF A TRUSTEE BY AGREEMENT

26 TAC §§553.701, 553.703, 553.705, 553.707, 553.709, 553.711

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The repeals implement Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.701. May a facility request the appointment of a trustee to assume operation of a facility?

§553.703. Who may make the request?

§553.705. What are the requirements for a trustee agreement?

§553.707. When does an agreement for a trustee terminate?

§553.709. What happens if the controlling person wants to terminate the agreement, but HHSC determines termination of the agreement is not in the best interest of the residents?

§553.711. When HHSC appoints a trustee, is the facility always required to pay assessed civil money penalties?

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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26 TAC §553.701

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt

rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The new section implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.701. Appointment of a Trustee by Agreement.

(a) A person holding a controlling interest in a facility may submit a request to HHSC to appoint a trustee to operate the facility.

(b) A trustee agreement must:

(1) specify all terms and conditions of the trustee's appointment and authority; and

(2) preserve all legal rights of the residents.

(c) An agreement for a trustee terminates at the time specified in the agreement or upon receipt of notice of intent to terminate sent by HHSC or by the person holding a controlling interest in the facility.

(d) If the controlling person wants to terminate the agreement but HHSC determines termination of the agreement is not in the best interest of the residents, HHSC may petition a court for an involuntary appointment of a trustee under the terms of §553.651 of this subchapter (relating to Involuntary Appointment of a Trustee).

(e) When HHSC appoints a trustee, the facility is required to pay the assessed civil money penalties.

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 9. ADMINISTRATIVE PENALTIES

26 TAC §553.751

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0005, which provides that the executive commissioner of HHSC shall adopt rules to implement the executive commissioner's authority under Texas Government Code Chapter 524 with respect to the health and human services system, and §524.0151, which provides that the executive commissioner of HHSC shall adopt rules necessary to carry out the commission's duties under Texas Government Code Chapter 531 and adopt rules and policies for the operation and provision of services by the health and human services agencies; and Texas Health and Safety Code §247.025 and §247.026, which provide that the executive commissioner of HHSC shall adopt rules necessary to implement Texas Health and Safety Code Chapter 247 and to ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

The amendment implements Texas Government Code §524.0005 and §524.0151 and Texas Health and Safety Code §247.025 and §247.026.

§553.751. Administrative Penalties.

(a) Assessment of an administrative penalty. HHSC may assess an administrative penalty if a license holder:

(1) violates:

(A) Texas Health and Safety Code[,] Chapter 247;

(B) a rule, standard, or order adopted under Texas Health and Safety Code[,] Chapter 247; or

(C) a term of a license issued under Texas Health and Safety Code[,] Chapter 247;

(2) makes a false statement of material fact that the license holder knows or should know is false:

(A) on an application for issuance or renewal of a license;

(B) in an attachment to the application; or

(C) with respect to a matter under investigation by HHSC;

(3) refuses to allow an HHSC representative to inspect:

(A) a book, record, or file that a facility must maintain; or

(B) any portion of the premises of a facility;

(4) willfully interferes with the work of, or retaliates against, an HHSC representative or the enforcement of this chapter;

(5) willfully interferes with, or retaliates against, an HHSC representative preserving evidence of a violation of Texas Health and Safety Code[,] Chapter 247; a rule, standard, or order adopted under Texas Health and Safety Code[,] Chapter 247; or a term of a license issued under Texas Health and Safety Code[,] Chapter 247;

(6) fails to pay an administrative penalty not later than the 30th calendar day after the penalty assessment becomes final;

(7) fails to notify HHSC of a change of ownership before the effective date of the change of ownership;

(8) willfully interferes with the State Ombudsman, a certified ombudsman, or an ombudsman intern performing the functions of the Ombudsman Program as described in Chapter 88 of this title (relating to State Long-Term Care Ombudsman Program); or

(9) retaliates against the State Ombudsman, a certified ombudsman, or an ombudsman intern:

(A) with respect to a resident, employee of a facility, or other person filing a complaint with, providing information to, or otherwise cooperating with the State Ombudsman, a certified ombudsman, or an ombudsman intern; or

(B) for performing the functions of the Ombudsman Program as described in Chapter 88 of this title.

(b) Criteria for assessing an administrative penalty. HHSC considers the following in determining the amount of an administrative penalty:

(1) the gradations of penalties established in subsection (d) of this section;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the situation, and the hazard or potential hazard created by the situation to the health or safety of the public;

(3) the history of previous violations;

(4) deterrence of future violations;

(5) the license holder's efforts to correct the violation;

(6) the size of the facility and of the business entity that owns the facility; and

(7) any other matter that justice may require.

(c) Late payment of an administrative penalty. A license holder must pay an administrative penalty within 30 calendar days after the penalty assessment becomes final. If a license holder fails to timely pay the administrative penalty, HHSC may assess an administrative penalty under subsection (a)(6) of this section, which is in addition to the penalty that was previously assessed and not timely paid.

(d) Administrative penalty schedule. HHSC uses the schedule of appropriate and graduated administrative penalties in this subsection to determine which violations warrant an administrative penalty.
Figure: 26 TAC §553.751(d) (No change)

(e) Administrative penalty assessed against a resident. HHSC does not assess an administrative penalty against a resident, unless the resident is also an employee of the facility or a controlling person.

(f) Proposal of administrative penalties.

(1) HHSC issues a preliminary report stating the facts on which HHSC concludes that a violation has occurred after HHSC has:

(A) examined the possible violation and facts surrounding the possible violation; and

(B) concluded that a violation has occurred.

(2) HHSC may recommend in the preliminary report the assessment of an administrative penalty for each violation and the amount of the administrative penalty.

(3) HHSC provides a written notice of the preliminary report to the license holder not later than 10 calendar days after the date on which the preliminary report is issued. The written notice includes:

(A) a brief summary of the violation;

(B) the amount of the recommended administrative penalty;

(C) a statement of whether the violation is subject to correction in accordance with subsection (g) of this section and, if the violation is subject to correction, a statement of:

(i) the date on which the license holder must file with HHSC a plan of correction for approval by HHSC; and

(ii) the date on which the license holder must complete the plan of correction to avoid assessment of the administrative penalty; and

(D) a statement that the license holder has a right to an administrative hearing on the occurrence of the violation, the amount of the penalty, or both.

(4) Not later than 20 calendar days after the date on which a license holder receives a written notice of the preliminary report, the license holder may:

(A) give HHSC written consent to the preliminary report, including the recommended administrative penalty; or

(B) make a written request to HHSC for an administrative hearing.

(5) If a violation is subject to correction under subsection (g) of this section, the license holder must submit a plan of correction to HHSC for approval not later than 10 calendar days after the date on which the license holder receives the written notice described in paragraph (3) of this subsection.

(6) If a violation is subject to correction under subsection (g) of this section, and after the license holder reports to HHSC that the violation has been corrected, HHSC inspects the correction or takes any other step necessary to confirm the correction and notifies the facility that:

(A) the correction is satisfactory and HHSC is not assessing an administrative penalty; or

(B) the correction is not satisfactory, and a penalty is recommended.

(7) Not later than 20 calendar days after the date on which a license holder receives a notice that the correction is not satisfactory and that a penalty is recommended under paragraph (6)(B) of this subsection, the license holder may:

(A) provide [~~give~~] HHSC written consent to HHSC report, including the recommended administrative penalty; or

(B) make a written request to HHSC for an administrative hearing.

(8) If a license holder consents to the recommended administrative penalty or does not timely respond to a notice sent under paragraph (3) of this subsection (written notice of the preliminary report) or paragraph (6)(B) of this subsection (notice that the correction is not satisfactory and recommendation of a penalty):

(A) HHSC assesses the recommended administrative penalty;

(B) HHSC gives written notice of the decision to the license holder; and

(C) the license holder must pay the penalty not later than 30 calendar days after the written notice provided [~~given~~] in subparagraph (B) of this paragraph.

(g) Right [~~Opportunity~~] to correct.

(1) HHSC allows a license holder to correct a violation before assessing an administrative penalty, except a violation described in paragraph (2) of this subsection. To avoid assessment of a penalty, a license holder must correct a violation not later than 45 calendar days after the date the facility receives the written notice described in subsection (f)(3) of this section.

(2) HHSC does not allow a license holder to avoid a penalty assessment based on its correction of a violation:

(A) described by subsection (a)(2)-(9) of this section;

(B) of Texas Health and Safety Code §260A.014 or §260A.015;

(C) relating [~~related~~] to advance directives as described in §553.259(e) [~~§553.259(d)~~] of this chapter (relating to Admission Policies and Procedures);

(D) that is the second or subsequent violation of:

(i) a right of the same resident under §553.287 [§553.267] of this chapter (relating to Rights);

(ii) the same right of all residents under §553.287 [§553.267] of this chapter; or

(iii) §553.254 of this chapter (relating to Training Requirements for Staff Providing Personal Care Services to a Resident with Alzheimer's Disease or a Related Disorder in a Facility that is Not an Alzheimer's Certified Facility [§553.255 of this chapter (relating to All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder)] that occurs before the second anniversary of the date of a previous violation of §553.254 [§553.255] of this chapter;

(E) that is written because of an inappropriately placed resident, except as described in §553.261 [§553.259(e)] of this chapter (relating to Inappropriate Placement in a Type A or Type B Facility);

(F) that is a pattern of violation that results in actual harm;

(G) that is widespread in scope and results in actual harm;

(H) that is widespread in scope, constitutes a potential for more than minimal harm, and relates to:

(i) resident evaluation [assessment] as described in §553.259(b) of this chapter;

(ii) staffing, including staff training, as described in §553.253 of this chapter (relating to Employee Qualifications and Training);

(iii) medication administration as described in §553.267 [§553.261(a)] of this chapter (relating to Medications) [(relating to Coordination of Care)];

(iv) infection control as described in §553.277 [§553.261(f)] of this chapter (relating to Infection Prevention and Control);

(v) restraints as described in §553.279 [§553.261(g)] of this chapter (relating to Restraints and Seclusion); or

(vi) emergency preparedness and response as described in §553.295 [§553.275] of this chapter (relating to Emergency Preparedness and Response); or

(I) is an immediate threat to the health or safety of a resident.

(3) Maintenance of violation correction.

(A) A license holder that corrects a violation must maintain the correction. If the license holder fails to maintain the correction until at least the first anniversary of the date the correction was made, HHSC may assess and collect an administrative penalty for the subsequent violation.

(B) An administrative penalty assessed under this paragraph is equal to three times the amount of the original administrative penalty that was assessed but not collected.

(C) HHSC is not required to offer the license holder a right [an opportunity] to correct the subsequent violation.

(h) Hearing on an administrative penalty. If a license holder timely requests an administrative hearing as described in subsection (f)(3) or (7) of this section, the administrative hearing is held in accordance with HHSC rules at 1 TAC Chapter 357, Subchapter I (relating to Hearings under the Administrative Procedure Act).

(i) HHSC may charge interest on an administrative penalty. The interest begins the day after the date the penalty becomes due and ends on the date the penalty is paid in accordance with Texas Health and Safety Code §247.0455(e).

(j) Amelioration of a violation.

(1) In lieu of demanding payment of an administrative penalty, HHSC [the commissioner] may allow a license holder to use, under HHSC supervision, any portion of the administrative penalty to ameliorate the violation or to improve services, other than administrative services, in the facility affected by the violation. Amelioration is an alternate form of payment of an administrative penalty, not an appeal, and does not remove a violation or an assessed administrative penalty from a facility's history.

(2) A license holder cannot ameliorate a violation that HHSC determines constitutes immediate threat [jeopardy] to the health or safety of a resident.

(3) HHSC offers amelioration to a license holder not later than 10 calendar days after the date a license holder receives a final notification of the recommended assessment of an administrative penalty that is sent to the license holder after an informal dispute resolution process but before an administrative hearing.

(4) A license holder to whom amelioration has been offered must:

(A) submit a plan for amelioration not later than 45 calendar days after the date the license holder receives the offer of amelioration from HHSC; and

(B) agree to waive the license holder's right to an administrative hearing if HHSC approves the plan for amelioration.

(5) A license holder's plan for amelioration must:

(A) propose changes to the management or operation of the facility that will improve services to or quality of care of residents;

(B) identify, through measurable outcomes, the ways in which and the extent to which the proposed changes will improve services to or quality of care of residents;

(C) establish clear goals to be achieved through the proposed changes;

(D) establish a timeline [time line] for implementing the proposed changes; and

(E) identify specific actions the license holder will take to implement the proposed changes.

(6) A license holder's plan for amelioration may include proposed changes to:

(A) improve staff recruitment and retention;

(B) offer or improve dental services for residents; and

(C) improve the overall quality of life for residents.

(7) HHSC may require that an amelioration plan propose changes that would result in conditions that exceed the requirements of this chapter.

(8) HHSC approves or denies a license holder's amelioration plan not later than 45 calendar days after the date HHSC receives the plan. If HHSC approves the amelioration plan, any pending request the license holder has submitted for an administrative hearing must be withdrawn by the license holder.

(9) HHSC does not offer amelioration to a license holder:

(A) more than three times in a two-year period; or

(B) more than one time in a two-year period for the same or a similar violation.

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
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For further information, please call: (512) 438-3161

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CHAPTER 562. LICENSED CHEMICAL DEPENDENCY COUNSELORS

26 TAC §562.33

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §562.33, concerning Licensing, Certification, or Registration of Military Service Members, Military Spouses, and Military Veterans.

BACKGROUND AND PURPOSE

The proposal is necessary to implement House Bill (HB) 5629 and Senate Bill (SB) 1818, 89th Legislature, Regular Session, 2025.

HB 5629 amends Texas Occupations Code (TOC) §55.004 and §55.0041 to require state agencies to recognize out-of-state licenses that are in good standing and similar in scope of practice to a Texas license, and to issue a corresponding Texas license. The bill also changes the documentation required in an application, shortens the agency application processing time, and defines "good standing."

SB 1818 amends TOC §55.004 and §55.0041 to allow a military service member, a military veteran, or a military spouse to receive a provisional license upon receipt of a complete application, if they meet the existing criteria outlined in TOC §55.004 or §55.0041. To qualify, the applicant must hold a current license in good standing from another state that is similar in scope of practice to a license issued in Texas.

The proposed amendment is necessary to align the licensing process requirements for military service members, military spouses, and military veterans pursuing a Licensed Chemical Dependency Counselor (LCDC) licensure with the rules in 1 Texas Administrative Code (TAC) §351.3 (relating to Recognition of Out-of-State License of a Miltary Service Member or Military Spouse) and 1 TAC §351.6 (relating to Alternative Licensing for Military Service Members, Military Spouses, and Military Veterans).

The proposed amendment is also necessary to increase consistency between §562.33 and 1 TAC §351.3, 1 TAC §351.6, and the statutory requirements regarding the licensing process for military service members, military spouses, and military veterans.

SECTION-BY-SECTION SUMMARY

Proposed amended §562.33 removes the definition for verification letter, removes outdated information on the out-of-state jurisdiction requirements, and adds language to allow a military service member or a military spouse to recertify their out-of-state license recognition annually.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, 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 expand and 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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not impose a cost or require small businesses, micro-businesses, or rural communities to alter current business practices and the rules are codifying current practices as required by statute.

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; and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

David Kostroun, Chief Regulatory Services Officer, has determined that for each year of the first five years the rule is in effect, the public benefit will be from increased consistency between §562.33 and 1 TAC §351.3, 1 TAC §351.6, and statutory requirements regarding the licensing process for military service members, military spouses, and military veterans. The public will also benefit from increased LCDC providers in Texas and appropriate qualification requirements for those providers.

Victoria Grady 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 is codifying current practices as required by statute and does not impose any additional requirements on LCDC applicants or licensees.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R048" 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 Occupations Code Chapter 504, which authorizes the executive commissioner to adopt rules governing the performance, conduct, and ethics for persons licensed as LCDCs. The amendment is also authorized by Texas Occupations Code Chapter 55, which allows state agencies that issue licenses to adopt rules for eligible military service members, military spouses, and military veterans.

The amendment implements Texas Government Code §524.0151, Texas Occupations Code Chapter §55.004, and Texas Occupations Code §504.051.

§562.33. Licensing, Certification, or Registration of Military Service Members, Military Spouses, and Military Veterans.

(a) This section sets out licensing procedures applicable to military service members, military spouses, and military veterans, according to [~~pursuant to~~] Texas Occupations Code Chapter 55 and does not modify or alter rights that may be provided under federal law.

(b) The following terms in this section have the following meanings, unless the context clearly indicates otherwise. [~~For purposes of this section:~~]

(1) Active duty--Current [~~"Active duty" means current~~] full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Texas Government Code §437.001, or similar military service of another state.

(2) Alternative licensing--The [~~"Alternative licensing" means the~~] process under [~~the Texas Health and Human Services Commission (HHSC) rule at~~] 1 Texas Administrative Code (TAC) §351.6 (relating to Alternative Licensing for Military Service Members, Military Spouses, and Military Veterans) [~~by which HHSC may issue a license to a military service member, military spouse, or military veteran who is currently licensed in good standing with another jurisdiction or has held the same license in Texas within the preceding five years~~].

(3) Armed forces of the United States--The [~~"Armed forces of the United States" means the~~] Army, Navy, Air Force, Space Force, Coast Guard, or Marine Corps of the United States or a reserve unit of one of those branches of the armed forces.

(4) License--A [~~"License" means a~~] license, certificate, registration, permit, or other form of authorization required by law or an HHSC rule to practice as a licensed chemical dependency counselor (LCDC), certified clinical supervisor, or counselor intern (CI).

(5) Military service member--A [~~"Military service member" means a~~] person who is on active duty.

(6) Military spouse--A [~~"Military spouse" means a~~] person who is married to a military service member.

(7) Military veteran--A [~~"Military veteran" means a~~] person who has served on active duty and who was discharged or released from active duty.

[~~(8) "Verification letter" means a verification letter issued in accordance with 1 TAC §351.3 (relating to Recognition of Out-of-State License of Military Service Members and Military Spouses).~~]

(c) [~~(b)~~] A military service member, military spouse, or military veteran may apply for alternative licensing in accordance with 1 TAC §351.6. [~~if the applicant:~~]

[~~(1) has an active license issued by another jurisdiction with licensing requirements substantially equivalent to the requirements for a license under this subchapter and seeks a license as an LCDC or to register as a CI in Texas; or~~]

[~~(2) held the same license in Texas within the five years preceding the application date.~~]

(d) [~~(c)~~] A military service member, military spouse, or military veteran who does not comply with or qualify for alternative licensing or practices [~~practicing~~] under another jurisdiction's license must seek a license under the standard processes of this chapter [~~subchapter~~].

(e) [~~(d)~~] A military service member or military spouse currently licensed by another jurisdiction [~~with licensing requirements substantially equivalent to the requirements for a license under this subchapter,~~] may work in Texas under that jurisdiction's license if the applicant complies with the requirements of 1 TAC §351.3 (relating to Recognition of Out-of-State License of a Military Service Member or Military Spouse)[~~, including obtaining a verification letter~~]. A military member or a military spouse whose license is recognized according to 1 TAC §351.3 shall recertify the military member's or military spouse's recognition annually by submitting verification to HHSC of current out-of-state license and confirmation of the military member's or military spouse's military status.

(f) [~~(e)~~] For license renewal under this chapter [~~subchapter~~], HHSC exempts [~~will exempt~~] an individual currently licensed under this chapter [~~subchapter~~] from any increased fee or other penalty for failing to renew the license in a timely manner because the individual was serving as a military service member. The individual must establish the reason for timely renewal failure to HHSC's satisfaction.

(g) [(f)] A military service member who holds a license under this chapter [subchapter] is entitled to two years of additional time beyond the expiration date of the license to complete:

(1) any continuing education requirements; and

(2) any other requirement related to the renewal of the military service member's license.

(h) [(g)] When a verified military service member or military veteran submits an application for a license under this chapter [subchapter], the applicant will receive credit towards any licensing or internship requirements, except an examination requirement, for verified military service, training, or education that HHSC determines relevant, as applicable, to the occupation or licensing requirements, unless the applicant holds a restricted license issued by another jurisdiction or has a criminal history for which adverse licensure action is authorized by law.

(i) [(h)] HHSC's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the provisions of 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
Health and Human Services Commission
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For further information, please call: (512) 834-4591

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 141. GENERAL PROVISIONS

SUBCHAPTER A. BOARD OF PARDONS AND PAROLES

37 TAC §141.1, §141.3

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 141, Subchapter A, §141.1 and §141.3, concerning General Provisions. The amendments proposed are to promote simplicity, clarity, and ease of understanding.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under §§508.036(b), 508.0441, 508.045, 508.141 and 508.149, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings.

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

§141.1. Presiding Officer.

(a) The Presiding Officer [(Chair)] is appointed [designated] by the Governor and serves at [in that capacity] his [the] pleasure in accordance with Texas Gov't Code §§ 508.035, 508.036, 508.040, 508.045, and 508.0441 [of the Governor. The Presiding Officer reports directly to the Governor and serves as the administrative head of the Board. The Presiding Officer acts as spokesperson for the Board].

(b) The Presiding Officer's authority is also subject to the Texas Register publication requirements and the Texas Administrative Procedure Act, Texas Gov't Code Chapter 2001. [Officer may:]

[(1) delegate responsibilities and authority to other members of the Board, Parole Commissioners, or to employees of the Board;]

[(2) appoint advisory committees from the membership of the Board or from Parole Commissioners to further the efficient administration of Board business;]

[(3) establish policies and procedures to further the efficient administration of the business of the Board; and]

[(4) provide a written plan for the administrative review of actions taken by a parole panel by a review panel.]

[(c) The Presiding Officer shall:]

[(1) develop and implement policies that clearly separate the policy-making responsibilities of the Board and the management responsibilities of the Board Administrator, Parole Commissioners, and the staff of the Board;]

[(2) establish caseloads and required work hours for members of the Board and Parole Commissioners;]

[(3) develop policies to ensure Board Members and Parole Commissioners implement the updated parole guidelines and assign precedential value to previous decisions of the Board relating to the granting of parole and the revocation of parole or mandatory supervision, and develop policies to ensure that members of the Board and Parole Commissioners use updated parole guidelines and previous decisions of the Board and Parole Commissioners in making decisions;]

[(4) require members of the Board and Parole Commissioners to file activity reports that provide information on release decisions made by members of the Board and Parole Commissioners, the workload and hours worked of the members of the Board and Parole Commissioners, and the use of parole guidelines by members of the Board and Parole Commissioners;]

[(5) report annually on all activities of the Board and Parole Commissioners, parole release decisions and the use of parole guidelines by the Board and Parole Commissioners to the Governor and the Legislature; and]

[(6) designate the composition of each parole panel and designate panels composed of at least one Board Member and any combination of Board Members and Parole Commissioners.]

[(d) The Presiding Officer is responsible for the employment and supervision of:]

[(1) Parole Commissioners;]

[(2) a General Counsel to the Board;]

[(3) a Board Administrator to manage the day-to-day daily activities of the Board;]

[(4) a Public Information Officer;]

[(5) a Budget Director;]

[(6) Hearing Officers;]

[(7) Institutional Parole Officers;]

[(8) personnel to assist in clemency and hearing matters; and]

[(9) secretarial or clerical personnel.]

§141.3. Board Administration.

(a) The transaction of business before the Board requires a quorum of the Board and decisions require a majority of the quorum. Four members of the Board constitute a quorum.

(b) The Board shall:

(1) adopt rules which govern the decision-making processes of the Board and parole panels;

(2) prepare information of public interest describing the functions of the Board, including a detailed written report that complies with the financial reporting requirements pursuant to the General Appropriations Act, providing a full account of all funds received and disbursed by the Board during the preceding fiscal year, and make the information available to the public and appropriate state agencies;

(3) comply with federal and state laws related to program and facility accessibility;

[(4) prepare annually a complete and detailed written report that meets the reporting requirements applicable to financial reporting provided in the General Appropriations Act and accounts for all funds received and disbursed by the Board during the preceding fiscal year;]

(4) [(5)] comply with the [develop for Board Members and Parole Commissioners a comprehensive] training, hearing officer, mission statement, parole guideline, and reconsideration requirements of Tex. Gov't Code §§ 508.036, 508.041, 508.042, 508.049, 508.141(g), and 508.144 [and education program on the criminal justice system, with special emphasis on the parole process]; and

[(6) develop and implement a training program that each newly hired employee of the Board designated to conduct hearings under Section 508.281, Government Code, must complete before conducting a hearing without the assistance of a Board Member or experienced Parole Commissioner or designee;]

[(7) develop and implement a training program to provide an annual update to designees of the Board on issues and procedures relating to the revocation process;]

(5) [(8)] prepare and biennially update a procedural manual to be used by designees of the Board. The Board shall include in the manual:

(A) descriptions of decisions in previous hearings determined by the Board to have value as precedents for decisions in subsequent hearings;

(B) laws and court decisions relevant to decision making in hearings; and

(C) case studies useful in decision making in hearings;

(6) [(9)] prepare and update as necessary a handbook to be made available to participants in hearings under Tex. Gov't Code 508.281, such as defense attorneys, persons released on parole or mandatory supervision, and witnesses. The handbook must describe in plain language the procedures used in a hearing under 508.281;

(7) [(10)] develop and implement a policy that clearly defines circumstances under which a Board Member or Parole Commissioner should disqualify himself or herself from voting on:

(A) a parole decision; or

(B) a decision to revoke parole or mandatory supervision;

[(11) after consultation with the Governor and the Texas Board of Criminal Justice, adopt a mission statement that reflects the responsibilities for the operation of the parole process that are assigned to the Board, the Division, the Department, or the Texas Board of Criminal Justice;]

[(12) include in the mission statement a description of specific locations at which the Board intends to conduct business related to the operation of the parole process;]

(8) [(13)] adopt rules relating to:

(A) the submission and presentation of information and arguments to the Board, a parole panel, and the Department for and in behalf of an inmate, including by electronic means; and

(B) the time, place, and manner of contact between a person representing an inmate and:

(i) a member of the Board or a Parole Commissioner;

(ii) an employee of the Board; or

(iii) an employee of the Department. [;]

[(14) develop according to an acceptable research method the parole guidelines that are the basic criteria on which a parole decision is made; and]

[(15) adopt a policy establishing the date on which the Board may reconsider for release an inmate who has previously been denied release.]

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 August 21, 2026.

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Richard Gamboa
Technical Writer III
Texas Board of Pardons and Paroles
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SUBCHAPTER B. RULEMAKING

37 TAC §141.57

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 141, Subchapter B, §141.57, concerning rulemaking. The amendments proposed are to incorporate modernization updates and relevant statutory cross-references; and to promote simplicity and clarity.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under §§508.036(b), 508.0441, 508.045, 508.141 and 508.149, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings.

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

§141.57. Petition for Adoption of Rule.

(a) Any interested person may petition the Board requesting the adoption of a rule pursuant to Tex. Gov't Codes 2001.021, 2006.002, and 2008.

(b) A petition shall be mailed or submitted by electronic means to the General Counsel of the Texas Board of Pardons and Paroles as published on the Board's website [at P.O. Box 13401, Austin, Texas 78711].

(c) The petition must be submitted in writing, must be identified as Petition for Adoption of Rule, and must comply with the following requirements:

[(1) each rule requested must be requested by separate petition;]

(1) [(2)] each petition must state the name and address of the petitioner;

[(3) each petition must be delivered to the General Counsel of the Board at its Austin office; and]

(2) [(4)] each petition shall include:

(A) a completed intake checklist.

(B) [(A)] a brief explanation of the proposed rule; and

(C) [(B)] the text of the proposed rule prepared in a manner to indicate the words to be added or deleted in the current text, if any.

(d) The petitioner must submit [If the General Counsel determines that further information is necessary, the General Counsel may require that the petitioner resubmit the petition and that it contain]:

(1) A statement of statutory authority or authority under which the rule is to be promulgated;

[(2) Whether there will be an impact on the employment of the local economy;]

(2) [(3)] If an adverse economic impact of the proposed rule on small or microbusinesses is identified, the petition shall also contain:

(A) An economic impact statement which details the probable effect of the rule on employment in each geographic area affected by the rule for each year of the first five years that the rule will be in effect, and describes alternative methods of achieving the purpose of the proposed rule; and

(B) A regulatory flexibility analysis as defined in Section 2006.002(d), Government Code. In addition to the petition, the person may submit a proposal for the adoption of the proposed rule through negotiated rulemaking. The proposal shall identify the po-

tential participants for the negotiated rulemaking committee, possible third party facilitators, and a timeline for the process.

(e) Consideration and Disposition of the Petition.

(1) Except as provided in subsection (f) of this rule, the Chair[~~, in consultation with the General Counsel,~~] shall consider and reject or approve petitions submitted.

(2) Within 60 days after receipt of a petition by the General Counsel, or within 60 days after receipt by the General Counsel of a resubmitted petition in accordance with subsection (d) of this rule, the Chair, in consultation with the General Counsel, shall consider the petition and shall either deny it in writing, stating its reasons for denial, or shall initiate rulemaking proceedings in accordance with Section 2001.021, Government Code.

(3) A petition may be denied for failure to comply with the petition requirements of this rule.

(4) If the Chair, in consultation with the General Counsel, denies the petition, the General Counsel shall give the petitioner written notice of the denial and the reasons for the denial.

(f) The General Counsel may refuse to consider any subsequent petition for the adoption of the same or similar rule submitted within one year after the date of the initial petition.

(g) The General Counsel shall provide the petitioner a written acknowledgement of receipt of a petition that states the date the petition was received and the date by which the Chair must act under subsection (e)(2) of 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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Richard Gamboa
Technical Writer III
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SUBCHAPTER C. SUBMISSION AND PRESENTATION OF INFORMATION AND REPRESENTATION OF OFFENDERS

37 TAC §141.60, §141.61

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 141, Subchapter C, §141.60 and §141.61, concerning submission and presentation of information and representation of offenders. The amendments proposed are to consolidate rules and revise language to promote simplicity and clarity.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under §§508.036(b), 508.0441, 508.045, 508.141 and 508.149, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings.

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

§141.60. Submission and Presentation of Information.

(a) Unless otherwise authorized, information and arguments in support of an offender shall be in writing.

(b) All [~~Except as provided in subsection (c) of this rule, all~~] information and arguments in support of an offender's release shall be submitted at any time to the Review and Release Processing Section-TDCJ, Austin, Texas.

[~~(c) When an offender's case is in the review period, copies of all information and arguments in support of an offender's release may be submitted to members of the parole panel designated to consider the case.~~]

[~~(d) For the purpose of this rule, the review period shall be greater than two months but less than six months prior to the month of the next schedule review period.~~]

§141.61. Representation of an Offender.

(a) Persons representing an offender pursuant to Chapter 508, Subchapter C, Government Code, may appear before a member of the Board or parole panel designated to consider the offender's case.

(b) Requests for appearances by persons representing offenders shall be only submitted when the offender's case is under review, during the review period, and at the discretion of the members of the parole panel designated to review the case.

(c) The time, place, and manner of contact between a person representing an offender and a member of the Board or an employee of the Board shall be established by the members of the parole panel designated to review the case.

~~[(d) For the purpose of this rule, the review period shall mean greater than two months but less than six months prior to the month of the next scheduled review period.]~~

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

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SUBCHAPTER G. DEFINITION OF TERMS

37 TAC §141.111

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 141, Subchapter G, §141.111, concerning definition of terms. The amendments proposed are to eliminate redundant definitions, incorporate applicable acronyms, and update voting codes through a hyperlinked table to enhance accessibility.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under §§508.036(b), 508.0441, 508.045, 508.141 and 508.149, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings.

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

§141.111. Definition of Terms.

The following words and terms used within these rules shall have the following meanings, unless the context clearly indicates otherwise. Acronyms. Within these rules, SID means State Identification Number assigned by the Texas Department of Public Safety; TDCJ means the Texas Department of Criminal Justice; and TDCJ-CID means the Texas Department of Criminal Justice-Correctional Institutions Divisions.

(1) Administrative Violation of Parole or Mandatory Supervision--A technical violation of parole or mandatory supervision which does not allege criminal conduct.

(2) Affinity and consanguinity (including consanguinity within the third degree)--Determined in accordance with Tex. Gov't Code Chapter 573 [~~(Marriage)--A husband-wife relationship (first degree). By virtue of the marriage, a spouse is also related to individuals related to the other spouse by blood (consanguinity), and the degree of relationship by affinity is the same as the underlying relationship of consanguinity. The ending of a marriage by divorce or death of a spouse ends relationships of affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives~~].

(3) Board--The Texas Board of Pardons and Paroles, consisting of seven members appointed by the Governor.

(4) Commutation of sentence--An act of clemency by the Governor which serves to modify the conditions of a sentence.

(5) Conditional pardons--A form of executive clemency granted by the Governor which serves to release a person from the conditions of his or her sentence and any disabilities imposed by law thereby, subject to the conditions contained in the clemency proclamation. A person released pursuant to the terms of a conditional pardon is considered, for purposes of revocation thereof, to be a releasee.

~~[(6) Consanguinity--A relationship in which one individual is related to another individual where one is a descendant of the other or where they share a common ancestor. An adopted child is considered to be a child of the adoptive parent for this purpose. The degree of relationship by consanguinity may be determined by adding the number of generations between an individual and the individual's ancestor or descendant.]~~

~~[(7) Consanguinity within the third degree-- An individual's relatives within the third degree by consanguinity are the individual's parent or child (relatives in the first degree); brother, sister, grandparent, or grandchild (relatives in the second degree); and great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of an individual (relatives in the third degree).]~~

[(8) CU/FI--Consecutive felony sentence vote that designates the date on which the offender would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This is not a vote to release on parole.]

[(9) CU/NR--Consecutive felony sentence vote to deny favorable parole action and set for review on a future specific month and year (set-off).]

[(10) CU/SA--Consecutive felony sentence vote to deny parole and not release the offender until the serve-all date.]

[(11) DMS--Mandatory supervision vote to deny release to mandatory supervision and set for review on a future specific month and year (set-off).]

(6) [(12)] Department--The Texas Department of Criminal Justice.

(7) [(13)] Division--The Parole Division of the Texas Department of Criminal Justice.

(8) [(14)] Early Release on Parole--The discretionary release of an offender from incarceration, but not from the legal custody of the state, approximately 180 days prior to the offender's parole eligibility date, under such conditions and provisions for supervision as a parole panel may determine.

(9) [(15)] Eligible inmate--An offender who has been sentenced to a term of imprisonment in the TDCJ-CID [Texas Department of Criminal Justice Correctional Institutions Division]; is confined in a penal or correctional institution, including a jail or a correctional institution in another state; and is eligible for release on parole.

[(16) Fiduciary--A person holding a position of trust, who has the duty, created by the undertaking, to act primarily for another's benefit in that undertaking.]

[(17) Full Pardon--An unconditional act of executive clemency by the Governor which serves to release a person from the conditions of his or her sentence and from any disabilities imposed by law thereby.]

(10) [(18)] Further Investigation (FI)--An initial determination by a parole panel favorable to parole of an offender, subject to additional investigation and processing.

(11) [(19)] Hearing Officer--A staff member designated by the Board and assigned to conduct a preliminary or revocation hearing concerning one or more allegations of violation of the terms and conditions of parole, mandatory supervision, or conditional pardon; and a sex offender conditions hearing to determine whether the offender constitutes a threat to society by reason of lack of sexual control.

(12) [(20)] Initial review--The review conducted by the Board not later than the 180th day an offender is eligible for release on parole.

(13) [(21)] Inmate--A person incarcerated in the TDCJ-CID, [Correctional Institutions Division (CID)] other penal institution, or jail serving a sentence imposed upon conviction of a felony.

(14) [(22)] Institutional Parole Officer--A staff member responsible for interviewing offenders and preparing case summaries for review by a parole panel or the Board; and notifying the offender of the releasee decision along with the approval or denial reasons.

(15) [(23)] Mandatory supervision--The nondiscretionary release of an offender from incarceration, but not from the legal custody of the state, under such conditions and provisions for supervision as the parole panel may determine. For the purposes of revocation, the terms "parole" and "mandatory supervision" are interchangeable and reference to either one of said terms includes the other.

(16) [(24)] Mandatory supervision date--The date on which the release to mandatory supervision of an eligible offender may occur.

(17) [(25)] Offender--A person incarcerated in the TDCJ-CID, [Correctional Institutions Division (CID),] other penal institution, or jail serving a sentence imposed upon conviction of a felony or a person released from prison on parole or mandatory supervision.

(18) [(26)] Offender's file--The paper and electronic file maintained by the TDCJ Parole Division as the official custodian of record.

(19) [(27)] Pardon--An unconditional act of executive clemency by the Governor which serves to release a person from the conditions of his or her sentence and from any disabilities imposed by law thereby [See the definition of "full pardon" set forth in this section].

(20) [(28)] Parole--The discretionary release of an offender from incarceration, but not from the legal custody of the state, under such conditions and provisions for supervision as a parole panel may determine.

(21) [(29)] Parole certificate--An order of the Board incorporating the terms and conditions of release.

(22) [(30)] Parole panel--A three member decision-making body of the Board authorized to act in release matters. In certain cases, the full Board acts as the parole panel.

[(31) Party--Each person or agency named or admitted as a party.]

[(32) Posthumous--An event occurring after death.]

(23) [(33)] Preliminary hearing--Hearing to determine whether probable cause exists to continue holding the offender in custody pending the outcome of the final hearing.

[(34) Preponderance of the Evidence-- Evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.]

(24) [(35)] Projected Release Date--The minimum expiration date as determined by TDCJ [the Texas Department of Criminal Justice].

(25) [(36)] Release plan--Proposed community and place of residence and proposed employment or proposed provision for maintenance and care of the releasee.

(26) [(37)] Releasee--A person released from TDCJ-CID on parole or mandatory supervision.

(27) [(38)] Remain Set--A decision by the Board, after a special review, to continue the initial denial vote set off.

(28) [(39)] Remission of fine or forfeiture--An act of clemency by the Governor releasing a person from payment of all or a portion of a fine or canceling a forfeiture of a bond.

(29) [(40)] Reprieve--A temporary release from the terms of an imposed sentence.

(30) [(41)] Review period--A period in which a parole panel will review an eligible offender for release on parole or mandatory supervision.

(31) [(42)] Revocation--The cancellation of parole, mandatory supervision, or a person granted a conditional pardon to

immediate incarceration or recommend to the Governor revocation of a conditional pardon without further hearing or, in the instance of reprieve of a fine, to immediate payment of the fine.

[(43) RMS--Mandatory supervision vote to release to mandatory supervision when TDCJ-CID determines that the offender has reached the projected release date.]

[(44) Serve-All (SA)--A decision by the Board to deny parole and not release the offender until the serve-all date.]

(32) [(45)] Serve-All Date--The projected release date or maximum [minimum] expiration date as determined by TDCJ [the Texas Department of Criminal Justice].

[(46) SID--State Identification Number assigned by the Texas Department of Public Safety.]

[(47) TDCJ--Texas Department of Criminal Justice.]

[(48) TDCJ-CID--Texas Department of Criminal Justice-Correctional Institutions Division.]

(33) [(49)] Treatment--Refers to rehabilitation programs also referred to as counseling or therapy.

(34) [(50)] Trial officials--The present sheriff, each chief of police, prosecuting attorney, and judge in the county and court of conviction and release.

(35) [(51)] Victim--A person who is the victim of the offense of sexual assault, indecency with a child by contact, continuous sexual abuse of a young child or children, aggravated sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another, as defined in Article 56A.001, Sections 6 and 7, Code of Criminal Procedure.

(36) Voting Codes--the following table contains the voting codes and options of the Board.
Figure: 37 TAC §141.111(36)

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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Richard Gamboa
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CHAPTER 143. EXECUTIVE CLEMENCY
SUBCHAPTER A. FULL PARDON AND RESTORATION OF RIGHTS OF CITIZENSHIP

37 TAC §§143.1 - 143.10, 143.12 - 143.14

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter A, §§143.1 - 143.10, and 143.12 - 143.14 concerning full pardon and restoration of rights of citizenship. The amendments proposed are to promote simplicity and clarity.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.1. Authority to Grant Pardons.

Except in cases of treason or impeachment, after conviction or successful completion of a term of deferred adjudication community supervision, the Governor may grant a full pardon upon the written signed recommendation and advice of a majority of the Board as authorized by the Texas Constitution, Article IV, Section 11 and [Texas Code of Criminal Procedure,] Articles 48.01 and 48.03, Code of Criminal Procedure.

§143.2. Pardons for Innocence.

(a) On the grounds of innocence of the offense for which convicted or successfully completed a term of deferred adjudication community supervision, the Board will consider applications for recommendation to the Governor for a pardon for innocence upon receipt of:

(1) a written recommendation of a majority [at least two] of the current trial officials of the sentencing court, with one trial official submitting documentary evidence of actual innocence; or

(2) a certified order or judgment of a court having jurisdiction accompanied by a certified copy of the findings of fact and conclusions of law where the court recommends that the Court of Criminal Appeals grant state habeas relief on the grounds of actual innocence.

(b) Evidence submitted under subsection (a)(1) of this section shall include the results and analysis of pre-trial and post-trial forensic DNA testing of biological material as defined in the Chapter 64, Code of Criminal Procedure, if any, and may also include affidavits of witnesses upon which the recommendation of actual innocence is based.

§143.3. Twelve Months on Parole.

When an [~~any~~] offender has served 12 months on parole for an offense committed on or before August 28, 1977, [~~in a manner acceptable to the Board,~~] upon application [~~request~~], the Board may review the offender's record [~~upon application therefore~~] and make a determination whether to recommend to the Governor that the offender be pardoned and finally discharged from the sentence under which the offender [~~he/she~~] is serving as authorized by the Texas Constitution, Article IV, Section 11 and Article 42.12, §24, Code of Criminal Procedure, [~~Article 42.12, §24,~~] 59th Legislature, R.S., Volume 2, Page 317, Chapter 722.

§143.4. Parolee Discharging Sentence.

When an [~~Whenever any~~] offender [~~who~~] has been paroled for an offense committed on or before August 28, 1977, and has complied with the rules and conditions governing the offender's [~~his~~] parole until the end of the term to which the offender [~~he/she~~] was sentenced, and without a revocation of the offender's [~~his~~] parole, the Board may report such fact to the Governor prior to the issuance of the final order of discharge. The Board may, at this time, recommend to the Governor a full pardon as authorized by the Texas Constitution, Article IV, Section 11 and Article 42.12, §24, Code of Criminal Procedure, [~~Article 42.12 §24,~~] 59th Legislature, R.S., Volume 2, Page 317, Chapter 722.

§143.5. Discharged Offender.

Upon written application [~~request~~] from a person who has discharged a felony sentence or successfully completed a term of deferred adjudication community supervision, the Board will consider recommending a full pardon to the Governor. [~~Applicant's name, TDCJ-CID or SID number, county of conviction, offense, and length of sentence shall be furnished for identification.~~]

§143.6. Offender in Texas Department of Criminal Justice-Correctional Institutions Division.

(a) An offender currently incarcerated in TDCJ-CID will be considered for a full pardon, upon written application, only after the offender's minimum statutory parole eligibility has been attained and the offender has been reviewed for and denied parole. [~~A full pardon will not be considered for an offender while in TDCJ-CID, except when exceptional circumstances exist. The burden of exceptional circumstances rests upon the applicant.~~]

(b) This section does not apply to a survivor of human trafficking or domestic violence who demonstrates the survivor's conviction correlates to human trafficking or domestic violence. The applicant has the burden of demonstrating the connection between the applicant's conviction and the applicant's victimization through human trafficking or domestic violence.

§143.7. Prior Out-of-State or Federal Convictions.

Where an applicant has [~~there exists~~] one or more prior out-of-state or federal convictions or has successfully completed [~~successful completion of~~] a punishment comparable [~~similar~~] to a term of deferred adjudication community supervision for one or more felony offenses [~~of felony grade, in other states or in federal court,~~] prior to the applicant's last Texas conviction, the Board will consider recommending a full pardon to the Governor only if the applicant provides:

(1) official full pardon [~~provides a~~] clearance [~~by full pardon~~] from the applicable jurisdiction [~~jurisdiction(s)~~] of each [~~the~~] previous conviction [~~conviction(s)~~]; or

(2) official written documentation indicating [~~furnishes proof in writing that~~] the applicable jurisdiction [~~other jurisdictions~~] will not take action [~~act~~] until a full pardon is granted by the Governor of Texas.

§143.8. Suspended Sentence, Felony Conviction.

Upon a written application [~~from the applicant or person acting on their behalf~~], the Board will consider recommending to the Governor a full pardon for a suspended sentence that prevents the applicant from maintaining a livelihood or has resulted in the loss of civil rights. The applicant has the burden of showing the conviction impacted the applicant's ability to maintain a livelihood or the loss of civil rights. [~~Applicant's name, SID number, the county of conviction, offense, and sentence shall be furnished when the request is made.~~]

§143.9. Sentence of Probation or Community Supervision, Felony Conviction.

(a) Upon written application, the [~~The~~] Board will consider recommending a full pardon to the Governor for a sentence of community supervision [~~probation~~] only upon:

(1) a showing of receipt of maximum relief available through the court of conviction;[~~,~~] and [~~then,~~]

(2) [~~only in~~] an extraordinary [~~extreme or unusual~~] circumstance that [~~which~~] prevents the applicant from maintaining [~~gaining~~] a livelihood; or has resulted in the [~~event of~~] loss of civil rights.

(b) The applicant has the burden of showing the extraordinary [~~such extreme or unusual~~] circumstance in which the conviction impacted the applicant's ability to gain or maintain a livelihood or resulted in the applicant's loss of civil rights [~~rests upon the applicant~~].

§143.10. Misdemeanor.

(a) Upon written application, the [~~The~~] Board will consider recommending a full pardon to the Governor for [~~in~~] misdemeanor cases only when an extraordinary circumstance exists that prevents the applicant from maintaining a livelihood or if the applicant has lost civil rights due to the conviction [~~exceptional, extreme, and unusual circumstances exist~~].

(b) The applicant has the burden of showing the extraordinary circumstance in which the conviction impacted the applicant's ability to maintain a livelihood or resulted in the applicant's loss of civil rights. [~~such exceptional, extreme, and unusual circumstances rests upon the applicant.~~]

§143.12. Restoration of Firearm Rights.

(a) Upon written application, the [~~The~~] Board will consider recommending to the Governor a restoration of the right to receive, possess, bear, and transport in commerce a firearm only in extraordinary [~~extreme and unusual~~] circumstances which prevent the applicant from maintaining [~~gaining~~] a livelihood, and only if the applicant:

(1) provides either proof of clearance by a previously granted full pardon or a request for such express restoration in a pending application for a full pardon from jurisdiction(s) of the relevant conviction(s) or successful completion of a punishment similar to a term of deferred adjudication community supervision; and

(2) provides proof of application under the United States Code, Title 18, Section 925(c), for exemption, relief from disabilities to the United States Attorney General [~~the Director of Alcohol, Tobacco, Firearms and Explosives,~~] and furnishes copies of all relevant applications and responses thereto by the United States Attorney General [~~Director of Alcohol, Tobacco, Firearms and Explosives~~] including any final actions by said United States Attorney General [~~Director of Alcohol, Tobacco, Firearms and Explosives~~].

(b) The applicant has the burden of showing the extraordinary circumstance in which the conviction impacted the applicants ability to maintain a livelihood [~~such extreme and unusual circumstances rests upon the applicant~~].

§143.13. Posthumous Pardon.

Upon written application [~~request~~] from a person acting on behalf of a deceased person who was convicted of a felony offense, the Board will consider recommending to the Governor a full pardon for the deceased person.

§143.14. Consideration of Request or Application.

(a) Upon written application, the [~~The~~] Board will consider a [~~written~~] request [~~or application~~] for executive clemency submitted pursuant to Subchapter A of this chapter (relating to Full Pardon and Restoration of Rights of Citizenship).

(b) When an application for executive clemency is denied by the Governor or not recommended by the Board, a person may submit a subsequent written application for executive clemency on or after the second anniversary of the denial.

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

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SUBCHAPTER B. CONDITIONAL PARDON

37 TAC §§143.21 - 143.24

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter B, §§143.21 - 143.24 concerning conditional pardon. The amendments proposed are to promote simplicity and clarity and to conform with protocol.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.21. Definition.

(a) A conditional pardon is a form of executive clemency that [~~which,~~] upon application[~~,~~] may be recommended by the Board to the Governor, except in cases of treason or impeachment. If[~~, and if~~] granted a conditional pardon, serves to release the offender [~~a person~~] from the conditions of the offender's [~~his or her~~] sentence [~~and/~~]or any disabilities imposed by law thereby, subject to the conditions outlined [~~contained~~] in the clemency proclamation.

(b) For revocation purposes, a recipient [~~A person released pursuant to the terms~~] of a conditional pardon is considered [~~for the purposes of revocation thereof to be~~] a "releasee" as that term is defined in §141.11(26)[~~, §141.111~~] of this Title [~~title~~] ([~~relating to~~] Definitions of Terms). All[~~, and all~~] such revocation proceedings are governed by the rules found in Ch. 146 [~~sections for revocation of release, §§146.3 - 146.12~~] of this Title [~~title~~] ([~~relating to~~] Revocation of Parole or Mandatory Supervision).

§143.22. Consideration of Application.

(a) Upon written application, the [~~The~~] Board will consider a request [~~written application~~] for a conditional pardon:[~~,~~]

(1) [~~only~~] to release an offender to another country; or

(2) in cases where extraordinary [~~extreme, exceptional, and unusual~~] circumstances exist, and only after minimum statutory parole eligibility has been attained.

(b) For purposes of subsection (a)(2) of this section, the applicant has the [~~The~~] burden to demonstrate the existence of extraordinary [~~showing such extreme, exceptional, and unusual~~] circumstances [~~rests upon the applicant~~].

§143.23. Revocation of Conditional Pardon.

(a) A conditional pardon may be revoked if the terms and conditions of the clemency proclamation are breached. All such revocation proceedings shall be conducted in accordance with the rules of §143.21 of this Title (Definition), Ch. 146 (Revocation of Parole or Mandatory Supervision) and in accordance with Government Code, Ch. 508, Subchapter I. Hearings and Sanctions [~~sections applicable to a releasee who is the subject of the revocation process~~].

(b) When [~~The Board or parole panel, on order of the Governor, is responsible for ordering the issuance of any warrant upon being notified by~~] the Division notifies the Board that a violation has occurred, the Board will notify the Governor, who may order the Board

to proceed to a revocation hearing. Upon order of the Governor, the Board shall notify the Division, which shall issue a warrant pursuant to Section 508.251(a)(5), Government Code. The warrant shall issue to appropriate law enforcement authorities, authorizing any sheriff, peace officer, or other addressee named therein to arrest and hold the named releasee until further order, [~~of the Governor or the Board~~] or until such time as the releasee [~~he/she~~] may be placed in the custody of an agent of the TDCJ-CID, or until further order [~~of the Governor or the Board~~].

§143.24. Request of the Governor.

The Board shall consider a recommendation for conditional pardon in any case upon the request of the Governor as authorized by [~~Texas~~] Government Code, Section 508.050.

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. REPRIEVE

37 TAC §§143.31, 143.32, 143.35

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter C, §§143.31, 143.32, and 143.35 concerning reprieve. The amendments proposed are to promote simplicity and clarity.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.31. General Rules.

(a) The Governor may grant a reprieve upon the written recommendation of a majority of the Board as authorized by the Texas Constitution, Article IV, Section 11.

(b) Each [~~A reprieve is not recommended as a matter of right and each~~] request will be considered [~~judged~~] on the merits of the case and the security risk involved.

(c) Except at the direction [~~request~~] of the Governor, the Board will only consider written reprieve [~~only such~~] requests that [~~for reprieves as~~] meet the [~~general and specific~~] criteria set out in this section [~~these sections~~] .

(d) The Board will not consider a written application for reprieve from a TDCJ-CID sentence that [~~which~~] involves travel outside the State of Texas or for business reasons.

[~~(e) The Board will not consider a written application for reprieve from a TDCJ-CID sentence requested for business reasons.~~]

(e) [~~(f)~~] The Board may recommend a reprieve either in custody of a peace officer or without custody. However, the Board will not recommend a reprieve without custody if the offender has a detainer filed against the offender's release.

[~~(g) The Board will not recommend a reprieve without custody if the offender has a detainer filed against his release.~~]

(f) [~~(h)~~] Except as otherwise specified in this subsection [~~these sections~~], a Board recommendation for a reprieve shall be for a specified time, including a beginning and an ending date.

(g) [~~(i) Upon expiration of the specified time of the reprieve, a person~~] An offender granted a reprieve who does not return to custody by the ending date of the offender's reprieve [~~that remains at large,~~] is subject to arrest without further action of the Board or Governor.

(h) [~~(j)~~] The Board will consider a written request for an extension of a reprieve only if the request meets the requirements for the original reprieve.

(i) [~~(k)~~] If at any time the Board is made aware that the conditions of a reprieve have been violated, the Board may recommend to the Governor the revocation of such reprieve.

§143.32. Reprieve for Family Emergency.

(a) The Board will consider a written application for reprieve for a family emergency only in cases of critical illness or death of an [~~a member of the~~] offender's immediate family member.

(b) For the purpose of this subchapter, the [~~The~~] immediate family are an offender's [~~includes only the~~] parents, spouse, and children [~~of the offender~~], and a person other than a parent who assumed the responsibilities and acted as the offender's parent [~~of the offender~~] during the offender's [~~his/her~~] childhood.

(c) Before considering [~~Prior to consideration of~~] the application for a reprieve for family emergency, the Board will [~~may~~] require written:

(1) Verification [~~verification~~] of:

(A) the critical illness by the attending physician; or

(B) [~~(2) verification of~~] the death and of the time and place of the funeral, by the mortician; and

(2) [~~(3)~~] proof of the parent-child relationship if the request is based on [~~for~~] the illness or death of a person who was[~~,~~] not the offender's biological [~~a~~] parent, but [~~who~~] acted as a [~~the offender's~~] parent during the offender's [~~his/her~~] childhood.

(d) A Board recommendation for reprieve in the continuous custody of a peace officer is contingent upon a verified arrangement by the offender's family to secure and pay the expense of a peace officer to guard the offender.

§143.35. Reprieve from Misdemeanor Jail Sentence [~~and/~~]or Fine.

(a) The Board will consider a written application for reprieve from a misdemeanor jail sentence [~~and/~~]or fine upon the [~~majority~~] written recommendation on official letterhead of a majority of trial officials.

(b) Written applications submitted from an offender [~~The Board will also consider a written application~~] for a reprieve from a misdemeanor jail sentence [~~and/~~]or fine, [~~only~~] for medical necessity, significant [~~reasons or reasons of~~] financial hardship [~~(loss of home or business, or the lack of support for family)~~], or other compelling adversity [~~hardships~~], will be considered by the Board only upon the receipt [~~in writing~~] of the following [~~information~~]:

(1) Medical Necessity:

(A) [~~(1)~~] a request for reprieve clearly stating the medical reason for the application;[~~:~~]

[~~(A) a certified copy of the judgment and sentence for each cause for which the applicant is presently confined;~~]

(B) a statement from the attending physician indicating the applicant's medical condition [~~of the applicant~~] and recommended medical treatment [~~recommended~~]; [~~and~~]

(C) a clear statement of financial responsibility for hospitalization or other treatment; and[~~.~~]

(D) a certified copy of the judgment and sentence for each conviction for which the applicant is currently incarcerated.

(2) Financial Hardship or Compelling Adversity:

(A) a request for reprieve clearly stating the nature of the financial hardship or other compelling adversity necessitating [~~for~~] the application [~~request~~];

(B) [~~(A)~~] a certified copy of the judgment and sentence for each conviction [~~cause~~] for which the applicant is currently [~~presently~~] confined; and

(C) [~~(B)~~] if applicable, a statement from a [~~the~~] prospective employer stating the nature of the employment offer and whether or not the employment offered will be permanent if duties are performed satisfactorily.

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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37 TAC §143.33, §143.34

The Texas Board of Pardons and Parole (Board) proposes the repeal of Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter C. Reprieve, §143.33 and 143.34. The proposed repeal is the results of a review of the subchapter pursuant to the four-year rule review prescribed by §2001.039 Government Code.

The repeal of §143.33 is warranted because the civil courts have the right to subpoena someone to attend or appear before them, making the rule unnecessary. The repeal of §143.34 is warranted because the Board has the statutory authority to release an offender due to their medical condition.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed repeals are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed repeals are in effect, the public benefit anticipated as a result of enforcing the repeals to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The repeals will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed repeals will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The repeal is proposed under §508.036(b)(1) Government Code, which provides authority for the Board adopt rules relating to the decision-making processes used by the Board and parole panels.

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

§143.33. Emergency Reprieve to Attend Civil Court Proceedings.

§143.34. Emergency Medical Reprieve.

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 D. REPRIEVE FROM EXECUTION

37 TAC §§143.41 - 143.43

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter D, §143.41, 143.42, and 143.43 concerning reprieve from execution. The amendments proposed are to promote simplicity and clarity and to address grammatical change..

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.41. Governor's Reprieve.

~~[(a) The Governor shall have has the power to grant one reprieve in any capital case for a period not to exceed 30 days as authorized by the Texas Constitution, Article IV, Section 11.]~~

[~~(b)~~] The Governor has [~~shall have~~] the power, upon the written and signed recommendation and advice of a majority of the Board, to grant a reprieve in any capital case at any time after conviction.

~~[(c) The duration of a gubernatorial reprieve granted under subsection (b) of this section may be equal to, greater than, or less than 30 days, but in no event shall any such reprieve exceed the period recommended by the Board.]~~

§143.42. Reprieve Recommended by the Board.

The Board will consider a reprieve of execution from death sentence upon receipt of a written application on behalf of an offender. The individual filing such application, if other than the offender, may be required to demonstrate that the individual is authorized by the offender to file such application. Any such application shall be addressed to the Texas Board of Pardons and Paroles [~~Parole~~] and contain the following information:

(1) the name of the applicant, execution number, together with any other pertinent identifying information;

(2) identification of the applicant's agents, if any, who are presenting the application;

(3) certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date, if said information is not contained in the sentence;

(4) a brief statement of the offense for which the offender has been sentenced to death;

(5) a brief statement of the appellate history of the case, including its current status;

(6) a brief statement of the legal issues which have been raised during the judicial progress of the case;

(7) the requested length of duration of the reprieve, which shall be in increments of 30 days in accordance with the Governor's [~~governor's~~] statutory authority to grant one 30-day reprieve, unless a different duration is requested upon the basis of the grounds for the application set forth pursuant to paragraph (8) of this section; and,

(8) all grounds upon the basis of which the reprieve is requested; provided that such grounds shall not call upon the Board to decide technical questions of law which are properly presented via the judicial process.

§143.43. Procedure in Capital Reprieve Cases.

(a) The written application on [~~in~~] behalf of an offender seeking a Board recommendation to the Governor or a reprieve from execution may [~~must~~] be submitted by electronic means or delivered to the Board's [~~Texas Board of Pardons and Paroles,~~] Clemency Section as published on the Board's website [~~8610 Shoal Creek Boulevard, Austin, Texas 78757~~], not later than the twenty-first calendar day before the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day.

(b) All supplemental information, including but not limited to amendments, addenda, supplements, or exhibits, must be submitted through the provisions pursuant to subsection (a) of this rule [~~in writing and delivered to the Texas Board of Pardons and Paroles, Board's Clemency Section, 8610 Shoal Creek Boulevard, Austin, Texas 78757~~], not later than the fifteenth calendar day before the execution is scheduled. If the fifteenth calendar day before the execution is scheduled falls on a weekend or state observed holiday, all additional information including but not limited to amendments, addenda, supplements, or exhibits shall be delivered not later than the next business day.

(c) The application and any information filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, must be provided by the applicant in the manner [~~an amount~~] determined by the Presiding Officer (Chair).

(d) Advocates for and against the death penalty, generally, and members of the general public may present written information for the Board's consideration through the provisions pursuant to subsection (a) of this rule during regular business hours.

(e) [~~(d)~~] An offender seeking a Board recommendation to the Governor for [~~of~~] a reprieve from execution may request the opportunity to speak to [~~an interview with~~] a member of the Board. Such request shall be included in the written application or any supplement filed therewith in accordance with this section.

(f) [~~(e)~~] Upon receipt of the [~~a~~] request [~~for an interview~~], the Chair [~~Presiding Officer (chair)~~] shall designate at least one member of the Board be present or by videoconference [~~board to conduct the requested interview. Such interview shall occur~~] at the offender's [~~confining unit of~~] TDCJ-CID confining unit. Attendance [~~at such interviews~~] shall be limited to the offender, the designated Board Member, Board staff, and TDCJ-CID staff. When considering the offender's application for reprieve, the [~~The~~] Board may consider statements made by the offender [~~at such interviews~~] and any other materials the offender delivers to the Board Member [~~during the interview when considering the offender's application for reprieve~~].

(g) [~~(f)~~] The Board shall consider and decide applications for reprieve from execution. Upon review, [~~a majority of~~] the Board [~~, or a majority thereof, in written and signed form,~~] may:

(1) recommend to the Governor a reprieve from execution;

(2) not recommend a reprieve from execution; or

(3) set the matter for a hearing as soon as practicable and at a location convenient to the Board and the parties to appear before it.

(h) [~~(g)~~] When the Board sets a hearing pursuant to subsection (g)(3) [~~(f)(3)~~] of this section, it shall notify the trial officials of the county of conviction and the attorney general of the State of Texas and allow any such official(s), or the designated representatives thereof, the opportunity to attend the hearing and/or to present any relevant information. At the time of notifying the trial officials, the Board shall also notify any representative of the victim's family [~~of the victim (~~]who has previously requested to be notified[~~)~~] of the receipt of the application, the setting of a hearing, and of said representative or family member's rights to provide any written comments or to attend the hearing.

(i) [~~(h)~~] All hearings conducted by the Board under this section shall be in open session pursuant to requirements of the Texas Open Meetings Act. For the purpose of discussing matters which are deemed confidential by Government Code, Section 508.313 [~~statute,~~] or where otherwise authorized by the provisions of the Texas Open Meetings Act, the proceedings may be conducted in executive session closed to members of the general public, for that limited purpose. Only those persons whose privacy interests and right to confidentiality may be abridged by discussion involving disclosure of confidential information may be allowed to meet with members of the Board in their executive session to discuss that information. No decision, vote, or final action by the Board shall be made during executive session [~~a closed meeting~~]; the Board's decision, vote, or final action shall be made and announced in an open meeting. The hearing may be recessed prior to its completion and reconvened pursuant to the directions of the Board.

[~~(i) Advocates for and against the death penalty, generally, and members of the general public may present written information for the Board's consideration at its central office headquarters at any reasonable time.~~]

(j) After the conclusion of the hearing, the Board shall render its decision, reached by majority vote, within a reasonable time, which decision shall be either to:

(1) recommend to the Governor a reprieve from execution;

(2) not recommend a reprieve from execution; or

(3) recess the proceedings without rendering a decision on the merits, if a reprieve has been granted by the Governor or if a court of competent jurisdiction has granted a stay of execution.

(k) Each of the provisions of this section and §143.42 of this title (relating to Reprieve Recommended by the Board) are subject to waiver by the Board when it finds that there exists good and adequate cause to suspend said provisions and adopt a different procedure which it finds to be better suited to the exigencies of the individual case before it.

(l) Successive or repetitious reprieve applications submitted in behalf of the same offender may be summarily denied by the Board without meeting.

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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Richard Gamboa
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SUBCHAPTER E. COMMUTATION OF SENTENCE

37 TAC §§143.52, 143.53, 143.57

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter E, §§143.52, 143.53, and 143.57 concerning commutation of sentence. The amendments proposed are to promote simplicity, clarity, and modernization.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit antic-

ipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.52. Commutation of Sentence, Felony, or Misdemeanor.

(a) The Board will consider recommending to the Governor a commutation of sentence upon a request submitted electronically or by mail accompanied by the written recommendation of a majority of the trial officials. These written recommendations must be provided on the official letterhead of each trial official.

(b) If the offender has the recommendation of three [~~two of the current~~] trial officials and no written communication is received from the fourth [~~third~~] trial official, the Board shall give the remaining trial official notice that [~~such~~] a clemency recommendation is being considered by the Board.

(c) In cases tried prior to the tenure of the present office holders [~~office-holders~~], the recommendation of persons holding such offices at the time [~~of the trial of~~] the case was tried may be used to [~~bolster and~~] support the recommendation of the current trial officials, if in compliance with the requirements of subsection (d) of this section.

(d) Each [~~The requirements of a recommendation of the current~~] trial official's recommendation [~~official~~] for commutation of sentence must include the following:

(1) a statement that the penalty now appears to be excessive;

(2) a recommendation of a definite term now considered by the officials as just and proper; and

(3) a statement of the reasons for the recommendation based upon facts directly related to the case which were [~~facts of the cases and~~] in existence, but not available to, the court or jury at the time of the trial, or a statutory change in penalty for the crime which would appear to make the original penalty excessive.

(e) If the offender is not confined in the TDCJ-CID, a certified copy of the judgment and sentence must be furnished.

§143.53. Commutation of Remainder of Jail Sentence [~~and/~~]or Fine after Reprieve.

The Board will consider recommending to the Governor a commutation of the remainder of the time left to serve on a jail sentence [~~and/~~]or commutation of fine after satisfactory completion of a reprieve of the jail sentence [~~and/~~]or fine.

§143.57. Commutation of Death Sentence to Lesser Penalty.

(a) The Board will consider recommending to the Governor a commutation of death sentence to a sentence of life imprisonment or the appropriate maximum penalty that can be imposed upon receipt of:

(1) a request from the majority of the trial officials of the court of conviction; or

(2) a written request of the offender or representative setting forth all grounds upon which the application is based, stating the full name of the offender, the county of conviction, and the execution date[~~, and contain the information outlined in §143.42(1) (6) of this chapter (relating to Reprieve Recommended by the Board)~~].

(b) Any such [~~The written~~] application [~~in behalf of an offender seeking a Board recommendation to the Governor of commutation of the death sentence to a lesser penalty~~] shall be submitted by electronic means or delivered to the Texas Board of Pardons and Paroles as published on the Board's website at https://www.tdcj.texas.gov/bpp/brd_locations/brd_locations.html and contain the following information: [~~addressed to the Texas Board of Pardons and Paroles and must be delivered to the Texas Board of Pardons and Paroles, Clemency Section, 8610 Shoal Creek Boulevard, Austin, Texas 78757, not later than the twenty-first calendar day before the day the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day.~~]

(1) the name of the applicant, execu tion number, together with any pertinent identifying information;

(2) identification of the applicant's agents, if any, who are presenting the application;

(3) certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date, if said information is not contained in the sentence;

(4) a brief statement of the offense for which the offender has been sentenced to death;

(5) a brief statement of the appellate history of the case, including its current status;

(6) a brief statement of the legal issues which have been raised during the judicial progress of the case;

(7) the requested length of duration of the reprieve, which shall be in increments of 30 days in accordance with the Governor's statutory authority to grant one 30-day reprieve, unless a different duration is requested upon the basis of the grounds for the application set forth pursuant to paragraph (8) of this section; and,

(8) all grounds upon the basis of which the reprieve is requested; provided that such grounds shall not call upon the Board to

decide technical questions of law which are properly presented via the judicial process.

(c) The written application on behalf of an offender seeking a Board recommendation to the Governor of commutation of the death sentence to a lesser penalty shall be addressed to the Texas Board of Pardons and Paroles and must be submitted by electronic means or delivered to the Board's Clemency Section, as published on the Board's website as published on the Board's website at https://www.tdcj.texas.gov/bpp/exec_clem/Contacting_Clemency.html, not later than the twenty-first calendar day before the day the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day.

(d) [~~(c)~~] All supplemental information not filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, must be submitted through the provisions pursuant to subsection (c) of this rule, [~~in writing and delivered to the Texas Board of Pardons and Paroles, Board's Clemency Section , 8610 Shoal Creek Boulevard, Austin, Texas 78757~~] not later than the fifteenth calendar day before the execution is scheduled. If the fifteenth calendar day before the execution is scheduled falls on a weekend or state observed holiday, all additional information including but not limited to amendments, addenda, supplements, or exhibits shall be delivered no [~~not~~] later than the next business day.

(e) [~~(d)~~] The application and any information electronically submitted or delivered [~~filed~~] with the application, including but not limited to amendments, addenda, supplements, or exhibits, must be provided by the applicant in the manner [~~an amount~~] determined by the Chair [~~Presiding Officer~~].

(f) Advocates for and against the death penalty, generally, and members of the general public may submit written information for the Board's consideration through the provisions pursuant to subsection (c) of this rule during regular business hours.

(g) [~~(e)~~] An offender seeking a Board recommendation to the Governor of commutation of the death sentence to a lesser penalty may request the opportunity to speak [~~an interview~~] with a member of the Board. Such request shall be included in the written application or any supplement filed therewith in accordance with this section.

(h) [~~(f)~~] Upon receipt of the [~~a~~] request [~~for an interview,~~] the Chair [~~Presiding Officer (Chair)~~] shall designate at least one member of the Board to be present or by videoconference [~~conduct the requested interview. Such interview shall occur~~] at the [~~confining unit of~~] TDCJ-CID confining unit. Attendance [~~at such interviews~~] shall be limited to the offender, the designated Board Member(s), Board staff, and TDCJ-CID staff. When considering the offender's application for commutation of the death sentence to a lesser penalty, the [~~The~~] Board may consider statements made by the offender [~~at such interviews~~] and any other materials the offender delivers to the Board Member [~~during the interview when considering the offender's application for commutation of the death sentence to a lesser penalty~~].

(i) [~~(g)~~] The Board shall consider and decide applications for commutation of the death sentence to a lesser penalty. Upon review, a majority of the Board, or a majority thereof, in written and signed form, may:

(1) recommend to the Governor the commutation of the death sentence to a lesser penalty;

(2) not recommend commutation of the death sentence to a lesser penalty; or

(3) set the matter for a hearing pursuant to §143.43 of this chapter (relating to Procedure in Capital Reprieve Cases).

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. REMISSION OF FINES AND FORFEITURES

37 TAC §143.71, §143.73

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter F, §143.71 and §143.73 concerning remission of fines and forfeitures. The amendments proposed are to promote simplicity and clarity.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommenda-

tions to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.71. Remission of Fine.

(a) The Board will consider a written application to remit a fine upon the [~~majority~~] written recommendation of a majority of the trial officials.[~~, said~~] Each recommendation is to be furnished upon the official letterhead of each trial official.

(b) The Board will [~~also~~] consider a written application to remit a fine[~~, only~~] for medical necessity [~~reasons~~], [~~or reasons of~~] financial hardship (loss of home or business, or the lack of support for family) or other compelling hardships only upon receipt in writing of the following information:

(1) a request to remit a fine(s) clearly stating the medical reason for the application:

(A) a certified copy of the judgment and sentence for each cause for which the applicant is presently confined;

(B) a statement from the attending physician indicating the applicant's medical condition [~~of the applicant~~] and medical treatment recommended;

(C) a clear statement of financial responsibility for hospitalization or other treatment; and

(D) the written recommendation of a majority of the trial officials that the fine be remitted to be furnished only on official letterhead of each official; or[~~.~~]

(2) a request to remit a fine(s) clearly stating the nature of the financial hardship or other hardship for the application:

(A) a certified copy of the judgment and sentence for each cause for which the applicant is presently confined; and

(B) if applicable, a written statement from the prospective employer stating the nature of employment offer and whether or not the employment offered will be permanent, if duties are performed satisfactorily.[~~; and~~]

[~~(C) the recommendation of a majority of the trial officials that the fine be remitted to be furnished only on official letterhead of each official.~~]

§143.73. Remission of Bond Forfeiture.

The Board will consider recommending to the Governor remission of bond forfeiture upon receipt of:

(1) a written majority recommendation of the trial officials and the commissioner's court in the county of forfeiture to be furnished upon official letterhead of each official; or

(2) a written application accompanied by the following:

(A) a letter setting out the necessity for the executive clemency;

(B) a certified copy of the final judgment of forfeiture;

(C) letters from a majority of the trial officials on official letterhead stating whether they are favorable or unfavorable towards [~~setting out their attitude toward~~] remitting the bond forfeiture;

(D) a recommendation of the commissioner's court of the county in which final judgment of forfeiture was entered, by certified copy of the court's order or on the official letterhead of the court or county judge;

(E) a sworn statement as to whether or not either of the sureties received a fee for making the bond or bail involved in this application; whether or not they are then, or have been in the past, engaged in making bail or appearance bonds for a fee or any consideration of value;

(F) a summary statement of the amount of assets and liabilities of the applicant, or applicants;

(G) a statement from the sheriff or county treasurer as to whether or not the judgment or any part thereof has been paid or satisfied in any manner on official letterhead of the appropriate official; and

(H) a statement, verified by the sheriff of the county of conviction, as to whether or not the principal is in custody, or has been tried for the criminal offense subsequent to his failure to appear.

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. RESTORATION OF DRIVER'S LICENSE

37 TAC §143.82

The Texas Board of Pardons and Paroles (Board) proposes amendments to Texas Administrative Code, Title 37, Part 5, Chapter 143, Subchapter G, §143.82 concerning restoration of driver's license. The amendments proposed are to promote simplicity and clarity.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small busi-

nesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.82. Subsequent Requirements.

Upon making a preliminary determination to recommend to the Governor the restoration of a driver's or commercial operator's license, the Board will require from the applicant or the applicant's representative [~~person acting for him~~], certified copies of all judgments which resulted in the revocation or suspension of the license[~~; or if the suspension or revocation resulted from administrative action by the Texas Department of Public Safety, a copy of the final departmental order of suspension is required~~]. No further action will be taken by the Board prior to receipt of the required judgment(s) or order.

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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CHAPTER 145. PAROLE
SUBCHAPTER A. PAROLE PROCESS

37 TAC §§145.1 - 145.3, 145.12, 145.13, 145.15, 145.17, 145.18, 145.20

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 145, §§145.1 - 145.3, 145.12, 145.13, 145.15, 145.17, 145.18, and 145.20 concerning parole process. The amendments are proposed to incorporate the new statutory language from Senate Bill 1506 89th Legislative Session regarding the reconsideration of parole after the first anniversary date of denial; and to promote simplicity and clarity.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be to reduce the number of times victims will be notified of the parole panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rule as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the agency; lead to an increase or decrease in the fees paid to the department, create new regulations; expand, limit or repeal existing regulations; increase or decrease the number of individuals subject to the rule's applicability, or positively or adversely affect this state's economy.

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

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

§145.1. Parole Decision-Maker.

(a) Unless otherwise provided, parole decisions shall be made by two-thirds vote of a parole panel. The Board is the parole release decision-maker of any offender [~~persons~~] convicted of or serving a sentence for a capital felony, other than a life sentence, or a capital felony with a life sentence, [~~offense~~] who is [~~are~~] eligible for parole, or an offense under Sections 20A.03, 21.02, 21.11(a)(1), and 22.021, Penal Code, or who is [~~are~~] required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible for parole review. In these cases, the Board may grant parole only upon a two-thirds [~~two thirds~~] vote. [~~The Board is not required to meet as a body to perform this duty.~~]

(b) In all other matters of parole and mandatory supervision and revocation of parole and mandatory supervision, three-member parole panels are parole decision makers. A parole panel may consider any eligible offender for release and, upon a majority vote of the panel, may approve or deny release to supervision. If a majority of the panel does not concur, the case is forwarded to a panel, designated by the Presiding Officer (Chair), to revote. The members of a parole panel are not required to meet as a body to perform these decision-making duties.

§145.2. Standard Parole Guidelines.

(a) Parole panels are vested with complete discretion in making parole decisions to accomplish the mandatory duties found in Chapter 508, Government Code.

(b) Parole guidelines have been adopted by the Board to assist parole panels in the selection of possible candidates for release. Parole guidelines are applied as a basis, but not as the exclusive criteria, upon which parole panels base release decisions.

(1) The parole guidelines consist of a risk assessment instrument and an offense severity scale. Combined, these components serve as an instrument to guide parole release decisions.

(2) The risk assessment instrument includes two sets of components, static and dynamic factors.

[(A) Static factors include:]

[(i) Age at first admission to a juvenile or adult correctional facility;]

[(ii) History of supervisory release revocations for felony offenses;]

[(iii) Prior incarcerations;]

[(iv) Employment history; and]

[(v) The commitment offense.]

[(B) Dynamic factors include:]

[(i) The offender's current age;]

[(ii) Whether the offender is a confirmed security threat group (gang) member;]

[(iii) Education, vocational and certified on-the-job training programs completed during the present incarceration;]

[(iv) Prison disciplinary conduct; and]

[(v) Current prison custody level.]

[(3) Scores from the risk assessment instrument are combined with an offense severity rating for the sentenced offense of record to determine a parole candidate's guidelines level.]

(c) The adoption and use of the parole guidelines do not imply the creation of any parole release formula, or a right or expectation by an offender to parole based upon the guidelines. The risk assessment instrument and the offense severity scale, while utilized for research and reporting, are not to be construed so as to mandate either a favorable or unfavorable parole decision. The parole guidelines serve as an aid in the parole decision process and the parole decision shall be at the discretion of the Board and the voting parole panel.

[(d) The Board is authorized to revise the parole guidelines as warranted.]

§145.3. Policy Statements Relating to Parole Release Decisions by the Board of Pardons and Paroles.

To aid the Board in its analysis and research of parole release, the Board adopts the following policies.

(1) Release to parole is a privilege, not an offender right, and the parole decision maker is vested with complete discretion to grant, or to deny parole release as defined by statutory law.

(A) Candidates for parole are evaluated on an individual basis.

(B) There are no mandatory rules or guidelines that must be followed in every case because each offender is unique. The Board and Parole Commissioners have the statutory duty to make release decisions, which are only in the best interest of society. The Board and parole panels use parole guidelines as a tool to aid in the discretionary parole decision process.

(2) The Board shall consider factors set forth in Gov't Code 508.141 (g1)(1-3) when reconsidering an offender [will reconsider for release an offender who is serving a sentence under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, as soon as practicable after the first anniversary of the date of denial.].

[(3) The Board will reconsider an offender for release after the first anniversary date of the denial and end before the fifth anniversary date of the denial.]

[(4) The Board will reconsider for release an offender who is serving a sentence for an offense under Section 22.021, Penal Code; or serving a life sentence for a capital felony, who is eligible for parole, after the first anniversary of the date of the denial and before the 10th anniversary of the date of denial.]

(3) [(5)] An offender will be considered for parole when eligible and when the offender meets the following criteria with regard to behavior during incarceration.

(A) Other than on initial parole eligibility, the offender must not have had a major disciplinary misconduct report in the six-month period prior to the date he is reviewed for parole, which has resulted in loss of good conduct time or reduction to a classification status below that assigned during that offender's initial entry into the TDCJ-CID.

(B) Other than on initial parole eligibility, at the time he is reviewed for parole the person must be classified in the same or higher time earning classification assigned during that person's initial entry into TDCJ-CID.

(C) If any offender who has received an affirmative vote to parole and following the vote, notification is received that the offender has been reduced below initial classification status or has lost good conduct time, the parole decision will be reviewed and revoted by the parole panel that rendered the decision.

(D) A person who has been revoked and returned to custody for a violation of the conditions of release to parole or mandatory supervision will be considered for release to parole or mandatory supervision when eligible.

(E) An offender who is otherwise eligible for parole and who has charges pending alleging a felony offense committed while in the TDCJ, any facility under its supervision, or a facility under contract with the TDCJ, and for which a complaint has been filed with a magistrate of the State of Texas, will not be considered for release to parole.

(F) An offender who is otherwise eligible for release and meets the criteria for Medically Recommended Intensive Supervision (MRIS) as required by Section 508.146, Government Code may be considered for release on parole.

(4) A parole panel may not consider an offender's legal or appellate filings when making parole, discretionary mandatory supervision, or revocation decisions.

(5) [(6)] [Any consideration by a Board Member or Parole Commissioner of an offender's litigation activities when determining an offender's candidacy for parole is strictly prohibited. No offender will be denied the opportunity to present to the judiciary, including appellate courts, his or her allegations concerning violations of fundamental constitutional rights. Any consideration of such legal activity

during the parole review, supervision or revocation process is a violation of Board policy. In the event parole is denied in violation of this section, the offender may pursue a remedy under the special review provisions of §145.17 of this title (relating to Action upon Special Review--Release Denied).] In the event parole or mandatory supervision is revoked in violation of this section, the offender may pursue a remedy under the motion to reopen hearing provisions of §146.11 of this title (relating to Releasee's Motion to Reopen Hearing or Reinstate Supervision).

§145.12. Action upon Review.

A case reviewed by a parole panel for parole consideration may be:

(1) deferred for request and receipt of further information;

(2) denied a favorable parole action at this time and set for review on a future specific month and year (Set-Off).

(A) The next review date (Month/Year) [for an offender serving a sentence listed in Section 508.149(a), Government Code, or serving a sentence for second or third degree felony under Section 22.04, Penal Code] may be set at any date [of] after the first anniversary of the date of denial and [end] before the fifth anniversary of the date of denial; or

(B) If the offender is serving a sentence under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, the next review date (Month/Year) shall [may] begin as soon as practicable after the first anniversary of the date of denial.[; or]

[(C) If the offender is serving a sentence for an offense under Section 22.021, Penal Code, or a life sentence for a capital felony, the next review date begins after the first anniversary of the date of the denial and before the 10th anniversary of the date of the denial.]

(3) denied parole and ordered serve all, but in no event shall this be utilized if the offender's projected release date is greater than five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code. [for offenders serving sentences listed in Section 508.149(a), Government Code, or serving a sentence for second or third degree felony under Section 22.04 Penal Code; or greater than one year for offenders not serving sentences listed in Section 508.149(a), Government Code.] If the serve-all date in effect on the date of the panel decision is extended by more than 180 days, the case shall be placed in regular parole review;

(4) ordered for further investigation (FI) if it is determined that [the totality of] the circumstances favor the offender's release on parole, [further investigation (FI) is ordered with the following available voting options;] and impose all conditions of parole or release to mandatory supervision that the parole panel is required or authorized by law to impose. The following table contains the available voting options for the parole panel: [as a condition of parole or release to mandatory supervision;]

Figure: 37 TAC §145.12(4)

[(A) FI-1--Release the offender when eligible;]

[(B) FI-2 (Month/Year)--Release on a specified future date;]

[(C) FI-3 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion;]

[(D) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);]

[(E) FI-5--Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program;]

[(F) FI-6--Transfer to a TDCJ DWI Program. Release to continuum of care program as required by paragraph (5) of this section;]

[(G) FI-6 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six (6) months from specified date. Such TDCJ program may include the Pre-Release Therapeutic Community (PRTC), Pre-Release Substance Abuse Program (PRSAP), or In-Prison Therapeutic Community Program, or any other approved program;]

[(H) FI-7 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven (7) months from the specified date. Such TDCJ program shall be the Serious and Violent Offender Reentry Initiative (SVORI);]

[(I) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9);]

[(J) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-18);]

(5) any person released to parole after completing a TDCJ rehabilitation program as a prerequisite for parole, must participate in and complete any required post-release program. A parole panel shall require as a condition of release on parole or release to mandatory supervision that an offender who immediately before release is a participant in the program established under Section 501.0931, Government Code, participate as a releasee in a drug or alcohol abuse continuum of care treatment program; or

(6) any offender receiving an FI vote, as listed in paragraph (4)[(A) - (J)] of this section, shall be placed in a parole-approved program consistent with the vote. If treatment program managers recommend a different program for an offender, a transmittal shall be forwarded to the parole panel requesting approval to place the offender in a different program.

§145.13. Action upon Review; Consecutive (Cumulative) Felony Sentencing.

(a) This section applies only to an offender sentenced to serve consecutive sentences if each sentence in the series is for an offense committed on or after September 1, 1987.

(b) A parole panel shall review for parole consideration consecutive felony sentencing cases as determined and in the sequence submitted by the TDCJ.

[(c)] If the case under parole consideration is a pre-final consecutive felony sentencing case, the parole panel may[:]

[(1)] defer for request and receipt of further information. The following table contains the available voting options for the Board.[;]

Figure: 37 TAC §145.13(b)

[(2) vote CU/FI (Month/Year Cause Number), designate the date on which the offender would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This date shall be within a three-year incarceration period following the panel decision; or]

[(3) vote CU/NR (Month/Year Cause Number), deny favorable parole action. The next review date (month/year) may be set at any date in the five-year incarceration period following the panel decision date, but in no event shall it be less than one (1) calendar from the panel decision date; or]

[(4) vote CU/NR (Month/Year Cause Number), deny favorable parole action. If the offender is serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, begin as soon as practicable after the first anniversary of the denial; or]

[(5) vote CU/SA (Month/Year Cause Number): deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over five (5) years from the date of the panel decision. Deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over one (1) year from the date of the panel decision.]

(c) [(d)] If the case under parole consideration is the last and final in a series of consecutive felony sentencing cases, the case shall be reviewed under §145.12 of this title (relating to Action upon Review).

(d) [(e)] When a parole panel reviews for parole consideration a consecutive felony sentencing case, the parole panel shall indicate the Cause Number of the consecutive felony sentencing case it is considering.

§145.15. Action upon Review; Extraordinary Vote [(SB 45)].

(a) This section applies to any offender convicted of or serving a sentence for a capital felony, other than a life sentence, or a capital felony with a life sentence, who is eligible for parole, or an offense under Sections 20A.03, 21.02, [or] 21.11(a)(1), or 22.021, Penal Code, or who is required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible for parole review. All Board members [of the Board] shall vote on the release of an eligible offender. At least two thirds of the members must vote favorably to release [for] the offender on [to be released to] parole. [Members of the] Board members shall not vote until they have received [receive] and reviewed [review] a [copy of a] written report from the department regarding [on] the probability that [of] the offender will commit [committing] an offense if [after being] released.

(1) Use [Upon review, use] of the full range of voting options is ineffective in [not conducive to] determining whether two-thirds of the Board consider [considers] the offender ready for release to parole.

(2) If [it is determined] circumstances favor the offender's release to parole, the following table lists the Board's available [Board has the following] voting options [available]:
Figure: 37 TAC §145.15(a)(2)

[(A) FI-1--Release the offender when eligible;]

[(B) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);]

[(C) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9); or]

[(D) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than eighteen months from the specified date. Such TDCJ program may include the Sex Offender Treatment Program (SOTP-18. In no event shall the specified date be set more than three (3) years from the current panel decision date.]

(3) If [it is determined that] circumstances do not support a favorable action upon review, the following table lists the Board's available voting options [are available]:
Figure: 37 TAC §145.15(a)(3)

[(A) NR (Month/Year)--Deny release and set the next review date for 36 or 60 months following the panel decision date; or]

[(B) SA--The offender's minimum or maximum expiration date is less than 60 months away. The offender will continue to serve their sentence until that date.]

(b) If the offender is sentenced to serve consecutive sentences and each sentence in the series is for an offense committed on or after September 1, 1987, the following table lists the Board's available voting options [are available to the Board panel]:
Figure: 37 TAC §145.15(b)

[(1) CU/FI (Month/Year-Cause Number)--A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence;]

[(2) CU/NR (Month/Year-Cause Number)- Deny release and set the next review date for 36 or 60 months following the panel decision date; or]

[(3) CU/SA (Month/Year-Cause Number)- Deny release and order serve-all if the offender is within 60 months of their maximum expiration date.]

(c) Some offenders are eligible for consideration for release to Discretionary Mandatory Supervision if the sentence is for an offense committed on or after September 1, 1996. Before [Prior to] the offender reaches [reaching] the projected release date, the voting options are the same as those listed in subsection (a)(2) and (3) [subsections (a) and (b)] of this section. If the TDCJ-CID determines [that release of] the offender [will occur because the offender] will be released upon reaching [reach] the projected release date, the case shall be referred to a three-member parole panel within 30 days of the offender's projected release date for consideration for release to mandatory supervision. The following table lists the Board's available voting [using the following] options:
Figure: 37 TAC §145.15(c)

[(1) RMS--Release to mandatory supervision; or]

[(2) DMS (Month/Year)--Deny release to mandatory supervision and set for review on a future specific month and year. The next mandatory supervision review date shall be set one (1) year from the panel decision date.]

[(d) The MRIS panel shall review identified offenders' cases that meet MRIS criteria established by statute and defined by TCOOMMI.]

[(1) The MRIS panel shall determine whether the identified offender constitutes a threat to public safety.]

[(2) The MRIS panel shall consider the following factors when making their determination:]

[(A) Criminal History.]

[(B) Disciplinary, behavioral, rehabilitative, and medical compliance.]

[(C) Victim/Trial Official information.]

[(D) Nature and onset of medical condition.]

[(E) Required medical treatment and care.]

[(F) Individual diagnosis to include likelihood of recovery.]

[(G) Any other relevant information.]

[(3) The MRIS panel shall use one of the following options:]

[(A) Approve MRIS--The MRIS panel shall provide appropriate reasons for the decision to approve MRIS. The MRIS panel shall vote F1-1 and impose special condition "O.35".- "This condition specifies that the offender shall comply with the terms and conditions of the MRIS program and abide the TCOOMMI-approved release plan. At any time this condition is in effect, an offender shall remain under the care of a physician and in a medically suitable placement or]

[(B) Deny MRIS--The MRIS panel shall provide appropriate reasons for the decision to deny MRIS.]

[(4) The decision to approve release to MRIS for an identified offender remains in effect until specifically withdrawn by a MRIS panel or the identified offender's status is revoked and returned to TDCJ-CID.]

[(5) When the Parole Division determines the MRIS offender's medical condition has improved such that the offender is no longer MRIS eligible, and the original parole eligibility date (PED) has been met, the MRIS panel may:]

[(A) withdraw the MRIS special condition, or]

[(B) continue the MRIS condition in effect; or]

[(C) impose any other condition the MRIS panel deems appropriate.]

[(6) If the MRIS offender violates their conditions of release that result in the issuance of a pre-revocation warrant, the MRIS offender shall adhere to the established pre-revocation process. However, the final determination of the MRIS offender shall be addressed by the MRIS panel.]

[(7) The MRIS panel shall endeavor to complete the voting of each terminally ill offender referral within 10 business days of receipt from TCOOMMI and all other referrals within 20 business days.]

[(e) If a request for a special review meets the criteria set forth in §145.17(f) of this title (relating to Action upon Special Review- Release Denied), the offender's case shall be sent to the special review panel.]

[(1) The special review panel may take action as set forth in §145.17(i) of this title.]

[(2) When the special review panel decides the offender's case warrants a special review, the case shall be re-voted by the full Board. The Presiding Officer shall determine the order of the voting panel. Voting options are the same as those in subsections (a) - (e) of this section.]

§145.17. Action upon Special Review--Release Denied.

(a) This rule provides a forum for receipt and consideration of information not previously available to the parole panel where the decision of the panel was to deny release to parole or mandatory supervision. If the denial decision was based upon erroneous information or an administrative [file] processing error, this rule does not apply.

(b) Requests for special review shall apply only to cases reviewed for release to parole or mandatory supervision where the decision of the parole panel was to deny release to parole or mandatory supervision.

(c) All requests for special review shall be in writing and signed by the offender, his or her attorney, or in cases where the offender is unable to sign due to a mental or physical impairment, by a person acting on his or her behalf.

(d) All requests for special review shall be submitted by electronic means or delivered to [filed with] the Texas Board of Pardons and Paroles as published on the Board's website [, Board Administrator, 8610 Shoal Creek Blvd., Austin, Texas 78757].

(e) The request that meets the criteria [Board Administrator] shall be referred [refer] to the special review parole panel. [only those requests for special review which meet the criteria set forth herein.]

(f) Requests for special review shall be considered in the following circumstances:

(1) a written request on behalf of an offender is received which cites information not previously available to the parole panel as defined in subsection (g) of this rule; or

(2) a parole panel denied release to parole or mandatory supervision and a parole panel member who voted with the majority on that panel desires to have the decision reconsidered prior to the next review (NR) date; or

(3) if both parole panel members who voted with the majority are no longer active Board Members or Parole Commissioners, the Presiding Officer [Chair] places the case in the special review process to be reconsidered prior to the NR date.

(g) Definitions. In this section:

(1) Information not previously available means [shall mean] only:

(A) [(1)] responses from trial officials and victims;

(B) [(2)] a change in an offender's sentence and judgment; or

(C) [(3)] an allegation that the parole panel has committed an error of law or Board rule;[.]

(2) [(h)] Erroneous information means [shall mean] information provided to the parole panel during the review process that may have been utilized as a basis for denial but is later determined to be inaccurate; and [.]

(3) [(i)] Administrative processing error means [shall mean] an action during the processing of an offender's file that [which] results in the omission of or the recording of inaccurate information with respect to voting, denial reasons, or NR dates.

(h) [(j)] A special review parole panel, other than the current voting panel, shall decide and exercise final action on such requests for special review.

(i) [(k)] Upon considering a case for special review, the special review parole panel may take the following action:

(1) defer for request and receipt of further information;

(2) vote remain set; or

(3) revote the case in accordance with applicable provisions of Subchapter A of this chapter (relating to Parole Process).

(j) [(l)] The special review parole panel shall not set an offender's NR date on a date later than the previous NR date.

§145.18. Medically Recommended Intensive Supervision (MRIS) [Action upon Review; Extraordinary Vote (HB 1914)].

(a) An inmate, other than an inmate who is serving a sentence of death or life without parole or an inmate who is not a citizen of the United States, defined by federal law, may be released on MRIS.

[(a) This section applies to any offender convicted of or serving a sentence for a capital felony with a life sentence, who is eligible for parole, or convicted of or serving sentence for an offense under Section 22.021, Penal Code. All members of the Board shall vote on the release of an eligible offender. At least two-thirds of the members must vote favorably for the offender to be released to parole. Members of the Board shall not vote until they receive and review a copy of a written report from the TDCJ on the probability of the offender committing an offense after being released.]

[(1) Upon review, use of the full range of voting options is not conducive to determining whether two-thirds of the Board considers the offender ready for release to parole.]

[(2) If it is determined that circumstances favor the offender's release to parole the Board has the following voting options available:]

[(A) FI-1--Release the offender when eligible;]

[(B) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);]

[(C) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9); or]

[(D) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than eighteen months from the specified date. Such TDCJ program may include the Sex Offender Treatment Program (SOTP-18). In no event shall the specified date be set more than three (3) years from the current panel decision date.]

[(3) If it is determined that circumstances do not support a favorable action upon review, the following options are available:]

[(A) NR (Month/Year)--Deny release and set the next review date for 36, 60, 84 or 120 months following the panel decision date; or]

[(B) SA--The offender's minimum or maximum expiration date is less than 120 months away. The offender will continue to serve their sentence until that date.]

[(b) If the offender is sentenced to serve consecutive sentences and each sentence in the series is for an offense committed on or after September 1, 1987, the following voting options are available to the Board panel:]

[(1) CU/FI (Month/Year-Cause Number)--A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence;]

[(2) CU/NR (Month/Year-Cause Number)-- Deny release and set the next review date for 60, 84 or 120 months following the panel decision date; or]

[(3) CU/SA (Month/Year-Cause Number)-- Deny release and order serve-all if the offender is within 120 months of their maximum expiration date.]

[(c) Some offenders are eligible for consideration for release to Discretionary Mandatory Supervision if the sentence is for an offense committed on or after September 1, 1996. Prior to the offender reaching the projected release date, the voting options are the same as those listed in subsections (a) and (b) of this section. If the TDCJ-CID determines that release of the offender will occur because the offender will reach the projected release date, the case shall be referred to a three-member parole panel within 30 days of the offender's projected release date for consideration for release to mandatory supervision using the following options:]

[(1) RMS--Release to mandatory supervision; or]

[(2) DMS (Month/Year)--Deny release to mandatory supervision and set for review on a future specific month and year. The next mandatory supervision review date shall be set one year from the panel decision date.]

(b) [(d)] The MRIS panel shall review identified offenders' cases that meet MRIS criteria established by statute and identified [defined] by TCOOMMI.

(1) The MRIS panel shall determine whether the TCOOMMI identified offender constitutes a threat to public safety after[.]

[(2)] considering [The MRIS panel shall consider] the following factors [when making their determination]:

(A) Criminal History;[.]

(B) Disciplinary, behavioral, rehabilitative, and medical compliance;[.]

(C) Victim/Trial Official information;[.]

(D) Nature and onset of medical condition;[.]

(E) Required medical treatment and care;[.]

(F) Individual diagnosis to include likelihood of recovery; and[.]

(G) Any other relevant information.

(2) [(3)] The [MRIS panel shall use one of the] following table lists the available voting options for the MRIS panel:
Figure: 37 TAC §145.18(b)(2)

[(A) Approve MRIS--The MRIS panel shall provide appropriate reasons for the decision to approve MRIS. The MRIS panel shall vote F1-1 and impose special condition "O.35".- "This condition specifies that the offender shall comply with the terms and conditions of the MRIS program and abide by TCOOMMI-approved release plan. At any time this condition is in effect, an offender shall remain under the care of a physician and in a medically suitable placement or]

[(B) Deny MRIS--The MRIS panel shall provide appropriate reasons for the decision to deny MRIS].

[(4) The decision to approve release to MRIS for an identified offender remains in effect until specifically withdrawn by a MRIS panel or the identified offenders' status is revoked and returned to TDCJ-CID.]

[(5) When the Parole Division determines the MRIS offender's medical condition has improved such that the offender is no

~~longer MRIS eligible, and the original parole eligibility date (PED) has been met, the MRIS panel may:~~]

[~~(A) withdraw the MRIS special condition, or~~]

[~~(B) continue the MRIS condition in effect; or~~]

[~~(C) impose any other condition the MRIS panel deems appropriate.~~]

[~~(6) If the MRIS offender violates their conditions of release that result in the issuance of a pre-revocation warrant, the MRIS offender shall adhere to the established pre-revocation process. However, the final determination of the MRIS offender shall be addressed by the MRIS panel.~~]

[~~(7) The MRIS panel shall endeavor to complete the voting of each terminally ill offender referral within 10 business days of receipt from TCOOMMI and all other referrals within 20 business days.~~]

[~~(e) If a request for a special review meets the criteria set forth in §145.17(f) of this title (relating to Action upon Special Review--Release Denied), the offender's case shall be sent to the special review panel.~~]

[~~(1) The special review panel may take action as set forth in §145.17(i) of this title.~~]

[~~(2) When the special review panel decides the offender's case warrants a special review, the case shall be re-voted by the full Board. The Presiding Officer shall determine the order of the voting panel. Voting options are the same as those in subsections (a) - (c) of this section.~~]

§145.20. Parole Certificate.

(a) When the parole plan has been approved, a parole certificate shall be issued and signed with a digital [~~facsimile~~] signature of the Chair.

(b) The parole approval is not effective or final until a formal parole agreement is executed by the offender. The approval may be withdrawn by a parole panel at any time prior to the acceptance and execution by the offender of the formal parole agreement(s) which is contained in the parole certificate.

(c) The parole certificate shall not become effective and in force until the conditions are agreed to, signed, and accepted by the offender.

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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Texas Board of Pardons and Paroles
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 406-5309

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SUBCHAPTER B. TERMS AND CONDITIONS OF PAROLE

37 TAC §145.22

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 145, §145.22, Subchapter B, concerning terms and conditions of parole. The amendments are proposed to consolidate rules and to promote simplicity and clarity.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be to reduce the number of times victims will be notified of the parole panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rule as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the agency; lead to an increase or decrease in the fees paid to the department, create new regulations; expand, limit or repeal existing regulations; increase or decrease the number of individuals subject to the rule's applicability, or positively or adversely affect this state's economy.

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

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

§145.22. Conditions and Rules of Parole.

(a) Every offender approved for release on parole shall be issued a written statement listing the conditions and rules of parole in clear and intelligible language. The conditions and rules of parole must be agreed to and accepted by the offender prior to release. The offender may have additional conditions imposed by the parole panel after release, and shall be notified in writing of any such conditions.

(b) Continuance on parole is conditioned upon full compliance with all the conditions and rules of parole as imposed by the parole panel.

(c) The parole panel shall not impose as a condition for release to parole that the offender be released only to a state other than the State of Texas.

(d) Texas offenders accepted for supervision in other states and offenders accepted in Texas for supervision by the Division under the terms of the Interstate Parole Compact (Chapter 510, Government Code) are required to abide by the rules of parole for both the sending and the receiving state.

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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Richard Gamboa
Technical Writer III
Texas Board of Pardons and Paroles
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37 TAC §145.23, §145.24

The Texas Board of Pardons and Paroles proposes the repeal to 37 TAC Chapter 145, §145.23 and §145.24, Subchapter B, concerning terms and conditions of parole. The proposed repeal is the result of a review that concluded the language of the two rules will be consolidated into another rule.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed repeals are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed repeals are in effect, the public benefit anticipated as a result of enforcing the repeals will be to reduce the number of times victims will be notified of the parole panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the repeals as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed repeals will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the agency; lead to an increase or decrease in the fees paid to the department, create new regulations; expand, limit or repeal existing regulations; increase or decrease the number of individuals subject to the rule's applicability, or positively or adversely affect this state's economy.

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The repeals are proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

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

§145.23. Texas Offenders Supervised in Other States.

§145.24. Out-of-State Offenders Supervised in Texas.

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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Richard Gamboa
Technical Writer III
Texas Board of Pardons and Paroles
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CHAPTER 149. MANDATORY SUPERVISION
SUBCHAPTER B. SELECTION FOR MANDATORY SUPERVISION

37 TAC §149.16

The Texas Board of Pardons and Paroles proposed amendments to 37 TAC Chapter 149, Subchapter B, §149.16, Mandatory Release Certificate. The amendments to §149.16 are proposed to conform with protocol and provide for clarity and simplicity.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to this section will be to promote consistency and uniformity in the Board's rules. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under §§508.036(b), 508.0441, 508.045, 508.141 and 508.149, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings.

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

§149.16. Mandatory Release Certificate.

(a) When a mandatory release plan has been approved, a mandatory release certificate shall be issued and signed with a digital [~~facsimile~~] signature of the Chair.

(b) The approval of discretionary mandatory supervision may be withdrawn by the parole panel prior to the release of the offender.

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 August 21, 2026.

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Richard Gamboa
Technical Writer III
Texas Board of Pardons and Paroles
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For further information, please call: (512) 406-5309

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CHAPTER 150. MEMORANDUM OF UNDERSTANDING AND BOARD POLICY STATEMENTS

SUBCHAPTER A. PUBLISHED POLICIES OF THE BOARD

37 TAC §150.55

The Texas Board of Pardons and Paroles proposed amendments to 37 TAC Chapter 150, Subchapter A, §150.55 concerning Conflict of Interest Policy. The amendments to §150.55 are proposed to provide edits for clarity and simplicity.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to this section will be to promote consistency and uniformity in the Board's rules. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under Subtitle B, Ethics, Chapter 572 and Sections §§508.0441 and 508.035, Government Code. Subtitle B, Ethics, Chapter 572 is the ethics policy of this state for state officers or state employees. Section 508.0441 requires the Board to implement a policy which, clearly defines under what circumstances a Board member or parole commissioner should disqualify themselves on parole or mandatory supervision decisions. Section 508.035, Government Code requires the Presiding Officer to establish policies and procedures to further the efficient administration of the business of the Board.

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

§150.55. Conflict of Interest Policy.

(a) Section 1--Policy.

(1) It is the policy of the Board that no Board Member or Parole Commissioner shall have any interest, financial or otherwise, direct or indirect; or engage in any business transaction or professional activity or incur any obligation of any nature that is in substantial conflict with the proper discharge of their duties in the public interest. In implementing this policy, they are provided the following standards of conduct, disclosure, and disqualification to be observed in the performance of their official duties.

(2) A Board Member or Parole Commissioner shall respect and comply with the law and not allow their family, social, or other relationships to influence their conduct, decisions, or judgment.

(b) Section 2--Disclosure.

(1) A Board Member or Parole Commissioner shall submit generally, and on a case-by-case basis, written notice to the Presiding Officer (Chair) of any substantial interest held by the Board Member

or Parole Commissioner in a business entity doing business with the Board of Criminal Justice, TDCJ, or the Board.

(2) A Board Member or Parole Commissioner having a personal or private interest in any measure, proposal, or decision pending before the Board (including parole and discretionary mandatory supervision release decisions) shall immediately notify the Chair in writing of such interest. The Chair shall publicly disclose the Board Member's or Parole Commissioner's interest to the Board in a meeting of the Board. The Board Member or Parole Commissioner shall not vote or otherwise participate in the decision. The disclosure shall be entered into the minutes or official record of the meeting.

(3) A Board Member or Parole Commissioner shall consider the possibility that they have a conflict of interest before making any decision or vote.

(4) If a Board Member or Parole Commissioner is uncertain whether any part of the conflict-of-interest policy applies to them in a specific matter, they shall request the General Counsel of the Board to determine whether a disqualifying conflict of interest exists.

(c) Section 3--Standards of Conduct.

(1) No Board Member or Parole Commissioner shall accept or solicit any gift, favor, or service that may reasonably tend to influence them in the discharge of their official duties or that they know or should know is being offered with the intent to influence their official conduct.

(2) No Board Member or Parole Commissioner shall accept employment or engage in any business or professional activity which they might reasonably expect would require or induce them to disclose confidential information acquired by reason of their official position.

(3) No Board Member or Parole Commissioner shall accept other employment or compensation that could reasonably be expected to impair their independence of judgment in the performance of their official duties.

(4) No Board Member or Parole Commissioner shall make personal investments that could reasonably be expected to create a substantial conflict between their private interest and the public interest.

(5) No Board Member or Parole Commissioner shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised their official powers or performed their official duties in favor of another.

(d) Section 4--Recusal and Disqualification.

(1) Recusal. A Board Member shall recuse themself from voting on all clemency matters, and a Board Member or Parole Commissioner shall recuse themself from voting on all decisions to release on parole or discretionary mandatory supervision, and decisions to continue, modify, or revoke parole or mandatory supervision when:

(A) they know that individually or as a fiduciary, they have an interest in the subject matter before them; or

(B) the Board Member or Parole Commissioner or their spouse is related by affinity or consanguinity within the third degree to a person who is the subject of the decision before them.

(2) Disqualification. A Board Member shall disqualify themself from voting on all clemency matters, and a Board Member or Parole Commissioner shall disqualify themself from voting on all decisions to release on parole or discretionary mandatory supervision, and decisions to continue, modify, or revoke parole or mandatory supervision when:

(A) their impartiality might reasonably be questioned;

(B) they have a personal bias or prejudice concerning the subject matter or person in the decision before them; or

(C) they were a complainant, a material witness, or served as counsel for the state or the defense in the prosecution of the subject of the parole decision or revocation decision before them.

(e) Section 5--Documentation.

(1) A Board Member or Parole Commissioner shall notify the Chair and General Counsel in writing when they recuse or disqualify themself from voting;

(2) A Board Member or Parole Commissioner shall provide the specific reason for disqualification or recusal;

(3) A Board Member or Parole Commissioner shall document the recusal or disqualification on the minute sheet of the offender's file; and

(4) A Board Member or Parole Commissioner shall place the written notification in the offender's file.

(f) Any written notice, signature, or documentation required by this section, including notices to the Chair and General Counsel under subsection (e) of this section and entries on the minute sheet, may be provided or made by electronic means.

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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Richard Gamboa
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PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.219

The Texas Forensic Science Commission (Commission) proposes an amendment to rule 37 Texas Administrative Code §651.219, Code of Professional Responsibility to clarify that Section 651.219(b)(15) requiring licensed individuals to communicate honestly and fully with all parties including investigators, prosecutors, defense attorneys, and other expert witnesses, unless prohibited by law also applies to communications with the Commission. This amendment is necessary to reflect a rule proposal made by the Commission at its July 31, 2026 quarterly meeting.

Reasoned Justification for Rule Amendment. The rule amendment clarifies that a particular section of the Commission's Code of Professional Responsibility (§651.219(b)(15)) requires

licensed individuals to communicate honestly and fully with the Commission. The language of this section implied, but did not expressly state, that misrepresentations to the Commission could constitute a violation of the Code of Professional Responsibility. The rule change makes the requirement clear and unequivocal.

One-for-One Rule Requirement for Rules with a Fiscal Impact. Because Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that the rules do not have a fiscal impact that imposes a cost on a regulated person, including another state agency, a special district, or a local government, the agency is not required to take further action under Government Code § 2001.0045.

Fiscal Note. Ms. Tomlin has determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the amendment.

Rural Impact Statement. The Commission expects no adverse economic effect on rural communities as the proposed amendment does not impose any direct costs or fees on municipalities in rural communities.

Public Benefit/Cost Note. Ms. Tomlin has also determined that for each year of the first five years the proposed amendment is in effect, the anticipated public benefit is clarity as to the obligations of licensed individuals related their communications with parties expressly includes the Commission.

Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses. As required by the Government Code §2006.002(c) and (f), Ms. Tomlin has determined that the proposed amendment will not have an adverse economic effect on any small or micro business because the rule does not impose any economic costs to these businesses.

Takings Impact Assessment. Ms. Tomlin has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Environmental Rule Analysis. Ms. Tomlin has determined that the proposed rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that this proposed rule is not a "major environmental rule," as defined by Government Code § 2001.0225. As a result, the Commission asserts that the preparation of an environmental impact analysis, as provided by Government Code §2001.0225, is not required.

Government Growth Impact Statement. Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendment will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code 2001.221(b): (1) the proposed amendment does not create or eliminate a government program; (2) implementation of the proposed amendment does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed amendment does not increase or decrease future legislative appropriations to the agency; (4) the proposed amendment does not require a fee; (5) the proposed amendment does not create a new regulation; (6) the proposed amendment does not expand, limit, or repeal an existing regulation; (7) the proposed amendment does not increase the number of individuals subject to regulation; and (8) the proposed amendment has a neutral effect on the state's economy.

Requirement for Rule Increasing Costs to Regulated Persons. Ms. Tomlin has determined that there are no anticipated increased costs to regulated persons as the proposed amendment does not impose any fees or costs.

Public Comment. The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1700 North Congress Avenue, Suite 445, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by October 6, 2026 to be considered by the Commission.

Statutory Authority. The amendment is made in accordance with the Commission's licensing authority under Code of Criminal Procedure, Art. 38.01 §4-a, which provides that the Commission may establish qualifications for a forensic analyst license, and the Commission's rulemaking authority under Art. 38.01 §3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Art. 38.01.

Cross reference to statute. The proposal affects Code of Criminal Procedure, Article 38.01.

§651.219. Code of Professional Responsibility.

(a) Code of Professional Responsibility for Forensic Analysts, Forensic Technicians, and Crime Laboratory Management Subject to the Jurisdiction of the Texas Forensic Science Commission. The Code of Professional Responsibility ("Code") for forensic analysts, forensic technicians, and crime laboratory management defines a framework for promoting integrity and respect for the scientific process and encouraging transparency in forensic analysis. Forensic analysts, forensic technicians, and crime laboratory management subject to the Commission's jurisdiction are expected to abide by this Code in all forensic science-related professional activities regardless of the geographic location where the activities are performed. Because certain components of the Code are best suited to individual forensic analysts or technicians while others are best suited to crime laboratory management, the Code is divided into two sections.

(b) Each person licensed by the Commission shall:

(1) Accurately represent his/her education, training, experience, and areas of expertise.

(2) Commit to continuous learning in the forensic disciplines and stay abreast of new findings, equipment and techniques to maintain professional competency.

(3) Promote validation and incorporation of new technologies, guarding against the use of non-valid methods in casework and the misapplication of validated methods.

(4) Avoid tampering, adulteration, loss, or unnecessary consumption of evidentiary materials.

(5) Avoid participation in any case where there are personal, financial, employment-related or other conflicts of interest.

(6) Conduct thorough, fair and unbiased examinations, leading to independent, impartial, and objective opinions and conclusions.

(7) Make and retain full, contemporaneous, clear and accurate written records of all examinations and tests conducted and conclusions drawn, in sufficient detail to allow meaningful review and assessment by an independent person competent in the field.

(8) Base conclusions on procedures supported by sufficient data, standards and controls, not on political pressure or other outside influence.

(9) Not offer opinions or conclusions that are outside one's expertise.

(10) Prepare reports in clear terms, distinguishing data from interpretations and opinions, and disclosing any relevant limitations to guard against making invalid inferences or misleading the judge or jury.

(11) Not issue reports or other records, or withhold information from reports for strategic or tactical litigation advantage.

(12) Present accurate and complete data in reports, oral and written presentations and testimony based on good scientific practices and valid methods.

(13) Testify in a manner which is clear, straightforward and objective, and avoid phrasing testimony in an ambiguous, biased or misleading manner.

(14) Retain any record, item or object related to a case, such as work notes, data, and peer or technical review information due to potential evidentiary value and pursuant to the laboratory's retention policy.

(15) Communicate honestly and fully with all parties (investigators, prosecutors, defense attorneys, [~~and~~] other expert witnesses, and the Commission), unless prohibited by law.

(16) Document and notify management or quality assurance personnel of adverse events, such as an unintended mistake or a breach of ethical, legal, scientific standards, or questionable conduct.

(17) Ensure reporting, through proper management channels, to all impacted scientific and legal parties of any adverse event that affects a previously issued report or testimony.

(c) Members of management in crime laboratories that perform forensic analysis for which accreditation is required shall:

(1) Encourage a quality-focused culture that embraces transparency, accountability and continuing education while resisting individual blame or scapegoating.

(2) Provide opportunities for forensic analysts to stay abreast of new scientific findings, technology and techniques while guarding against the use of non-valid methods in casework, the misapplication of validated methods or improper testimony regarding a particular analytical method or result.

(3) Maintain case retention and management policies and systems based on the presumption that there is potential evidentiary value for any information related to a case, including work notes, analytical and validation data, and peer or technical review.

(4) Provide clear communication and reporting systems through which forensic analysts may report to management non-conformities in the quality system and other adverse events, such as an unintended mistake or a breach of ethical, legal, scientific standards, or questionable conduct.

(5) Make timely and full disclosure to the Texas Forensic Science Commission of any non-conformance that may rise to the level of professional negligence or professional misconduct.

(6) Provide copies of all substantive communications with the laboratory's national accrediting body to the Commission.

(7) For any laboratory that performs forensic analysis on behalf of the State of Texas, develop and follow a written forensic disclosure compliance policy for the purpose of ensuring the laboratory's compliance with article 39.14 of the Texas Code of Criminal Procedure.

(8) Ensure the laboratory's forensic disclosure policy provides clear instructions for identifying and disclosing any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the laboratory. The policy should explicitly address how to inform potentially affected recipients of any non-conformances or breaches of law or ethical standards that may adversely affect either a current case or a previously issued report or testimony.

(9) Inform all forensic analysts working on behalf of the laboratory that they may report allegations of professional negligence or professional misconduct to the Texas Forensic Science Commission without fear of adverse employment consequences.

(d) Code of Professional Responsibility Applicability to Crime Laboratory Managers at Entities Not Subject to Accreditation Requirements. Crime laboratory managers at entities that perform testing limited to forensic examinations or tests not subject to accreditation as described by Article 38.35(a)(4)(A), (B), (C), or (D), of the Code of Criminal Procedure are not subject to 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.

Filed with the Office of the Secretary of State on August 20, 2026.

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Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
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SUBCHAPTER H. DEPARTMENT OF PUBLIC SAFETY CRIME LABORATORY RECORDS PORTAL COMPLIANCE

37 TAC §§651.701 - 651.703

The Texas Forensic Science Commission (Commission) proposes new Subchapter H, Department of Public Safety Crime Laboratory Portal Compliance, to establish new rules (1) §651.701 Purpose; (2) §651.702 Definitions; and (3) §651.703 Disciplinary Action for Violation.

Background and Justification. Proposed new Subchapter H implements Senate Bill 991 (SB 991), enacted by the 88th Texas Legislature. SB 991 established a statewide requirement for certain crime laboratory records to be requested, exchanged, and transferred through a crime laboratory records portal established by the Department of Public Safety (DPS or the Department). The requirement for DPS to establish the portal was codified in Government Code §411.162. Senate Bill 991 further directs the Commission to establish a disciplinary process for accredited crime laboratories that fail to comply with portal participation requirements. This authority is now codified in Government Code

§411.163(b). The legislation provides that a violation of the portal participation requirement is subject to disciplinary action by the Commission in the same manner as a violation of accreditation standards under Article 38.01, Code of Criminal Procedure. Proposed Subchapter H is therefore necessary to establish a clear enforcement framework and to ensure compliance with the statutory requirements governing participation in the DPS crime laboratory records portal.

Fiscal Note. Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that, for each year of the first five years the proposed new rules will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rules. Funding for the establishment and implementation of the Crime Laboratory Records Connect (CLR Connect) portal has been provided by legislative appropriation to DPS. The Department has also adopted implementation requirements designed to accommodate varying technological capabilities among participating crime laboratories, including smaller state and local laboratories. The proposed rules are specific to disciplinary action for failure to participate and do not create any new fees, fines, or other direct financial obligations. Rather, they provide clarity regarding the consequences for accredited crime laboratories if they fail to participate, consistent with the Commission's existing enforcement authority.

Local Employment Impact Statement. Pursuant to Texas Government Code §2001.022, the proposed new rules have no effect on the local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Probable Economic Costs to Persons Required to Comply with Proposal. 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. Funding for the establishment and implementation of the Crime Laboratory Records Connect (CLR Connect) portal has been provided by legislative appropriation to DPS. The Department has also adopted implementation requirements designed to accommodate varying technological capabilities among participating crime laboratories, including smaller state and local laboratories. The proposed new rules do not create any new fees, fines, or other direct financial obligations. Rather, they provide for accreditation-related disciplinary actions, including denial, suspension, or revocation of accreditation, consistent with the Commission's existing enforcement authority.

Public Benefit. Ms. Tomlin has also determined that, for each year of the first five years the proposed rules will be in effect, the anticipated public benefit will be enhanced efficiency, transparency, and compliance in the criminal discovery process through the standardized electronic exchange of crime laboratory records. The proposed new subchapter supports the State's implementation of DPS's CLR Connect portal and facilitates the timely transfer of records among accredited crime laboratories, prosecutors, defense attorneys, and other authorized parties under Article 39.14, Code of Criminal Procedure. The proposed rules also assist in ensuring consistent compliance with applicable discovery and disclosure requirements under Article 39.14 and implement the Legislature's directive that the Commission enforce participation in CLR Connect.

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

Takings Impact Assessment. Ms. Tomlin has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Government Growth Impact Statement. Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendments will have minimal government growth impact. Pursuant to the analysis required by Government Code Section 2001.221(b): (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules do not increase or decrease future legislative appropriations to the agency; (4) the proposed rule changes do not require any fees; (5) the proposed rules create new disciplinary actions by the Commission necessary to ensure compliance with DPS's CLR Connect portal established to facilitate the efficient request, exchange and transfer of crime laboratory records; (6) the proposed rules does not expand, limit, or repeal an existing regulation; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules have no effect on the state's economy.

Environmental Rule Analysis. The Commission has determined that the proposed rules are not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that the proposed rules are not a "major environmental rule," as defined in Government Code §2001.0225. As a result, the Commission asserts the preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

Request for Public Comment. The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1701 North Congress Avenue, Suite 6-107, Austin, Texas 78701 or leigh.tomlin@fsc.texas.gov. Comments must be received by October 6, 2026 to be considered by the Commission.

Statutory Authority. The Commission proposes new subchapter H under Code of Criminal Procedure, Article 38.01 §3-a, the Commission's general rulemaking authority, and under Government Code §411.163(b), which requires the Commission to establish disciplinary action for crime laboratory noncompliance with Government Code §411.163(a).

Cross reference to statute. The proposal affects Government Code §§411.162-411.163.

§651.701. Purpose.

Generally. This subchapter contains the Texas Forensic Science Commission's (Commission) rules adopted pursuant to Government Code §411.163(b), which requires the Commission, in the event of crime laboratory noncompliance with the Department of Public Safety's crime laboratory records connect portal rules established pursuant to Government Code §411.163(a), to discipline a crime laboratory in the same manner as if the laboratory had otherwise violated accreditation standards under Code of Criminal Procedure, Article 38.01.

§651.702. Definitions.

(a) "Crime laboratory" means a crime laboratory, as that term is defined by Article 38.35, Code of Criminal Procedure, that has been accredited by the Commission.

(b) "Criminal action" has the meaning assigned by Article 38.35, Code of Criminal Procedure.

(c) "Forensic analysis" has the meaning assigned by Article 38.35, Code of Criminal Procedure.

§651.703. Compliance and Disciplinary Action for Violation.

(a) Compliance. Unless otherwise exempted by the Department of Public Safety, a crime laboratory that performs a forensic analysis for use in a criminal action shall participate, in accordance with Government Code §411.162 and Department of Public Safety rule, in the Crime Laboratory Records Connect (CLR Connect) portal, which facilitates the process for requesting and transferring crime laboratory records among crime laboratories, attorneys representing the state, and parties authorized to access the records under Article 39.14, Code of Criminal Procedure.

(b) Violation. A crime laboratory required to participate in CLR Connect that fails to do so is subject to disciplinary action by the Commission in the same manner as if the laboratory had otherwise violated accreditation standards under Code of Criminal Procedure, Article 38.01.

(c) Disciplinary Action.

(1) Process for Initiating Disciplinary Action. If the Department of Public Safety informs the Commission of a fact or circumstance indicating a laboratory has failed to comply with Government Code §411.163, the Commission may take any of the following actions:

(A) send a letter to the laboratory that:

(i) requests an immediate response and explanation of the failure to comply;

(ii) requires the laboratory to provide a written plan outlining how it will comply and on what timeline;

(iii) sets a deadline by which compliance must occur for the laboratory to avoid disciplinary action;

(iv) explains the action that will be taken by the Commission for continued failure to comply; or

(B) any other actions deemed appropriate by the Commission to ensure compliance.

(2) Withdrawal, Suspension, or Denial of Accreditation for Violation. The Commission, by a majority vote of a quorum of Commission members, may withdraw, suspend, or deny the accreditation of a laboratory, discipline, or subdiscipline if the laboratory violates subsection (a) of this section and fails to respond in a timely and satisfactory manner to a letter sent by the Commission to the laboratory under paragraph (1)(A) of this subsection.

(3) Reinstatement of Accreditation. A laboratory that has had its accreditation withdrawn or suspended under paragraph (2) of this subsection may have its accreditation reinstated by the Commission:

(A) if the laboratory demonstrates resolution or pending resolution of the non-compliance or other violation identified by the Department of Public Safety; or

(B) the Commission or its Designee determines the laboratory has provided a plan for future implementation on a timeline sufficient to ensure compliance.

(d) Records. The Commission may maintain a public record of a laboratory's accreditation or approval status.

(1) The Commission may maintain in the public record a notation of an action taken under this subchapter, including a question, complaint or audit.

(2) A question, complaint, or audit is public information when in the possession of the Commission except as provided by the Code of Criminal Procedure Article 38.01 §10 or other applicable law.

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 August 20, 2026.

TRD-202603658
Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 936-0661

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 2. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

CHAPTER 101. ADMINISTRATIVE RULES AND PROCEDURES

SUBCHAPTER C. COUNCILS, BOARD, AND COMMITTEES

DIVISION 2. STATE INDEPENDENT LIVING COUNCIL

40 TAC §§101.401, 101.403, 101.405, 101.407, 101.409

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §§101.401, concerning Purpose; 101.403, concerning Legal Authority; 101.405, concerning Definitions; 101.407, concerning Tasks; and 101.409, concerning Funding.

BACKGROUND AND PURPOSE

The State Independent Living Council (SILC) was created as a result of the Rehabilitation Act (Act) in Title 29 United States Code Section 796d. The Act requires Texas to maintain a SILC. Rules for the SILC were originally adopted in 1993 in accordance with , which required state agencies to outline in rule the committees and councils which advise the state.

These rules are not needed because the SILC is not considered an advisory body, as defined in Texas Government Code §2110.001, and SILC's primary function does not include advising the state. The requirements for the SILC are specified in the Act. The purpose of this proposal is to repeal the unnecessary rules related to the SILC.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§101.401, 101.403, 101.405, 101.407, and 101.409 deletes the rules because the content of the rules is not necessary.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, 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 not create a new regulation;

(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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the repealed rules will be removed and do not apply to small or micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Libby Elliott, Director, Rules and Advisory Committees Office, has determined that for each year of the first five years the rules are in effect, the public will benefit from the repeal because these rules are outdated and obsolete .

Victoria Grady 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 costs on regulated persons and remove outdated and obsolete rules from TAC.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R077" in the subject line.

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 system; and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority.

The repeals affect Texas Government Code §524.0151 and §524.0005.

§101.401. Purpose.

§101.403. Legal Authority.

§101.405. Definitions.

§101.407. Tasks.

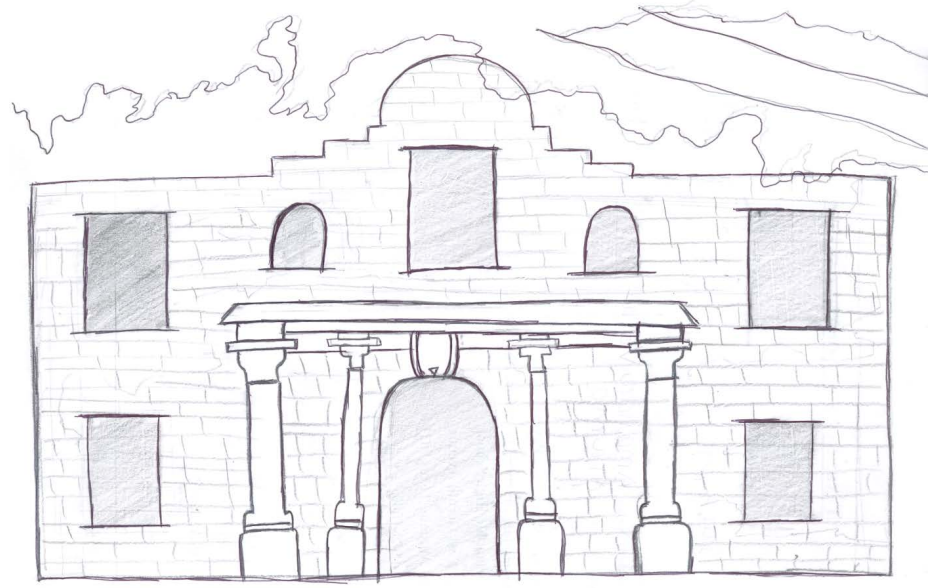
§101.409. Funding.

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 August 18, 2026.

TRD-202603627
Karen Ray
Chief Counsel
Department of Assistive and Rehabilitative Services
Earliest possible date of adoption: October 4, 2026
For further information, please call: (512) 221-9021

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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 7. BANKING AND SECURITIES

PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 75. SAVINGS BANKS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML), adopts rule changes in Chapter 75: amendments in Subchapter A (§75.1 and §75.2), Subchapter B (§§75.101, 75.102, 75.121 - 75.123, 75.131, 75.133, 75.141 - 75.143, 75.145, 75.151, 75.152, and 75.171), Subchapter C (§§75.201, 75.202, 75.223, 75.251, 75.252, and 75.261), and Subchapter D (§75.306); new rules in Subchapter B (§75.108), and Subchapter C (§75.228); and a repeal in Subchapter B (§75.132). The Commission's proposal was published in the July 3, 2026 issue of the *Texas Register* (51 TexReg 4294). The following rules are adopted with changes to the published text and are republished to reflect the changes: §§75.131, 75.133, 75.201, 75.202, and 75.228. Additionally, §75.145 is republished without changes due to the omission of subsection (a)(4) in the proposal, for which no changes were proposed. The remaining rules in the proposal are adopted without changes to the published text and will not be republished. The title to Subchapter B, Division 4 is adopted with changes and is republished to reflect the changes.

Explanation of and Justification for the Rules

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

Changes Concerning General Provisions (Subchapter A)

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

Changes Concerning Applications (Subchapter B)

The preexisting rules in Chapter 75, Subchapter B, Applications, establish various requirements for applications filed with SML. The adopted rules: in §75.102, Application Fees and Charges, clarify that the per-site fee for a mobile facility relates to each community where it operates; in §75.108, Federal Only Applications, create a requirement for a savings bank to notify SML when it files an application only with the federal banking agency; in §75.121, Savings Bank Charter, increase the permissible range between the temporary home office and permanent home office from half a mile to one mile, and clarify eligibility requirements for managing officers; in §75.122, Change of Name; Assumed Names, clarify requirements for a savings bank to use an assumed name; in §75.131, Additional Office (Branch Office and Mobile Facility), create a unified rule for additional office applications, restate and simplify the information required for the application, remove the requirement to publish public notice in the county where the home office is located, clarify that a person may only request a hearing if they are a savings bank or federal savings bank that is unduly harmed, and extend the deadline to open an approved office from 12 months to 24 months; in §75.132, Mobile Facility, repeal the rule and consolidate the requirements with §75.131; in §75.133, Relocate Home or Additional Office, restate and simplify the information required for the application, remove the requirement to publish public notice in the county where the home office is located, and clarify that a person may only request a hearing if they are a savings bank or federal savings bank that is unduly harmed; in §75.141, Reorganization, Merger, Consolidation, or Purchase and Assumption Transaction - Resulting in a Savings Bank, clarify when a purchase and assumption application is required; and in §75.152, Expedited Applications, simplify the information required for the application and the public notice requirements.

Changes Concerning Operations (Subchapter C)

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

Other Modernization and Update Changes

The adopted rules make changes to modernize and update the rules including: adding and replacing language for clarity and to

improve readability; removing unnecessary or duplicative provisions; and updating terminology.

Summary of Public Comments

Publication of the commission's proposal set a deadline of 30 days to receive public comments. No comments were received.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §75.1, §75.2

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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 August 24, 2026.

TRD-202603708
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Effective date: September 13, 2026
Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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SUBCHAPTER B. APPLICATIONS
DIVISION 1. GENERAL PROVISIONS

7 TAC §§75.101, 75.102, 75.108

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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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Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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DIVISION 2. CHARTER APPLICATIONS AND AMENDMENTS

7 TAC §§75.121 - 75.123

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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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Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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DIVISION 3. OFFICE LOCATIONS

7 TAC §75.131, §75.133

Statutory Authority

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

to implement, Finance Code: §92.063; and §96.002(a)(2) and (14).

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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

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

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

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

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

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

(b) Public Notice. The applicant must publish a public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published in the county where the proposed office will be located.

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

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

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

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

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

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

§75.133. Relocate Home or Additional Office.

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

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

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

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

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

(b) Public Notice. The applicant must publish a public notice of the application as provided by §75.103 of this title (relating to Public Notice of Application), which must be published in the county where the office is presently located and the county where the proposed new location is located.

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

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

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

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

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

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

The agency certifies that legal counsel has reviewed the 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 August 24, 2026.

TRD-202603711
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Effective date: September 13, 2026
Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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7 TAC §75.132

Statutory Authority

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

The adopted rule affects the statutes in Finance Code Title 3, Subtitle C.

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 August 24, 2026.

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Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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DIVISION 4. REORGANIZATION, MERGER, CONSOLIDATION, CONVERSION, AND PURCHASE AND ASSUMPTION

7 TAC §§75.141 - 75.143, 75.145

Statutory Authority

The rules are adopted under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Finance Code: §11.302, authorizing the commission to adopt rules applicable to savings banks; and §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. §75.141 and §75.142 are also adopted under the authority of, and to implement, Finance Code: Chapter 92, Subchapters C, H, and I; and §96.002(a)(2) and (13). §75.143 is also adopted under the authority of, and to implement, Finance Code: Chapter 92, Subchapter F; and §96.002(a)(2) and (13). §75.145 is also adopted under the authority of, and to implement, Finance Code: §92.052; and §96.002(a)(2) and (13).

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

§75.145. Mutual to Stock Conversion.

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

(1) a plan of conversion;

(2) amendments to the savings bank's certificate of formation and bylaws;

(3) a copy of the proxy and soliciting materials to be used; and

(4) such other information the Commissioner may require.

(b) The plan of conversion must provide:

(1) a comprehensive description of the nontransferable subscription rights received each eligible accountholder, including details on oversubscriptions;

(2) that the shares of the converting savings bank be offered to persons with subscription rights and management, in that order, and that any remaining shares will be sold either in a public offering through an underwriter or directly by the converting savings bank in a direct community offering;

(3) that a direct community offering by the converting savings bank will give a preference to natural persons residing in the counties in which the savings bank has an office;

(4) that the sale price of the shares of capital stock to be sold in the conversion will be a uniform price determined in accordance with

paragraph (1) of this subsection, and specify the underwriting and/or other marketing arrangements to be made;

(5) that the conversion must be completed within 24 months from the date the savings bank members approve the plan of conversion;

(6) that each savings accountholder of the converting savings bank will receive, without payment, a withdrawable savings account or accounts in the converted savings bank equal in withdrawable amount to the withdrawal value of such accountholder's savings account or accounts in the converting savings bank;

(7) for an eligibility record date;

(8) that expenses incurred in the conversion are reasonable;

(9) that the converting savings bank may not loan funds or otherwise extend credit to any person to purchase the capital stock of the savings bank;

(10) that the proxies held with respect to voting rights in the saving bank will not be voted regarding the conversion, and that new proxies will be solicited for voting on the proposed plan of conversion; and

(11) the amount of the deposit of an accountholder will be the total of the deposit balances in the accountholder's savings accounts in the converting savings bank as of the close of business on the eligibility record date. The plan of conversion may provide that the total deposit balances of less than $50 (or any lesser amounts) will not be considered for purposes of paragraph (6) of this subsection.

(c) A plan of conversion must be adopted by not less than two-thirds of the board.

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

(e) Following approval of the application for conversion by the Commissioner, the plan of conversion must be submitted to the members at an annual or special meeting and the plan must be approved, in person or by proxy, by at least a majority of the total outstanding votes of the members.

(f) No offer to sell securities of a savings bank pursuant to a plan of conversion may be made prior to Commissioner's approval of the:

(1) application for conversion;

(2) proxy statement; and

(3) offering circular.

(g) Within 45 days:

(1) of the date of the mailing of the subscription form, the subscription rights must be exercised;

(2) after the last day of the subscription period, the sale of all shares of capital stock of the converting savings bank to be made under the plan of conversion, including any sale in a public offering or direct community marketing, must be completed.

(h) The converting savings bank must pay interest at not less than the savings account interest rate on all amounts paid in cash or by check or money order to the savings bank to purchase shares of capital stock in the subscription offering or direct community offering from the date payment is received by the savings bank until the conversion is completed or terminated.

(i) For the purpose of this rule, the public offering and a direct community offering is deemed to commence upon the declaration of effectiveness by the Commissioner of the final offering circular.

(j) The Commissioner may grant a written waiver from any requirement of this rule that is not otherwise required by statute.

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 August 24, 2026.

TRD-202603713
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Effective date: September 13, 2026
Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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DIVISION 5. EXPEDITED APPLICATIONS

7 TAC §75.151, §75.152

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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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Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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DIVISION 7. CAPITAL NOTES AND DEBENTURES

7 TAC §75.171

Statutory Authority

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

The adopted rule affects the statutes in Finance Code Title 3, Subtitle C.

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-202603715
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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SUBCHAPTER C. OPERATIONS
DIVISION 1. OFFICE LOCATIONS

7 TAC §75.201, §75.202

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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

(a) Approval Required. A savings bank may not establish an additional office or relocate its home office or an approved additional office as provided by §75.202 of this title (relating to Types of Additional Offices), without first filing an application and obtaining the prior written approval of the Commissioner, except as otherwise provided by §75.133 of this title (relating to Relocate Home or Additional Office).

(b) Ancillary Facilities. An authorized or approved office of a savings bank is the place where the business of the savings bank is conducted, and with the prior written consent of the Commissioner, may include facilities ancillary thereto for the extension of the savings bank's services to the public. Any authorized or approved office of a savings bank also means, with the prior written consent of the Commissioner, separate quarters or facilities to be used by the savings bank for the purpose of performing service functions in the efficient conduct of its business.

(c) Notice of Home Office. All offices of a savings bank which are located outside the county of its home office must display a sign which is suitable to advise the public of the type of additional office which is located therein and the location of the home office of such savings bank.

(d) Closing an Office. Before closing an approved branch or other office, other than a temporary closure as provided by §75.203 of this title (relating to Temporary Closing of Additional Offices), or an emergency closure as provided by Finance Code §93.011, a savings bank must comply with the notice requirements of federal law, and provide the Commissioner with a copy of the closing notice filed with the appropriate federal banking agency upon filing such notice. A savings bank must provide the Commissioner with confirmation within 10 days after the actual closing date. Once closed, prior written approval from the Commissioner to operate a branch or other office is deemed revoked, and a savings bank may not reopen the branch or other office without seeking new approval from the Commissioner.

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

(1) Automated or remote activities. A savings bank may engage in limited banking activities through infrastructure and equipment by automated or remote means, including use of an automated teller machine (ATM), automated loan machine, automated device for receiving deposits (remote deposit capture), or other remote service unit.

(2) Loan production activities. A savings bank may engage in loan production activities including taking loan applications, making a credit decision, accepting payments on loans, or managing or selling real estate owned by the institution in connection with such loans, unless such activity conflicts with applicable state or federal law.

(3) Administrative activities (administrative offices). A savings bank may establish or maintain administrative offices to perform the internal operations of the bank, provided the savings bank does not conduct banking activities.

(4) Advertising and marketing. A savings bank may advertise and market itself to the public including soliciting deposits, providing information about the financial products of the savings bank, and assisting persons in completing application forms to open a deposit account, provided the savings bank does not conduct banking activities.

(5) Trade association participation; community events and engagement. A savings bank may participate in trade association events promoting the banking or financial services industry broadly. A savings bank may also host, attend, or otherwise participate in community events, provided the savings bank does not conduct banking activities at such event.

(6) Information technology (IT) infrastructure. A savings bank may operate information technology infrastructure or equipment including the placement of IT infrastructure in a data center, the hosting or processing of a website or data by a third party IT service provider, or such other physical presence tied to the IT infrastructure of the savings bank.

(7) Ancillary customer service activities. A savings bank may engage in customer service activities ancillary to its banking func-

tions including relating to accessing or using its website or a software application.

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

§75.202. Types of Additional Offices.

The following types of additional offices may be established by a savings bank:

(1) a branch office where deposits are received or checks paid or money lent; and

(2) a mobile facility that does not have a single permanent site and uses a vehicle that travels to various locations to enable the public to conduct banking business, and that may serve defined locations on a regular schedule or may serve a defined area at varying times and locations (also known as a mobile branch).

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 August 24, 2026.

TRD-202603716
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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For further information, please call: (512) 475-1535

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

7 TAC §75.223, §75.228

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

§75.228. Call Reports.

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

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

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

The agency certifies that legal counsel has reviewed the 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 August 24, 2026.

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Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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For further information, please call: (512) 475-1535

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DIVISION 5. ASSESSMENTS AND FEES

7 TAC §75.251, §75.252

Statutory Authority

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

The adopted rules affect the statutes in Finance Code Title 3, Subtitle C.

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 August 24, 2026.

TRD-202603718
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Effective date: September 13, 2026
Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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DIVISION 6. COMPLAINT PROCEDURES

7 TAC §75.261

Statutory Authority

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

The adopted rule affects the statutes in Finance Code Title 3, Subtitle C.

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-202603719
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
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Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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SUBCHAPTER D. LOANS, INVESTMENTS, SAVINGS, AND DEPOSITS
DIVISION 1. AUTHORIZED LOANS AND INVESTMENTS

7 TAC §75.306

Statutory Authority

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

The adopted rule affects the statutes in Finance Code Title 3, Subtitle C.

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 August 24, 2026.

TRD-202603720
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Effective date: September 13, 2026
Proposal publication date: July 3, 2026
For further information, please call: (512) 475-1535

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PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 85. PAWNSHOPS AND CRAFTED PRECIOUS METAL DEALERS
SUBCHAPTER A. RULES OF OPERATION FOR PAWNSHOPS
DIVISION 4. OPERATION OF PAWNSHOPS

7 TAC §85.402, §85.406

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

The commission adopts the amendments to §85.402 and §85.406 without changes to the proposed text as published in the July 3, 2026, issue of the *Texas Register* (51 TexReg 4307). The rules will not be republished.

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

Adopted amendments to §85.402 update recordkeeping requirements for pawnshops. Pawnshops are required to maintain transaction records under Texas Finance Code, §371.152, and are required to allow the OCCC to access records under Texas Finance Code, §371.202. Currently, provisions throughout §85.402 refer to both paper and electronic recordkeeping systems. An amendment to §85.402(b) rearranges language to refer to electronic recordkeeping systems before referring to paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Additional amendments to §85.402 relate to data security recordkeeping. An amendment at §85.402(i)(1) specifies that licensees must maintain written policies and procedures for an information security program to protect consumers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another amendment at §83.402(i)(2) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. An amendment at §83.402(j) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. Data security is a crucial issue. The OCCC's 2027-2031 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The adopted data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

An amendment to §85.406 revises a requirement related to law enforcement reporting. Pawnshops are required to allow peace officers to inspect transaction records under Texas Finance Code, §371.204. Currently, §85.406 provides suggested guidelines for pawnshops to report transactions electronically to law enforcement agencies. An amendment to §85.406(b)(1)

removes a reference to transmitting information to law enforcement by disk, because the OCCC understands that disks are no longer commonly used.

In March 2026, the OCCC issued an advance notice of rule review, seeking informal feedback on the rule review. Notice of the review of 7 TAC Chapter 85, Subchapter A was published in the *Texas Register* on April 3, 2026 (51 TexReg 2257). The OCCC and the commission did not receive any comments in response to these notices.

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

The OCCC and the commission did not receive any official comments on the proposed amendments.

The rule amendments are adopted under Texas Finance Code, §371.006, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 371 (the Texas Pawnshop Act). In addition, Texas Finance Code, §11.304 authorizes the Finance Commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 371.

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 August 21, 2026.

TRD-202603673
Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Effective date: September 10, 2026
Proposal publication date: July 3, 2026
For further information, please call: (512) 936-7660

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 229. FOOD AND DRUG
SUBCHAPTER W. LICENSING OF WHOLESALE DISTRIBUTORS OF PRESCRIPTION DRUGS--INCLUDING GOOD MANUFACTURING PRACTICES

25 TAC §229.420

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts an amendment to §229.420, concerning Medical Gases. Section 229.420 is adopted without changes to the proposed text as published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3677). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment to Title 25 of the Texas Administrative Code (TAC) Chapter 229, Subchapter W, relating to Licensing of Wholesale Distributors of Prescription Drugs--Including Good Manufacturing Practices (GMP) is necessary to comply with applicable federal laws pertaining to medical gases. Specifically, the amendment aligns the minimum standards in the current rule with new Medical Gases GMP requirements under 21 Code of Federal Regulations (CFR) Part 213 and 21 CFR Part 230, which are already in effect. The amendment will adopt the new 21 CFR Part 213 and 21 CFR Part 230 in 25 TAC §229.420(a).

COMMENTS

The 31-day comment period ended June 29, 2026. DSHS received one comment regarding the proposed rule from University of Texas Southwestern Medical Center. A summary of the comment relating to the rule and the DSHS response follows.

Comment: The commenter agrees with the adoption of federal laws pertaining to medical gases and suggests amending §229.420 to direct wholesale distributors to Food and Drug Administration (FDA)-published guidance documents on compliance with 21 CFR Part 213 and Part 230.

Response: DSHS disagrees with the comment and declines to amend the rule in response to this comment. Section 229.420 adopts applicable federal statutes and regulations by reference. FDA guidance documents are not legally binding and do not establish enforceable requirements. The rule therefore does not reference FDA guidance documents. To assist regulated entities, DSHS will instead provide information regarding applicable FDA guidance on the DSHS website.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Health and Safety Code (HSC) §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, and by HSC §431.241 and §431.244 which provide the executive commissioner of HHSC with authority to adopt rules enforcing the Texas Food, Drug, and Cosmetic Act, and adopt specific rules under 21 CFR as a rule under Chapter 431.

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 August 18, 2026.

TRD-202603626
Cynthia Hernandez
General Counsel
Department of State Health Services
Effective date: September 7, 2026
Proposal publication date: May 29, 2026
For further information, please call: (512) 834-6755

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 748. MINIMUM STANDARDS FOR GENERAL RESIDENTIAL OPERATIONS

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §748.751, concerning Employment Verification; §748.753, concerning Reference Checks; §748.881, concerning General Pre-Service Training Curriculum Components; §748.887, concerning Pre-Service Training Curriculum Components for General Residential Operations that Do Not Allow Emergency Behavior Intervention; §748.3319, concerning "No Trespassing" Notices for General Residential Operations Operating as Residential Treatment Centers; and the repeal of §748.3321, concerning What additional responsibilities do I have regarding the "No Trespassing" signs if my operation is a residential treatment center.

Sections 748.753, 748.887 and 748.3319 are adopted with changes to the proposed text as published in the March 20, 2026, issue of the *Texas Register* (51 TexReg 1797). These rules will be republished.

Sections 748.751, 748.881, and 748.3321 are adopted without changes to the proposed text as published in the March 20, 2026, issue of the *Texas Register* (51 TexReg 1797). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments and repeal are necessary to comply with House Bill (HB) 3153 and Section 6 of HB 2789, 89th Legislature, Regular Session, 2025. The amendments are necessary to partially implement HB 16, 89th Legislature, 2nd Special Session, 2025.

HB 3153 added Texas Health and Safety Code (HSC), Chapter 811, which requires general residential operations (GROs) comply with certain employment requirements to prevent physical or sexual abuse of children.

Section 6 of HB 2789 amended Texas Human Resources Code (HRC) §42.068 to remove location and content requirements for "No Trespassing" notices at GROs that are operating as residential treatment centers. Other rule projects are underway to implement the other sections of HB 2789.

HB 16 amended HRC §42.0426 to require a residential child care facility to include crisis response training for emergency behavior intervention with a goal of limiting law enforcement involvement. A separate rule project will implement the bill for child-placing agencies.

The amendments and repeal update existing requirements for obtaining and verifying an applicant's employment history; add training for new employees regarding professional and appropriate relationships with children; include crisis response training for emergency behavior intervention with a goal of limiting law enforcement involvement; and remove location-specific and content requirements for "No Trespassing" notices.

COMMENTS

The 31-day comment period ended April 20, 2026.

HHSC received 18 comments regarding the proposed rules from four commenters. HHSC received comments from Cal Farley's Boys Ranch, Family Resource Centers of Texas, New Life Refuge, and the Texas Alliance of Child and Family Services. A summary of comments relating to the rules and HHSC responses follows.

Comment: Regarding §748.751, one commenter questioned if documenting attempts to verify employment is sufficient to meet the intent of the rule, whether employment verification has a timeframe, and, if a GRO is unable to verify employment, whether the GRO must document why the GRO did or did not hire an applicant. The commenter recommended that HHSC add a section to relevant forms where a GRO can document the GRO's assessment and why the GRO decided to hire the applicant.

Response: HHSC acknowledges the comment, and no rule revisions are needed. The rule as written allows GROs to document the applicant's employment history and the attempts to contact a previous employer for verification in the applicant's personnel file. These requirements are sufficient to effect the intent of the rule. However, HHSC acknowledges the commenter's recommendation to update relevant forms, and will consider whether to update forms.

Comment: Regarding §748.751(a), one commenter stated the amendments appear to be an improvement and provide clarity for providers.

Response: HHSC acknowledges the comment, and no rule revisions are needed.

Comment: Regarding §748.751, one commenter recommended that a legacy clause be included to ensure the rule amendments only apply to applicants hired after the date the rule amendments become effective. The commenter is concerned that a GRO may be cited for failing to conduct employment verification for employees hired before the rule effective date.

Response: HHSC disagrees that a legacy clause is needed and declines to revise the rule in response to this comment. GRO employees hired before the effective date of this rule are subject to the requirements that were in effect at the time the person was hired, not the updated requirements.

Comment: Regarding §748.751(a), one commenter recommended requiring GROs to verify, at a minimum, the last five years of employment history for an applicant. The commenter expressed concern that removing the five-year verification requirement will impose greater administrative burdens on GROs. The commenter is also concerned that the rule will result in a different employment verification process for each GRO's hiring practices, and force GROs and regulatory staff to review application documents in addition to the job application, such as cover letters, resumes, and letters of recommendation, to ensure compliance.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. The proposed rule language reflects requirements stated in HSC §811.003(c), which does not prescribe a minimum or maximum period of work history to be verified.

Comment: Regarding §748.751(b), one commenter expressed concern that "the operation must document" may be inconsistently interpreted by HHSC Child Care Regulation (CCR) staff, leading to subjective citations. The commenter recommended the issue be addressed with technical assistance, such as including on any form available to GROs.

Response: HHSC acknowledges the comment but declines to revise the rule because §748.751(b) clearly outlines what an operation must document when verifying an applicant's previous employment. HHSC will consider providing or updating technical assistance, forms and CCR staff training related to the rule.

Comment: Regarding §748.753, one commenter stated the rule lacks clarity, and questioned whether "check references" refers to the references a job applicant provides. The commenter stated "previous employers" may verify an applicant's employment but will not provide information as to the quality of the applicant's work or if the applicant is eligible for rehire.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. Section 748.753(a) requires a GRO to contact "at least two individuals unrelated to the applicant that can provide information about the applicant's suitability to work with or around children." A reference check with a "current or former employer" is only required by §748.753(b) if the applicant has work history that involves providing care or services to children. Section 748.753(c) provides documentation requirements if a GRO is unable to complete a reference check required by Section §748.753(a) or §748.753(b).

Comment: Regarding §748.753(a), one commenter suggested clarifying whether two reference checks must be completed, or whether attempts to contact two references are sufficient to meet the requirement. The commenter also recommended that CCR update any relevant form to help providers elicit information sufficient to meet the requirement.

Response: HHSC disagrees with the comment and declines to revise the rule. Section 748.753(d)(1) outlines information that must be gathered to complete the reference check. Section 748.753(c) outlines documentation requirements if a GRO is unable to complete a reference check as required by §748.753(a). However, HHSC acknowledges the commenter's recommendation to update relevant forms.

Comment: Regarding §748.753(c)(1), one commenter stated it is helpful that the language broadens the reasons for not completing the reference check beyond "refusal."

Response: HHSC acknowledges the comment, and no rule revisions are needed in response to the comment. The paragraph the commenter referred to as §748.753(c)(1) is now §748.753(c)(3) and has been revised to improve clarity.

Comment: Regarding §748.753(c)(3), one commenter stated it is unclear what CCR expects a GRO to document for the GRO's "assessment of the applicant's suitability to work with or around children." The commenter recommended CCR provide clarity in the rule regarding what the GRO's assessment must include, or provide clarity with technical assistance, such as including clarification on any form available to GROs.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. The paragraph the commenter referred to as §748.753(c)(3) is now §748.753(c)(1). A GRO must document the GRO's assessment of the applicant's suitability to work with or around children only if a reference check is not completed. The rule does not prescribe what this assessment must include. A GRO may choose criteria for this assessment based on the needs of the children the GRO serves. HHSC will consider providing technical assistance.

Comment: Regarding §748.753(d)(2), one commenter recommended clarifying the information a GRO should document when the GRO does not successfully complete a reference check for an applicant to avoid inconsistent interpretation by CCR staff. The commenter recommended addressing with technical assistance if CCR declines to revise the rule.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. Section 748.753(c) outlines the information a GRO must document when the GRO is unable to complete a reference check. A GRO may use reasonable discretion to determine what this information should include, which may vary depending on the situation. HHSC provides a form in the CCR Technical Assistance Library where a GRO can document reference checks and employment verification, including the operation's assessment of the applicant's suitability to work with children. HHSC will consider providing technical assistance.

Comment: Regarding §748.881(3), one commenter stated that while the proposed rule language follows the language of HB 3153, it is not clear how to train on the "methods for maintaining professional and appropriate relationships with children." The commenter expressed concern with CCR staff inconsistently interpreting the requirement, which may lead to more subjective citations. The commenter recommended providing technical assistance if CCR declines to revise the rule.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. As the commenter acknowledged, the rule language follows the language used in HSC §811.005(3) and provides a GRO flexibility in determining how the GRO should train on this topic. HHSC will consider providing technical assistance.

Comment: Regarding §748.887, one commenter recommended clarifying that this requirement refers to the child engaged in the potentially harmful behavior, not other children.

Response: HHSC agrees with the comment, and revised §748.887(5) and §748.887(6)(B) in response to clarify that these requirements refer to a child who is engaged in potentially harmful behavior.

Comment: Regarding §748.887(7), one commenter stated the proposed rule is not clear on what is included in the "crisis response strategies with a goal of limiting involvement with law enforcement" training. The commenter expressed concern with CCR staff inconsistently interpreting the requirement, which may lead to more subjective citations. The commenter recommended providing technical assistance if CCR declines to revise the rule.

Response: HHSC declines to revise the rule in response to this comment. The proposed rule language follows the language used in HRC §42.0426(b)(1). A GRO may determine what curriculum components should be included in the training and tailor the curriculum to meet the needs of the children in the GRO's care. HHSC will consider providing technical assistance.

Comment: Regarding §748.3319, one commenter recommended adding "without charge" to the rule language.

Response: HHSC agrees with the comment and revised §748.3319(b) to clarify that a GRO operating as a residential treatment center may request "No Trespassing" notices from HHSC without charge to the GRO.

Comment: Regarding §748.3319, one commenter appreciated the proposed changes to the "No Trespassing" notice requirements which appear less burdensome to providers. The commenter also expressed concern with CCR staff inconsistently interpreting the requirement due to a lack of specific requirements, which may lead to more subjective citations. The commenter recommended providing technical assistance if CCR declines to revise the rule.

Response: HHSC disagrees with the comment and declines to revise the rule. §748.3319(b) outlines the required information and dimensions a "No Trespassing" notice must include. HHSC will consider providing technical assistance.

Comment: Regarding §748.3319, two commenters expressed concern that a GRO may be cited if there is delay between when a GRO requests a "No Trespassing" notice, and when the "No Trespassing" notice is delivered to the GRO. One commenter recommended the provision of technical assistance regarding CCR's expectation for compliance when a delay exists.

Response: HHSC acknowledges the comment and will consider providing technical assistance.

Comment: Regarding §748.3319, one commenter stated the proposed amendments are appropriate and needed, and thanked CCR for its service on behalf of all Texans.

Response: HHSC acknowledges the comment, and no rule revisions are needed.

HHSC made minor editorial changes to correct formatting and use of acronyms and to clarify language in §§748.753(b), 748.753(c), 748.887, 748.3319(a), 748.3319(b) and 748.3319(c).

SUBCHAPTER E. PERSONNEL
DIVISION 8. PRE-EMPLOYMENT SCREENING

26 TAC §748.751, §748.753

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, the amendments to §§748.751, 748.753, 748.881, and 748.887 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and training of employees at regulated facilities; the amendments to §748.3319 and repeal of §748.3321 are authorized by Texas Human Resources Code §42.068(b), which requires the executive commissioner to adopt rules relating to the placement and design of "No Trespassing" notices.

§748.753. Reference Checks.

(a) Before hiring an applicant for a position, the operation must complete the applicant's reference checks by contacting at least two individuals unrelated to the applicant that can provide information about the applicant's suitability to work with or around children.

(b) If the applicant has work history that involves providing care or services to children, at least one reference check required by subsection (a) of this section must be completed with a current or former employer who supervised or has knowledge of the applicant's history and job performance in that role.

(c) If the operation does not complete a reference check as required by subsection (a) or (b) of this section, the operation must document:

(1) the operation's assessment of the applicant's suitability to work with or around children; and

(2) if the reference check is not completed because the operation determines that the reference is permanently unreachable, the operation must document at least two attempts to contact the reference, and any additional facts that support the operation's determination; or

(3) any other reason the reference check could not be completed.

(d) For each person hired by the operation, the operation must maintain the following information in the employee's personnel file:

(1) documentation of each reference check that includes:

(A) the reference's name;

(B) the relation of the reference to the applicant;

(C) the reference's contact information;

(D) the date of the reference check;

(E) information obtained from the reference check, documented as:

(i) a summary of the reference; or

(ii) a copy of the written information provided by the reference; and

(F) the name of the person at the hiring operation that completed the reference check; and

(2) if the operation does not successfully complete a reference check, the documentation required by subsection (c) of this 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 August 18, 2026.

TRD-202603582
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 7, 2026
Proposal publication date: March 20, 2026
For further information, please call: (512) 438-3269

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SUBCHAPTER F. TRAINING AND PROFESSIONAL DEVELOPMENT
DIVISION 5. CURRICULUM COMPONENTS FOR PRE-SERVICE TRAINING

26 TAC §748.881, §748.887

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, the amendments to §§748.751, 748.753, 748.881, and 748.887 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications

and training of employees at regulated facilities; the amendments to §748.3319 and repeal of §748.3321 are authorized by Texas Human Resources Code §42.068(b), which requires the executive commissioner to adopt rules relating to the placement and design of "No Trespassing" notices.

§748.887. Pre-Service Training Curriculum Components for General Residential Operations that Do Not Allow Emergency Behavior Intervention.

If an operation does not permit emergency behavior intervention, the pre-service training curriculum for emergency behavior intervention must address early identification of potentially harmful behaviors and less restrictive intervention strategies and techniques. The curriculum must include:

(1) developing and maintaining an environment that supports positive and constructive behaviors;

(2) causes of behaviors that may harm a child, including aspects of the environment;

(3) early signs of behaviors that may become dangerous to a child or others;

(4) strategies and techniques a child can use to avoid harmful behaviors;

(5) teaching a child who is engaged in potentially harmful behavior to use the strategies and techniques of the operation's de-escalation protocols to avoid harmful behavior, and supporting the efforts of a child who is engaged in potentially harmful behavior to move into a state of self-control;

(6) less restrictive strategies caregivers can use to:

(A) intervene in potentially harmful behaviors; and

(B) engage a child who is engaged in potentially harmful behavior to de-escalate a situation;

(7) crisis response strategies with a goal of limiting involvement with law enforcement; and

(8) risks associated with the use of prone or supine restraints, including positional, compression, or restraint asphyxia.

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 August 18, 2026.

TRD-202603583
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 7, 2026
Proposal publication date: March 20, 2026
For further information, please call: (512) 438-3269

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SUBCHAPTER P. PHYSICAL SITE
DIVISION 1. GROUNDS AND GENERAL REQUIREMENTS

26 TAC §748.3319

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, the amendments to §§748.751, 748.753, 748.881, and 748.887 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and training of employees at regulated facilities; the amendments to §748.3319 and repeal of §748.3321 are authorized by Texas Human Resources Code §42.068(b), which requires the executive commissioner to adopt rules relating to the placement and design of "No Trespassing" notices.

§748.3319. "No Trespassing" Notices for General Residential Operations Operating as Residential Treatment Centers.

(a) General residential operations (GROs) operating as residential treatment centers must post "No Trespassing" notices on the grounds of the GRO.

(b) A GRO acting as a residential treatment center may request "No Trespassing" notices from Child Care Regulation, as needed and without charge to the GRO, to meet the requirements in this section or create the operation's own notices. The "No Trespassing" notices must:

(1) state that entry to the property is forbidden; and

(2) be at least 8-1/2 by 11 inches in size.

(c) "No Trespassing" notices must be displayed in locations that ensure the notices are clearly visible and readable.

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 August 18, 2026.

TRD-202603585
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 7, 2026
Proposal publication date: March 20, 2026
For further information, please call: (512) 438-3269

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26 TAC §748.3321

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, the amendments to §§748.751, 748.753, 748.881, and 748.887 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and training of employees at regulated facilities; the amendments to §748.3319 and repeal of §748.3321 are authorized by Texas Human Resources Code §42.068(b), which requires the executive commissioner to adopt rules relating to the placement and design of "No Trespassing" notices.

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 August 18, 2026.

TRD-202603584
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 7, 2026
Proposal publication date: March 20, 2026
For further information, please call: (512) 438-3269

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.207

The Texas Forensic Science Commission (Commission) adopts an amendment to §651.207, Forensic Analyst and Forensic Technician Licensing Requirements, Including Initial License Term and Fee, Minimum Education and Coursework, General Forensic Examination, Proficiency Monitoring, and Mandatory Legal and Professional Responsibility Training, to reduce the amount of work experience required for a firearms/toolmarks analyst or technician to obtain a waiver of certain minimum education or specific coursework requirements for licensure without changes to the text as published in the June 12, 2026 issue of the *Texas Register* (51 TexReg 3870). The rule will not be republished. This adoption reflects feedback from firearms/toolmarks forensic practitioners and laboratory managers in Texas, who indicate that three years of relevant training and experience is sufficient to address any gaps in formal education or coursework and to ensure that applicants possess the necessary knowledge to qualify for licensure as a firearms/toolmarks analyst or technician.

Reasoned Justification for Rule. This adoption is necessary to ensure that the Commission's licensing requirements accurately reflect current training practices and workforce realities within the firearms/toolmarks discipline. The Commission received feedback from firearms/toolmarks forensic practitioners and laboratory managers indicating that three years of relevant training and experience in an accredited laboratory is sufficient to address any gaps in formal education or specific coursework and to ensure competency in the discipline. These stakeholders explained that firearms/toolmarks training programs are comprehensive, highly specialized, and closely supervised, enabling individuals to acquire the necessary knowledge and skills within a three-year period. Reducing the required years of experience in this limited context maintains public safety and professional standards while promoting consistency, fairness, and efficiency in the licensing process. The adoption allows the Commission to continue ensuring that licensed firearms/toolmarks analysts and technicians are qualified and competent, while recognizing equivalent, discipline-specific experience that adequately substitutes for formal education and specific college courses.

Summary of Comments. The public comment period on the rule proposal began on June 12, 2026, and ended on July 14, 2026. The Commission did not receive any comments.

Statutory Authority. The rules are adopted under the Commission's general rulemaking authority provided in Code of Criminal Procedure, Article 38.01 §3-a and its authority to establish the qualifications for a forensic analyst license under §4-a(d).

Cross reference to statute. The adoption affects Code of Criminal Procedure, Article 38.01.

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 August 20, 2026.

TRD-202603655
Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
Effective date: September 9, 2026
Proposal publication date: June 12, 2026
For further information, please call: (512) 936-0661

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SUBCHAPTER D. PROCEDURE FOR PROCESSING COMPLAINTS AND LABORATORY SELF-DISCLOSURES

37 TAC §651.307

The Texas Forensic Science Commission (Commission) adopts an amendment to §651.307, Investigative Panels, to change the section title from "Investigative Panels" to "Investigative Procedures" to more accurately reflect that investigations may be conducted by either an investigative panel or Commission staff without changes to the text as published in the June 12, 2026, issue of the *Texas Register* (51 TexReg 3874). The rule will not be republished.

Reasoned Justification for Rule. The Commission adopts an amendment to §651.307 to change the section title from "Investigative Panels" to "Investigative Procedures." The amendment is necessary to accurately reflect the scope of investigative authority provided in the rule, which permits the Commission to conduct investigations either through the appointment of an investigative panel or by directing Commission staff to conduct the investigation. The current section title may lead to confusion because it suggests that investigations may only be conducted by investigative panels. Renaming the section improves clarity and consistency within the rules and ensures the title accurately reflects existing investigative practices authorized by the Commission.

Summary of Comments. The public comment period on the rule proposal began on June 12, 2026, and ended on July 14, 2026. The Commission did not receive any comments.

Statutory Authority. The rules are adopted under the Commission's general rulemaking authority provided in Code of Criminal

Procedure, Article 38.01 § 3-a and its authority to investigate and regulate crime laboratories and forensic analysts under Article 38.01 §§ 4, 4-a, and 4-d.

Cross reference to statute. The adoption affects Code of Criminal Procedure, Article 38.01.

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 August 20, 2026.

TRD-202603657
Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
Effective date: September 9, 2026
Proposal publication date: June 12, 2026
For further information, please call: (512) 936-0661

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 815. UNEMPLOYMENT INSURANCE

SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

40 TAC §815.16

The Texas Workforce Commission (TWC) adopts amendments to the following section of Chapter 815, relating to Unemployment Insurance:

Subchapter B. Benefits, Claims, and Appeals, §815.16

Amended §815.16 is adopted without changes to the proposal, as published in the June 19, 2026, issue of the *Texas Register* (51 TexReg 4006), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 815 rule change is to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

This amendment to the rule formalizes and modernizes the intent of TWC Appeals Precedent Case No. 93-014606-10*-101993 (MS 30.00(4)), a Commission precedent initially adopted in 1993 when telephone conference hearings were less frequent and the total volume of hearings was significantly lower. Telephone conference calls are now the default method of conducting hearings, and the consistent increase in the total number of hearings makes consideration of time zones generally applicable.

Also, with the increase in total hearing volume, the physical locations of hearing officers are no longer limited to the Central time zone used in hearing notices. The rule change modernizes the guidelines by specifying that the good cause analysis relies on the difference between the petitioner's time zone and the time zone used in the hearing notice (Central time zone), regardless of the hearing officer's time zone.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rule and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

TWC adopts the following amendments to Subchapter B:

§815.16. Appeals to Appeal Tribunals from Determinations

Section 815.16 is amended to add paragraph (5)(D) to define the circumstances under which a time zone difference between the petitioner's location and the time published in the hearing notice establish good cause for the petitioner to fail to participate in a hearing. Good cause for missing a prior hearing may be established if the petitioner makes a good faith effort to participate in the hearing but calls in untimely solely because of a time zone difference between the petitioner's location and the (Central) time zone expressed in the hearing notice.

PART III. PUBLIC COMMENTS

No comments were received on the rules. The comment period ended on July 20, 2026.

PART IV. STATUTORY AUTHORITY

The rule is adopted under:

--Texas Labor Code §212.001, which provides that the manner in which unemployment insurance hearings and appeals are conducted must be in accordance with rules adopted by TWC.

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

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 August 18, 2026.

TRD-202603588
Les Trobman
General Counsel
Texas Workforce Commission
Effective date: September 7, 2026
Proposal publication date: June 19, 2026
For further information, please call: (737) 301-9662

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Texas

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 Reviews

State Securities Board

Title 7, Part 7

The State Securities Board (Agency), beginning September 2026, will review and consider for readoption, revision, or repeal Chapter 101, General Administration; Chapter 103, Rulemaking Procedure; and Chapter 104, Procedure for Review of Applications, in accordance with Texas Government Code, §2001.039, which requires rule review every four years. The rules to be reviewed are located in Title 7, Part 7, of the Texas Administrative Code. The text of the rule sections will not be published. The text of these rules may be found in the Texas Administrative Code, Title 7, Part 7 or through the Board's website at *www.ssb.texas.gov/texas-securities-act-board-rules*.

The Agency has conducted a preliminary review of these chapters and determined the reasons for initially adopting the chapters continue to exist. The Agency's Board will consider, among other things, whether the initial factual, legal, and policy reasons for adoption of these rules continue to exist, whether these rules should be repealed, and whether any changes are needed. This notice to review has no effect on the chapters as they currently exist. Readopted chapters will be noted in a subsequent issue of the *Texas Register's* "Review of Agency Rules" section without publication of the text.

Any changes to the rules proposed by the Agency's Board after reviewing the rules and considering the comments received in response to this notice will appear in the "Proposed Rules" section of a subsequent issue of the *Texas Register*. Such changes will be open for public comment prior to the final adoption of any changes to the rule by the Agency in accordance with the requirements of the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001.

Comments or suggestions on the proposal must be in writing and will be accepted for 30 days following publication of this notice in the *Texas Register*. Written comments should be submitted to Cheryn Netz Howard, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. Comments received will be reviewed and discussed in a future Board meeting.

Issued in Austin, Texas on August 24, 2026.

TRD-202603729
Jeramy E. Heintz
Securities Commissioner
State Securities Board
Filed: August 24, 2026

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Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), in its own capacity and on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 98, Texas HIV Medication Program

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 98, Texas HIV Medication Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to **hhsrulescoordinationoffice@hhs.texas.gov**. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 98" in the subject line. 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.*

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202603728
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 24, 2026

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The Texas Health and Human Services Commission (HHSC), in its own capacity and on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 133, Hospital Licensing

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 133, Hospital Licensing, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to **hhsrulescoordinationoffice@hhs.texas.gov**. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 133" in the subject line. 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*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202603707
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 24, 2026

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The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 157, Emergency Medical Care

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 157, Emergency Medical Care, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 157" in the subject line. 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*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202603650
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 19, 2026

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Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 556, Nurse Aides

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 505, Hospital Licensing, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 556" in the subject line. 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*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202603648
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 19, 2026

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The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 746, Minimum Standards for Child-Care Centers

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 746, Minimum Standards for Child-Care Centers, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 746" in the subject line. 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*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202603649
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 19, 2026

♦ ♦ ♦

Adopted Rule Reviews

Texas Ethics Commission

Title 1, Part 2

The Texas Ethics Commission (the Commission) has completed its review of all sections in Chapter 26 (Political and Legislative Advertising) of Title 1, Part 2, Texas Administrative Code.

This review was conducted in accordance with Texas Gov't Code §2001.039. Notice of the review was published in the July 18, 2025, issue of the *Texas Register* (50 TexReg 4094). No comments were received in response to the notice. The Commission determined that the initial reasons for adopting rules in this chapter continue to exist and readopts this chapter.

The Commission finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments were published previously in the Proposed Rules section of the *Texas Register.*

This concludes the review of Chapter 26, as required by Tex. Gov't Code §2001.039.

TRD-202603652
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: August 19, 2026

♦ ♦ ♦

The Texas Ethics Commission (the Commission) has completed its review of all sections in Chapter 34 (Regulation of Lobbyists) of Title 1, Part 2, Texas Administrative Code.

This review was conducted in accordance with Texas Gov't Code §2001.039. Notice of the review was published in the July 18, 2025, issue of the *Texas Register* (50 TexReg 4094). No comments were received in response to the notice. The Commission determined that the initial reasons for adopting rules in this chapter continue to exist and readopts this chapter.

The Commission finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments were published previously in the Proposed Rules section of the *Texas Register.*

This concludes the review of Chapter 34, as required by Tex. Gov't Code §2001.039.

TRD-202603651
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: August 19, 2026

♦ ♦ ♦

The Texas Ethics Commission (the Commission) has completed its review of all sections in Chapter 45 (Conflicts of Interest) of Title 1, Part 2, Texas Administrative Code.

This review was conducted in accordance with Texas Gov't Code §2001.039. Notice of the review was published in the July 18, 2025, issue of the *Texas Register* (50 TexReg 4095). No comments were received in response to the notice. The Commission determined that the initial reasons for adopting rules in this chapter continue to exist and readopts this chapter.

The Commission finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments were published previously in the Proposed Rules section of the *Texas Register.*

This concludes the review of Chapter 45, as required by Tex. Gov't Code §2001.039.

TRD-202603653
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: August 19, 2026

♦ ♦ ♦

The Texas Ethics Commission (the Commission) has completed its review of all sections in Chapter 46 (Disclosure of Interested Parties) of Title 1, Part 2, Texas Administrative Code.

This review was conducted in accordance with Texas Gov't Code § 2001.039. Notice of the review was published in the July 18, 2025, issue of the *Texas Register* (50 TexReg 4095). No comments were received in response to the notice. The Commission determined that the initial reasons for adopting rules in this chapter continue to exist and readopts this chapter.

The Commission finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments were published previously in the Proposed Rules section of the *Texas Register.*

This concludes the review of Chapter 46, as required by Tex. Gov't Code § 2001.039.

TRD-202603654
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: August 19, 2026

♦ ♦ ♦

Finance Commission of Texas

Title 7, Part 1

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Chapter 3 (State Bank Regulation), comprised of Subchapter A (§§3.1 - 3.5); Subchapter B (§§3.21 - 3.38); Subchapter C (§§3.40 - 3.45); Subchapter D (§§3.51 - 3.62); Subchapter E (§§3.91 - 3.93); and Subchapter F (§3.111 and §3.112).

Notice of the review of Chapter 3 was published in the February 27, 2026 issue of the *Texas Register* (51 TexReg 1311). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 3 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202603722
Robert K. Nichols, III
General Counsel
Finance Commission of Texas
Filed: August 24, 2026

♦ ♦ ♦

Texas Department of Banking

Title 7, Part 2

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review

of Texas Administrative Code, Title 7, Chapter 33 (Money Services Businesses), comprised of §§33.7, 33.15, 33.27, 33.30, 33.31, 33.33, 33.35, 33.51 - 33.53, and 33.55.

Notice of the review of Chapter 33 was published in the February 27, 2026 issue of the *Texas Register* (51 TexReg 1312). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 33 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202603723
Robert K. Nichols, III
General Counsel
Texas Department of Banking
Filed: August 24, 2026

♦ ♦ ♦

Office of Consumer Credit Commissioner

Title 7, Part 5

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 86, Subchapter A, concerning Registration of Retail Creditors, and Subchapter B, concerning Retail Installment Contract, in their entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 Chapter 86, Subchapters A and B was published in the June 5, 2026, issue of the *Texas Register* (51 TexReg 3821). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in these subchapters continue to exist.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 86, Subchapters A and B continue to exist, and readopts these subchapters in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202603674
Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Filed: August 21, 2026

♦ ♦ ♦

Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 553, Licensing Standards for Assisted Living Facilities

Notice of the review of this chapter was published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3719) for public comment.

The 31-day comment period ended June 29, 2026. During this period, HHSC received comments from one commenter. The comments focus on residents who have a guardian or legally authorized representative (LAR). The commenter expressed concerns that a resident who has a guardian or LAR might be treated as if the resident has no voice. The commenter points out that many residents can still express preferences about care, routines, relationships, activities, food, privacy, and where the resident wants to live.

A summary of the comments relating to the rules and HHSC's responses follows.

Comment: In §553.259, relating to Admission Policies and Procedures, the commenter suggests adding language requiring a resident service plan to document the resident's own preferences and participation to the greatest extent possible. If a guardian or LAR signs or approves the service plan, the facility should still document how the resident was included, what the resident expressed, and whether the plan reflects the resident's known preferences.

Response: HHSC agrees that requiring an Assisted Living Facility (ALF) to document a resident's preferences and note how the resident participated in the development of the resident's service plan would help to ensure the plan reflects the resident's known preferences. HHSC will consider this suggested amendment during the next upcoming rule project for the chapter.

Comment: In §553.265, relating to Resident Records and Retention, the commenter suggests requiring assisted living facilities to document the scope of a guardian's authority and any rights retained by the resident. Keeping the guardianship order in the chart is important, but staff also need to understand what the order actually allows. This would help prevent staff from treating guardianship as broader than the court intended.

Response: HHSC agrees that requiring an ALF to document in a resident's record the scope of authority of the resident's guardian and any rights retained by the resident would help protect the resident's rights and prevent staff from treating guardianship as broader than the court intended. HHSC will consider this suggested amendment during the next upcoming rule project for the chapter.

Comment: In §553.267, relating to Rights, the commenter suggests adding language that states facilities must support the resident's participation in decisions unless participation is clearly restricted by law or court order. This would reinforce the principle that guardianship is meant to protect a person, not erase the person's dignity or voice.

Response: HHSC agrees that adding the statement that a facility must support a resident's participation in decisions, unless participation is clearly restricted by law or court order, would help to protect a resident's dignity and voice. HHSC will consider this suggested amendment during the next upcoming rule project for the chapter.

Comment: In §553.269, relating to Access to Residents and Records by the State Long-Term Care Ombudsman Program, the commenter states that ombudsman access is important for residents who may be afraid to complain, unable to communicate clearly, or dependent on others for decision-making. The commenter suggests requiring facilities to explain ombudsman access to residents and LARs during admission, during service planning, and when there is a meaningful change in condition.

Response: HHSC agrees that requiring facilities to explain ombudsman access to residents and LARs during admission, during service planning, and when there is a meaningful change in condition would help protect the rights of residents who may be unable to communicate clearly or dependent on others for decision-making. HHSC will consider this suggested amendment during the next upcoming rule project for the chapter.

HHSC has reviewed Chapter 553 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every

four years, whether the initial reasons for adopting a rule continue to exist.

HHSC determined that the original reasons for adopting the rules in Chapter 553 continue to exist, except for §553.43 and §553.255. HHSC determined that the reasons for adopting those two sections no longer exist and therefore readopts Chapter 553 except for:

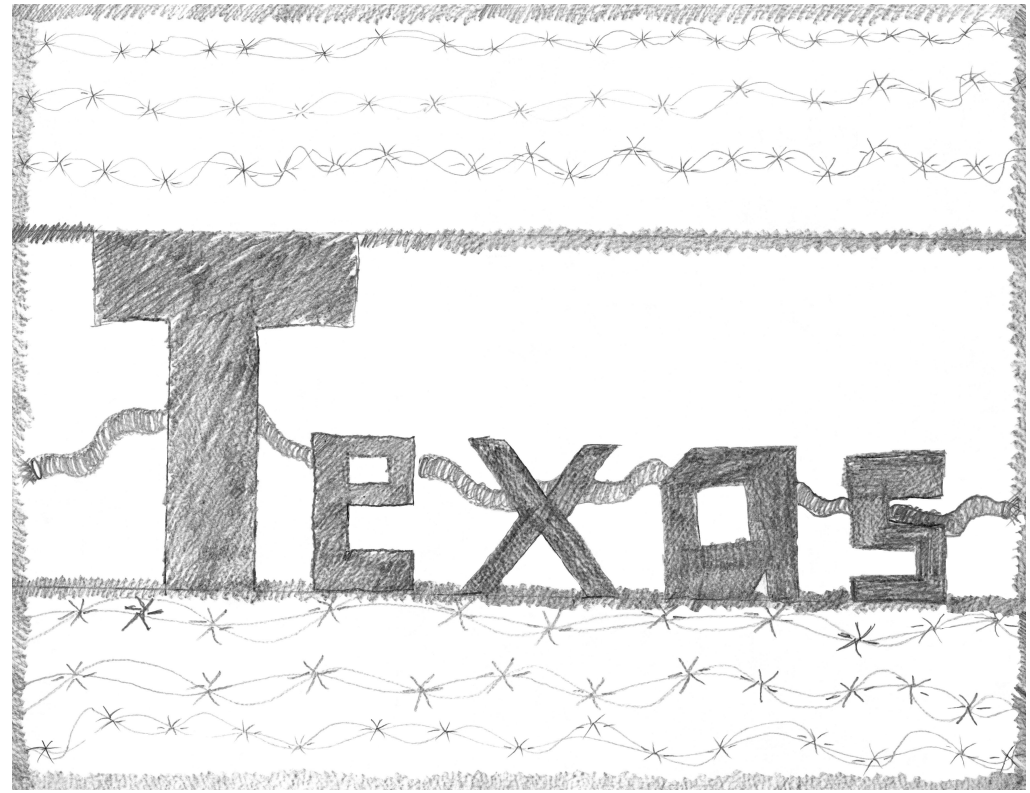
§553.43, Disclosure of Facility Identification Number; and

§553.255, All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder.

This concludes HHSC's review of 26 TAC Chapter 553 as required by Texas Government Code §2001.039.

TRD-202603705
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 24, 2026

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TEXAS

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 §553.132(g)(1)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.132(g)(2)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.142(g)(1)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.142(g)(2)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.232(g)(1)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.232(g)(2)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.242(g)(1)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.242(g)(2)(A)

Number of licensed beds	Area Per Bed Minimum in square feet
17-39	13
40-59	12
60 or more	10

Figure: 26 TAC §553.287(e)(3)

Texas Health and Human Services Commission (HHSC)

Information Regarding Authorized Electronic Monitoring

A resident, or the resident's guardian or legally authorized representative, is entitled to conduct authorized electronic monitoring (AEM) under Health and Safety Code §247.003. To request AEM, you, your guardian, or your legally authorized representative, must:

(1) complete the Request for Authorized Electronic Monitoring form (available from the facility);

(2) obtain the consent of other residents, if any, in your room, using the Consent to Authorized Electronic Monitoring form (available from the facility); and

(3) give the form to the facility manager or designee.

Who may request AEM?

(1) The resident, if the resident has capacity to request AEM and has not been judicially declared to lack the required capacity.

(2) The guardian of the resident, if the resident has been judicially declared to lack the required capacity.

(3) The legally authorized representative of the resident if the resident does not have capacity to request AEM and has not been judicially declared to lack the required capacity.

Who determines if the resident does not have the capacity to request AEM?

The resident's practitioner will make the determination regarding the resident's capacity to request AEM. When the resident's practitioner has determined the resident lacks capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legally authorized representative for the limited purpose of requesting AEM:

(1) a person named in the resident's medical power of attorney or another advance directive;

(2) the resident's spouse;

(3) an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision-maker;

(4) a majority of the resident's reasonably available adult children;

(5) the resident's parents; or

(6) the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.

Who must consent to AEM?

(1) Any other resident residing in the room.

(2) The guardian of the other resident, if the resident has been judicially declared to lack the required capacity.

(3) The legally authorized representative of the other resident if the resident does not have capacity to sign the form but has not been judicially declared to lack the required capacity. The legally authorized representative is determined by following the procedure for determining a legally authorized representative, as stated above, under "Who determines if the resident does not have the capacity to request AEM?"

Can a resident be discharged or refused admittance for requesting AEM?

A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct AEM. If either of these situations occur, you should report the occurrence to the local office of Long-term Care Regulation, HHSC.

What about covert electronic monitoring?

A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident. A facility attempting to discharge a resident because of covert electronic monitoring should be reported to the local office of Long-term Care Regulation-, HHSC.

What is required if a covert electronic monitoring device is discovered?

If a covert electronic monitoring device is discovered by a facility and is no longer covert as defined in §553.3 of this chapter (relating to Definitions), the resident must meet all requirements for AEM before monitoring is allowed to continue.

Is notice of AEM required?

Anyone conducting AEM must post and maintain a conspicuous notice at the entrance to the resident's room. The notice must state that an electronic monitoring device is monitoring the room.

What is required for the installation of monitoring equipment?

The resident, or the resident's guardian or legally authorized representative, must pay for all costs associated with conducting AEM, including installation in compliance with life safety and electrical codes, maintenance, removal of the equipment, posting and removal of the notice, or repair following removal of the equipment and notice, other than the cost of electricity.

A facility may require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room. A facility may also require that AEM be conducted in plain view.

The facility must make reasonable physical accommodation for AEM, which includes providing:

(1) a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and

(2) access to power sources for the video surveillance camera or other electronic monitoring device.

If the facility refuses to permit AEM or fails to make reasonable physical accommodations for AEM, you should report the facility's refusal to the local office of Long-term Care Regulation, HHSC.

Are facilities subject to administrative penalties for violations of the electronic monitoring rules?

Yes. HHSC may assess an administrative penalty (see §553.751 of this chapter (relating to Administrative Penalties)) against a facility for each instance in which the facility:

(1) refuses to permit a resident, or the resident's guardian or legally authorized representative, to conduct AEM:

(2) refuses to admit an individual or discharges a resident because of a request to conduct AEM;

(3) discharges a resident because covert electronic monitoring is being conducted by or on behalf of the resident; or

(4) violates any other provision relating to AEM.

How does AEM affect the reporting of abuse and neglect?

Section 553.293 of this subchapter (relating to Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities) requires facility staff to report abuse or neglect. If abuse or neglect has occurred, the most important thing is to report it. Abuse and neglect cannot be addressed unless reported.

For purposes of the duty to report abuse or neglect, the following apply:

(1) A person who is conducting electronic monitoring on behalf of a resident is considered to have viewed or listened to a recording made by the electronic monitoring device on or before the 14th day after the date the recording is made.

(2) If a resident, who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring, gives a recording made by the electronic monitoring device to a person and directs the person to view or listen to the recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the recording is considered to have viewed or listened to the recording on or before the seventh day after the date the person receives the recording.

(3) A person is required to report abuse based on the person's viewing of or listening to a recording only if an incident of abuse is indicated on the recording. A person is required to report neglect based on the person's viewing of or listening to a recording only if it is clear from viewing or listening to the recording that neglect has occurred.

(4) If abuse or neglect of the resident is reported to the facility and the facility requests a copy of any relevant recording made by an electronic monitoring device, the person who possesses the recording must provide the facility with a copy at the facility's expense. The cost of the copy cannot exceed the community standard.

(5) A person who sends more than one recording to HHSC must identify each recording on which the person believes an incident of abuse or evidence of neglect may be found. Tapes or recordings should identify the place on the recording that an incident of abuse or evidence of neglect may be found.

What is required for the use of a recording by an agency or court?

(a) Subject to applicable rules of evidence and procedure, a recording created through the use of covert monitoring or AEM may be admitted into evidence in a civil or criminal court action or administrative proceeding.

(b) A court or administrative agency may not admit into evidence a recording created using covert monitoring or AEM or take or authorize action based on the recording unless:

(1) the recording shows the time and date the events on the recording occurred, if the recording is a video recording;

(2) the contents of the recording have not been edited or artificially enhanced; and

(3) any transfer of the contents of the recording was done by a qualified professional and the contents were not altered if the contents have been transferred from the original format to another technological format.

Are there additional provisions of the law?

A person who places an electronic monitoring device in the room of a resident or who uses or discloses a recording made by the device may be civilly liable for any unlawful violation of the privacy rights of another.

A person who covertly places an electronic monitoring device in the room of a resident or who consents to or acquiesces in the covert placement of the device in the room of a resident has waived any privacy right the person may have had in connection with images or sounds that may be acquired by the device.

_____

Signature of Resident/Person Signing of Behalf of Resident Date

Figure: 37 TAC §141.111(36)

PAROLE PANEL VOTING CODES AND OPTIONS

The voting panels of the Texas Board of Pardons and Paroles do not vote just "yes" or "no" on parole cases. The panels have a number of voting options for parole approval. The Board may withdraw an approval vote at any time if new information is received.

Approval Votes	
FI-1	Release the offender when eligible.
FI-2 (Month/Year)	Release on a specified future date.
FI-3R	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion.
FI-4R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP).
FI-5	Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program.
FI-6	Transfer to a DWI Program and release to a continuum of care program.
FI-6R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six (6) months from specified date. Such TDCJ program may include the Pre-Release Therapeutic Community (PRTC), Female Cognitive Pre-Release Program (FCPRP), Substance Use Education Program (SUEP), or any other approved tier program.
FI-7R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven (7) months from the specified date. Such TDCJ program shall be the Serious and Violent Offender Reentry Initiative (SVORI).
FI-9R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9).
FI-18R (Month/Year)	Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-18).
CU/FI (Month/Year-Cause Number)	Designate the date on which the offender serving consecutive sentences would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This date shall be within a three-year incarceration period following the panel decision.
RMS	Release to mandatory supervision.

PAROLE PANEL VOTING CODES AND OPTIONS

Denial Votes	
NR (Month/Year)	Deny parole and set time for next parole consideration. The next review date (month/year) for an offender may be set at any date after the first anniversary of the date of denial and before the fifth anniversary of the denial. If the offender is serving a sentence under Section 481.115, Health and Safety Code involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, the next review date (month/year) shall begin as soon as practicable after the first anniversary of the date of denial.
SERVE ALL (SA)	Deny parole with no regular subsequent review, requiring offender to serve balance of sentence, unless eligible for mandatory supervision consideration prior to projected release date. In no event shall this be utilized if the offender's projected release date is greater than five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.21 of that code.
CU/NR (Month/Year-Cause Number)	Deny favorable action. The next review date (month/year) may be set at any date in the five-year incarceration period following the panel decision date, but in no event shall it be less than one calendar year from the panel decision date. If the offender is serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, the next review date (month/year) shall begin as soon as practicable after the first anniversary of the denial.
CU/SA (Month/Year-Cause Number)	Deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code.
DMS (Month/Year)	Deny release to mandatory supervision and set the next mandatory supervision review date one (1) year from the panel decision date.

Figure: 37 TAC §145.12(4)

ACTION UPON REVIEW; VOTING OPTIONS

Parole Vote		Established Required Program
FI-1	Release the offender when eligible.	
FI-2 (Month/Year)	Release on a specified future date.	
FI-3R	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion.	Changes Habits and Achieving New Goals to Empower Success (CHANGES) Cognitive Intervention Program (CIP) Strength Through Restoration, Vision and Empowerment (STRIVE) Truth, Healing, Restoration, Independence, Vision, Empowerment (THRIVE)
FI-4R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four months from specified date.	Sex Offender Education Program (SOEP)
FI-5	Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program.	In-Prison Therapeutic Community Program (IPTC)
FI-6	Transfer to a DWI Program and release to a continuum of care program.	In-Prison Driving While Intoxicated Recovery Program (DWI)
FI-6R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six months from specified date.	Female Cognitive Pre-Release Program Pre-Release Therapeutic Community (PRTC) Substance Use Education Program (SUEP)
FI-7R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven months from the specified date.	Serious and Violent Offender Reentry Initiative (SVORI)
FI-9R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine months from specified date.	Sex Offender Treatment Program (9 Month) (SOTP-9).
FI-18R (Month/Year)	Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date.	Sex Offender Treatment Program (18 month) (SOTP-18).

In addition to the above programs, the BPP has discretion to allow similar completed programs to satisfy the program requirement.

Figure: 37 TAC §145.13(b)

ACTION UPON REVIEW; CONSECUTIVE (CUMULATIVE) VOTING OPTIONS

CU/FI (Month/Year Cause Number)	Designate the date on which the offender serving consecutive sentences would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This date shall be within a three-year incarceration period following the panel decision.
CU/NR (Month/Year Cause Number)	Deny favorable action. The next review date (month/year) may be set at any date in the five-year incarceration period following the panel decision date, but in no event shall it be less than one calendar year from the panel decision date. If the offender is serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, the next review date (month/year) shall begin as soon as practicable after the first anniversary of the denial.
CU/SA (Month/Year Cause Number)	Deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code.

Figure: 37 TAC §145.15(a)(2)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

Approval Voting Options	
FI-1	Release the offender when eligible.
FI-4R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP).
FI-9R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9).
FI-18R (Month/Year)	Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-18).

Figure: 37 TAC §145.15(a)(3)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

Denial Voting Options	
NR (Month/Year)	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: Deny release and set the next review date for 36 or 60 months following the panel decision. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: Deny release and set the next review date for 36, 60, 84, or 120 months following the panel decision date.
SA	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21,02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: If their minimum or maximum expiration date is less than 60 months away, they will continue to serve their sentence until that date. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: If their minimum or maximum expiration date is less than 120 months away, they will continue to serve their sentence until that date.

Figure: 37 TAC §145.15(b)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

Consecutive Sentence Voting Options	
CU/FI (Month/Year-Cause Number)	A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence.
CU/NR (Month/Year-Cause Number)	For offenders convicted of or serving a sentence for a capital felony, other than a life a sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: Deny release and set the next review date for 36 or 60 months following the panel decision date. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: Deny release and set the next review date for 36, 60, 84, or 120 months following the panel decision date.
CU/SA (Month/Year-Cause Number)	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: Deny release and order serve-all if the offender is within 60 months of their maximum expiration date. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: Deny release and order serve-all if the offender is within 120 months of their maximum expiration date.

Figure: 37 TAC §145.15(c)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

Mandatory Supervision Voting Options	
RMS	Release to mandatory supervision.
DMS (Month/Year)	Deny release to mandatory supervision and set the next mandatory supervision review date one year from the panel decision date.

Figure: 37 TAC §145.18(b)(2)

MRIS VOTING OPTIONS

Approve MRIS	The MRIS panel shall provide appropriate reasons for the decision to approve MRIS. The MRIS panel shall vote FI-1 and impose Special Condition O.35. This condition specifies that the offender shall comply with the terms and conditions of the MRIS Program and abide by the TCOOMMI-approved release plan. At any time, this condition is in effect, the offender shall remain under the care of a physician and in a medically suitable placement.
Deny MRIS	The MRIS panel shall provide appropriate reasons for the decision to deny MRIS.



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.

Camino Real Regional Mobility Authority

Request for Qualifications and Proposals for Design and Construction of a New Aerial Tramway

The Camino Real Regional Mobility Authority (CRRMA), a political subdivision, is soliciting qualifications and proposals from respondents interested in providing design and construction activities for the Wyler Aerial Tramway Project. Interested respondents must demonstrate a successful history of designing and constructing aerial tramways.

The request for qualifications and proposals was made available on August 14, 2026. Copies may be obtained electronically from the Procurements page of the CRRMA's website (www.crrma.org). Periodic updates, addenda, and questions/answers will be posted on the Procurements page of the CRRMA's website, and interested parties are responsible for monitoring the website accordingly. Final responses must be received by the Camino Real Regional Mobility Authority, c/o AtkinsRéalis USA Inc., 100 North Stanton, Suite 700, El Paso, Texas 79901, by 5:00 p.m., (El Paso time) on October 1, 2026, to be eligible for consideration.

Each respondent will be evaluated based on the criteria and process set forth in the request for qualifications and proposals. The final selection of a respondent, if any, will be made by the CRRMA Board of Directors.

TRD-202603647
Raymond L. Telles
Executive Director
Camino Real Regional Mobility Authority
Filed: August 19, 2026

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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, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/31/26 - 09/06/26 is 18.00% for consumer[1] credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/31/26 - 09/06/26 is 18.00% for commercial[2] credit.

[1] Credit for personal, family, or household use.

[2] Credit for business, commercial, investment, or other similar purpose.

TRD-202603740
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: August 26, 2026

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State Board for Educator Certification

Correction of Error

The State Board for Educator Certification proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, in the August 14, 2026 issue of the *Texas Register* (51 TexReg 5330).

Due to an error as submitted by the Texas Education Agency, the language in the COST INCREASE TO REGULATED PERSONS section was incorrect and should state there is no cost. The correct text is as follows:

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 TGC, §2001.0045.

TRD-202603739
Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Filed: August 26, 2026

♦ ♦ ♦

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 **October 6, 2026**. 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 physical 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. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at Enforcement Division,

MC 128, P.O. Box 13087, Austin, Texas 78711-3087 and must be postmarked by 5:00 p.m. on **October 6, 2026**. Written comments may also be sent to the enforcement coordinator by email to ENFCOMNT@tceq.texas.gov or by facsimile machine at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed contact information; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: AIN PARTNERS INC; DOCKET NUMBER: 2026-0490-PST-E; IDENTIFIER: RN101433811; LOCATION: Silsbee, Hardin County; TYPE OF FACILITY: underground storage tank system; PENALTY: $5,000; ENFORCEMENT COORDINATOR: Jocelyn Cruz, (512) 239-4672; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(2) COMPANY: ARYA C-STORES INC; DOCKET NUMBER: 2023-0352-PST-E; IDENTIFIER: RN102017258; LOCATION: Houston, Harris County; TYPE OF FACILITY: underground storage tank system and convenience store with retail sales of gasoline; PENALTY: $5,625; ENFORCEMENT COORDINATOR: Bryce Huck, (512) 239-4655; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(3) COMPANY: Advario Texas City, L.P.; DOCKET NUMBER: 2023-0885-AIR-E; IDENTIFIER: RN100217231; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: bulk storage facility; PENALTY: $8,400; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(4) COMPANY: Amanda Whitespeare, trustee of MARIE GRACE LEGACY TRUST, Suzanne Eldridge Gore, trustee of MARIE GRACE LEGACY TRUST, and New Progress Water Supply Corporation; DOCKET NUMBER: 2026-0714-PWS-E; IDENTIFIER: RN102689445; LOCATION: Weatherford, Parker County; TYPE OF FACILITY: public water supply; PENALTY: $2,063; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(5) COMPANY: American Chrome & Chemicals N.A. Inc.; DOCKET NUMBER: 2025-0449-AIR-E; IDENTIFIER: RN100210814; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $10,750; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(6) COMPANY: Barbra Reynolds; DOCKET NUMBER: 2026-0096-PWS-E; IDENTIFIER: RN101273449; LOCATION: Aubrey, Denton County; TYPE OF FACILITY: public water supply; PENALTY: $1,000; ENFORCEMENT COORDINATOR: Katherine Mckinney, (512) 239-4619; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(7) COMPANY: Bhojal LLC; DOCKET NUMBER: 2025-1625-MLM-E; IDENTIFIER: RN101547065; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: underground storage tank system and convenience store with retail sales of gasoline; PENALTY: $42,261; ENFORCEMENT COORDINATOR: Bryce Huck, (512) 239-4655; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(8) COMPANY: Blue Cypress Development LLC; DOCKET NUMBER: 2026-0880-WQ-E; IDENTIFIER: RN112481593; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: construction site; PENALTY: $875; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(9) COMPANY: Blue Dolphin Unlimited Investments, L.P.; DOCKET NUMBER: 2026-0796-PWS-E; IDENTIFIER: RN104909940; LOCATION: Wharton, Wharton County; TYPE OF FACILITY: public water supply; PENALTY: $200; ENFORCEMENT COORDINATOR: Anjali Talpallikar, (512) 239-2507; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(10) COMPANY: CITGO Refining and Chemicals Company L.P.; DOCKET NUMBER: 2026-0071-AIR-E; IDENTIFIER: RN100238799; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: oil refinery; PENALTY: $52,650; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(11) COMPANY: City of Breckenridge; DOCKET NUMBER: 2023-0093-PWS-E; IDENTIFIER: RN101386936; LOCATION: Breckenridge, Stephens County; TYPE OF FACILITY: public water supply; PENALTY: $31,838; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $25,471; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, REGION 04 - DALLAS-FORT WORTH.

(12) COMPANY: City of Chillicothe; DOCKET NUMBER: 2026-0587-PWS-E; IDENTIFIER: RN101389542; LOCATION: Chillicothe, Hardeman County; TYPE OF FACILITY: public water supply; PENALTY: $1,760; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 239-2521; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(13) COMPANY: City of East Tawakoni; DOCKET NUMBER: 2026-0661-PWS-E; IDENTIFIER: RN101387058; LOCATION: East Tawakoni, Rains County; TYPE OF FACILITY: public water supply; PENALTY: $2,850; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(14) COMPANY: City of Hutto; DOCKET NUMBER: 2024-0832-MWD-E; IDENTIFIER: RN103118949; LOCATION: Hutto, Williamson County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $42,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $42,250; ENFORCEMENT COORDINATOR: Elizabeth Vanderwerken, (512) 239-5900; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(15) COMPANY: City of Morgan; DOCKET NUMBER: 2022-1244-MWD-E; IDENTIFIER: RN102917051; LOCATION: Morgan, Bosque County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $115,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $115,500; ENFORCEMENT COORDINATOR: Casey Cobb, (512) 239-0351; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(16) COMPANY: City of Rhome; DOCKET NUMBER: 2024-0765-MWD-E; IDENTIFIER: RN102701620; LOCATION: Rhome, Wise County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $10,875; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $8,700; ENFORCEMENT COORDINATOR: Elizabeth Vanderwerken, (512) 239-5900; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(17) COMPANY: Cowtown Gas Processing Partners L.P.; DOCKET NUMBER: 2024-1125-AIR-E; IDENTIFIER: RN105471551; LO-

CATION: Granbury, Hood County; TYPE OF FACILITY: oil and gas processing plant; PENALTY: $8,125; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(18) COMPANY: Custom Building Products, LLC; DOCKET NUMBER: 2025-1027-AIR-E; IDENTIFIER: RN100614809; LOCATION: Grand Prairie, Dallas County; TYPE OF FACILITY: grouting materials manufacturing facility; PENALTY: $5,500; ENFORCEMENT COORDINATOR: Michael Wilkins, (325) 698-6134; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, REGION 03 - ABILENE.

(19) COMPANY: E&C Trucking, LLC; DOCKET NUMBER: 2024-0475-AIR-E; IDENTIFIER: RN111946307; LOCATION: Ben Wheeler, Van Zandt County; TYPE OF FACILITY: concrete batch plant; PENALTY: $6,750; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(20) COMPANY: Eco Tire Processing, L.L.C.; DOCKET NUMBER: 2023-0477-MSW-E; IDENTIFIER: RN110420932; LOCATION: Donna, Hidalgo County; TYPE OF FACILITY: tire processing site; PENALTY: $14,325; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(21) COMPANY: Gary Water Supply Corporation; DOCKET NUMBER: 2026-0695-PWS-E; IDENTIFIER: RN103196879; LOCATION: Carthage, Panola County; TYPE OF FACILITY: public water supply; PENALTY: $3,500; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(22) COMPANY: Glendale Water Supply Corporation; DOCKET NUMBER: 2026-0675-PWS-E; IDENTIFIER: RN101436319; LOCATION: Trinity, Trinity County; TYPE OF FACILITY: public water supply; PENALTY: $1,337; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(23) COMPANY: Harris County Water Control and Improvement District 109; DOCKET NUMBER: 2025-1773-MWD-E; IDENTIFIER: RN102956307; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $93,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $93,000; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(24) COMPANY: INEOS USA LLC; DOCKET NUMBER: 2024-1901-AIR-E; IDENTIFIER: RN100229905; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $13,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $6,562; ENFORCEMENT COORDINATOR: Katie Phillips, (713) 767-3628; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(25) COMPANY: INV Nylon Chemicals Americas, LLC; DOCKET NUMBER: 2022-0633-AIR-E; IDENTIFIER: RN102663671; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $204,975; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $81,990; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(26) COMPANY: Latexo Independent School District; DOCKET NUMBER: 2024-0699-MWD-E; IDENTIFIER: RN101522290; LOCATION: Latexo, Houston County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $26,875; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $21,500; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(27) COMPANY: Lhoist North America of Texas, LLC; DOCKET NUMBER: 2026-0548-AIR-E; IDENTIFIER: RN100552454; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: lime manufacturing plant; PENALTY: $7,875; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(28) COMPANY: Millersview-Doole Water Supply Corporation; DOCKET NUMBER: 2024-0609-PWS-E; IDENTIFIER: RN101457786; LOCATION: Millersview, Concho County; TYPE OF FACILITY: public water supply; PENALTY: $56,790; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(29) COMPANY: NEW HORIZONS RANCH AND CENTER, INC.; DOCKET NUMBER: 2026-0705-PWS-E; IDENTIFIER: RN101278471; LOCATION: Goldthwaite, Mills County; TYPE OF FACILITY: public water supply; PENALTY: $500; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(30) COMPANY: Northwinds Association, Inc.; DOCKET NUMBER: 2023-1641-MWD-E; IDENTIFIER: RN102343373; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $10,275; ENFORCEMENT COORDINATOR: Casey Cobb, (512) 239-0351; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(31) COMPANY: OUTHOUSE SOLUTIONS, inc. and Mildred Martin aka Mildred Sowell; DOCKET NUMBER: 2023-1683-MLM-E; IDENTIFIER: RN105245062; LOCATION: Trinity, Trinity County; TYPE OF FACILITY: sludge transporter; PENALTY: $6,250; ENFORCEMENT COORDINATOR: Casey Cobb, (512) 239-0351; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(32) COMPANY: Plymouth Partners, LLC; DOCKET NUMBER: 2026-0502-PWS-E; IDENTIFIER: RN112418728; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water supply; PENALTY: $3,750; ENFORCEMENT COORDINATOR: Deshaune Blake, (210) 403-4033; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(33) COMPANY: Renda Environmental, Inc. and the Trinity River Authority of Texas; DOCKET NUMBER: 2025-0185-WQ-E; IDENTIFIER: RN110742327; LOCATION: Boyd, Wise County; TYPE OF FACILITY: wastewater treatment plant; PENALTY: $45,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $45,000; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(34) COMPANY: SINGH, RUPINDERJIT; DOCKET NUMBER: 2026-0518-PST-E; IDENTIFIER: RN101744613; LOCATION: Sul-

phur Springs, Hopkins County; TYPE OF FACILITY: underground storage tank system; PENALTY: $1,875; ENFORCEMENT COORDINATOR: Jocelyn Cruz, (512) 239-4672; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(35) COMPANY: SJWTX, Inc.; DOCKET NUMBER: 2026-0478-PWS-E; IDENTIFIER: RN104710108; LOCATION: Bulverde, Comal County; TYPE OF FACILITY: public water supply; PENALTY: $2,875; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $1,437; ENFORCEMENT COORDINATOR: Deshaune Blake, (210) 403-4033; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(36) COMPANY: STRAIN, JOHNATHAN; DOCKET NUMBER: 2024-1349-WQ-E; IDENTIFIER: RN105726509; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: aggregate production operation; PENALTY: $20,000; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(37) COMPANY: Speed Auto Care Inc.; DOCKET NUMBER: 2024-0294-AIR-E; IDENTIFIER: RN111495560; LOCATION: Katy, Fort Bend County; TYPE OF FACILITY: auto body repair and refinishing facility; PENALTY: $2,500; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(38) COMPANY: TPC Group LLC; DOCKET NUMBER: 2025-0692-AIR-E; IDENTIFIER: RN100219526; LOCATION: Houston, Harris County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $32,625; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(39) COMPANY: Targa Pipeline Mid-Continent WestTex LLC; DOCKET NUMBER: 2026-0614-AIR-E; IDENTIFIER: RN111549861; LOCATION: Midland, Midland County; TYPE OF FACILITY: oil and gas processing plan; PENALTY: $12,500; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(40) COMPANY: TotalEnergies Petrochemicals & Refining USA, Inc.; DOCKET NUMBER: 2026-0207-AIR-E; IDENTIFIER: RN102457520; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petroleum refinery; PENALTY: $19,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $7,700; ENFORCEMENT COORDINATOR: Krystina Sepulveda, (956) 430-6045; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(41) COMPANY: Treasure Island Municipal Utility District; DOCKET NUMBER: 2026-0774-PWS-E; IDENTIFIER: RN101450252; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: public water supply; PENALTY: $1,000; ENFORCEMENT COORDINATOR: Anjali Talpallikar, (512) 239-2507; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(42) COMPANY: U.S. Department of the Interior; DOCKET NUMBER: 2026-0021-MWD-E; IDENTIFIER: RN102657418; LOCATION: Big Bend National Park, Brewster County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $134,913; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(43) COMPANY: UNION CARBIDE CORPORATION A SUBSIDIARY OF DOW; DOCKET NUMBER: 2025-0030-AIR-E; IDENTIFIER: RN102181526; LOCATION: Seadrift, Calhoun County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $99,973; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $39,989; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(44) COMPANY: Undine Texas Environmental, LLC; DOCKET NUMBER: 2026-0709-MWD-E; IDENTIFIER: RN102344157; LOCATION: Joshua, Johnson County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $4,312; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(45) COMPANY: Valero Energy Partners LP; DOCKET NUMBER: 2025-0441-AIR-E; IDENTIFIER: RN109734970; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: petroleum bulk station and terminal; PENALTY: $6,975; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $2,790; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(46) COMPANY: Western Refining Terminals, LLC; DOCKET NUMBER: 2024-0905-AIR-E; IDENTIFIER: RN100213016; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: asphalt and light products terminal and non-process storage tanks in an integrated petroleum refinery; PENALTY: $15,706; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $6,282; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

TRD-202603685
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 21, 2026

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Enforcement Orders

An agreed order was adopted regarding the City of Snyder, Docket No. 2022-0996-MWD-E on August 25, 2026 assessing $11,475 in administrative penalties with $2,295 deferred. Information concerning any aspect of this order may be obtained by contacting Elizabeth Vanderwerken, 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 SUNNYDALE WATER SUPPLY CORPORATION, Docket No. 2022-1212-UTL-E on August 25, 2026 assessing $500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Misty James, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Royal Independent School District, Docket No. 2022-1285-MWD-E on August 25, 2026 assessing $5,000 in administrative penalties with $1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Water Control and Improvement District No 92, Docket No. 2022-1654-MWD-E on August 25, 2026 assessing $9,000 in administrative penalties with $1,800 deferred. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas

An agreed order was adopted regarding Red River Authority of Texas, Docket No. 2023-0273-PWS-E on August 25, 2026 assessing $8,395 in administrative penalties with $1,679 deferred. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Red River Authority of Texas, Docket No. 2023-1517-PWS-E on August 25, 2026 assessing $1,550 in administrative penalties with $310 deferred. Information concerning any aspect of this order may be obtained by contacting Casey Cobb, 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 SUNNYDALE WATER SUPPLY CORPORATION, Docket No. 2024-0446-PWS-E on August 25, 2026 assessing $925 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Misty James, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kyle Erwin Construction LLC, Docket No. 2024-0481-WQ-E on August 25, 2026 assessing $9,250 in administrative penalties with $1,850 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 the City of Van Alstyne, Docket No. 2024-0506-PWS-E on August 25, 2026 assessing $3,100 in administrative penalties with $620 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 CORPUS EAGLE FOOD MART, INC dba Kwik Pantry 2, Docket No. 2024-0537-PST-E on August 25, 2026 assessing $11,220. Information concerning any aspect of this order may be obtained by contacting Taylor Pack Ellis, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Mart, Docket No. 2024-0834-MWD-E on August 25, 2026 assessing $7,950 in administrative penalties with $1,590 deferred. Information concerning any aspect of this order may be obtained by contacting Casey Cobb, 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 The Dow Chemical Company, Docket No. 2024-1503-AIR-E on August 25, 2026 assessing $8,481 in administrative penalties with $1,696 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 EnLink North Texas Gathering, LP, Docket No. 2025-0035-AIR-E on August 25, 2026 assessing $6,626 in administrative penalties with $1,325 deferred. Information concerning any aspect of this order may be obtained by contacting Raven Daigle, 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 Tomball Independent School District, Docket No. 2025-0284-IHW-E on August 25, 2026 assessing $11,375 in administrative penalties with $2,275 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 Chevron U.S.A. INC., Docket No. 2025-0440-AIR-E on August 25, 2026 assessing $4,226 in administrative penalties with $845 deferred. Information concerning any aspect of this order may be obtained by contacting Raven Daigle, 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 DCP Operating Company, LP, Docket No. 2025-0599-AIR-E on August 25, 2026 assessing $9,563 in administrative penalties with $1,912 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 RIO GRANDE ELECTRIC COOPERATIVE, INC., Docket No. 2025-0862-PST-E on August 25, 2026 assessing $4,500 in administrative penalties with $900 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, 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 Orion Engineered Carbons LLC, Docket No. 2025-0952-MLM-E on August 25, 2026 assessing $8,045 in administrative penalties with $1,609 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 Utilities, Inc. of Texas dba Corix Utilities (Texas) Inc., Docket No. 2025-1149-MWD-E on August 25, 2026 assessing $4,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Municipal Utility District No. 196, Docket No. 2025-1315-MWD-E on August 25, 2026 assessing $9,900 in administrative penalties with $1,980 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 Big Dog Gunite LLC, Docket No. 2025-1586-WQ-E on August 25, 2026 assessing $6,075 in administrative penalties with $1,215 deferred. Information concerning any aspect of this order may be obtained by contacting Casey Cobb, 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 Forestar Real Estate Group Inc., Docket No. 2025-1640-WQ-E on August 25, 2026 assessing $5,138 in administrative penalties with $1,027 deferred. Information concerning any aspect of this order may be obtained by contacting Cynthia Sidoa, 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 Sumika Semiconductor Materials Texas Inc. and Cedar Port Navigation and Improvement District, Docket No. 2025-1748-IWD-E on August 25, 2026 assessing $5,250 in administrative penalties with $1,050 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Crawford, 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 Texan Concrete Enterprise Ready Mix, Inc., Docket No. 2025-1885-WQ-E on August 25, 2026 assessing $1,925 in administrative penalties with $385 deferred. Information concerning any aspect of this order may be obtained by contacting Amy Lane, 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 global alternative fuels, llc, Docket No. 2026-0049-PST-E on August 25, 2026 assessing $4,169 in administrative penalties with $833 deferred. Information concerning any aspect of this order may be obtained by contacting Bryce Huck, 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. 2026-0220-PWS-E on August 25, 2026 assessing $4,322 in administrative penalties with $864 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, 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 Tyson Fresh Meats, Inc., Docket No. 2026-0238-AIR-E on August 25, 2026 assessing $4,688 in administrative penalties with $937 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, 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 Molson Coors USA LLC, Docket No. 2026-0258-AIR-E on August 25, 2026 assessing $4,950 in administrative penalties with $990 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, 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 ArcelorMittal Texas HBI LLC, Docket No. 2026-0319-AIR-E on August 25, 2026 assessing $7,250 in administrative penalties with $1,450 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 Texas Water Utilities, L.P., Docket No. 2026-0321-PWS-E on August 25, 2026 assessing $3,375 in administrative penalties with $675 deferred. Information concerning any aspect of this order may be obtained by contacting De'Shaune 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 Aqua Texas, Inc., Docket No. 2026-0335-PWS-E on August 25, 2026 assessing $1,100 in administrative penalties with $220 deferred. Information concerning any aspect of this order may be obtained by contacting Katherine Argueta, 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 Aqua Texas, Inc., Docket No. 2026-0361-PWS-E on August 25, 2026 assessing $780 in administrative penalties with $156 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, 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 4500 Us Highway 287 North Access Road Owner LLC, Docket No. 2026-0421-PWS-E on August 25, 2026 assessing $750 in administrative penalties with $150 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, 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 Bailey Wehmeyer dba ANDERSON WATER COMPANY, INC., Docket No. 2026-0435-PWS-E on August 25, 2026 assessing $620 in administrative penalties with $124 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, 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 RIVERSIDE JT INVESTMENTS LLC, Docket No. 2026-0458-PWS-E on August 25, 2026 assessing $51 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Katherine McKinney, 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 Aqua Texas, Inc., Docket No. 2026-0574-PWS-E on August 25, 2026 assessing $2,587 in administrative penalties with $517 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An expedited compliance order was adopted regarding SAM'S SUPER HIGHWAY TRUCK STOP INC dba Sams Truck Stop, Docket No. 2026-0623-PST-E on August 25, 2026 assessing $1,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Julie Nieto, 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 Kevin Lockwood, Docket No. 2026-0650-OSI-E on August 25, 2026 assessing $175 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amy Lane, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202603736
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Enforcement Orders

An agreed order was adopted regarding City Of Midland, Docket No. 2022-0669-MWD-E on August 26, 2026 assessing $245,700 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Bethany Batchelor, 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 Iowa Park, Docket No. 2022-0834-MWD-E on August 26, 2026 assessing $87,000 in administrative penalties with $17,400 deferred. Information concerning any aspect of this order may be obtained by contacting Elizabeth Vanderwerken, 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 West Tawakoni, Docket No. 2022-1038-MWD-E on August 26, 2026 assessing $25,412 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Aledo, Docket No. 2022-1171-MWD-E on August 26, 2026 assessing $15,750 in administrative penalties with $3,150 deferred. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Zavalla, Docket No. 2023-0634-MLM-E on August 26, 2026 assessing $18,301 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Rose City, Docket No. 2023-0958-PWS-E on August 26, 2026 assessing $7,545 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Citgo Refining And Chemicals Company LP, Docket No. 2023-1307-AIR-E on August 26, 2026 assessing $195,300 in administrative penalties with $39,060 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 Uvalde, Docket No. 2023-1439-MLM-E on August 26, 2026 assessing $16,875 in administrative penalties with $3,375 deferred. Information concerning any aspect of this order may be obtained by contacting Bethany Batchelor, 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 Complex Ready Mix LLC, Docket No. 2023-1734-WQ-E on August 26, 2026 assessing $63,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Atwar Wilkins, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas Inc, Docket No. 2024-0327-MWD-E on August 26, 2026 assessing $102,862 in administrative penalties with $20,572 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 Webb County, Docket No. 2024-0342-PWS-E on August 26, 2026 assessing $3,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Delaware Processing LLC, Docket No. 2024-0536-AIR-E on August 26, 2026 assessing $21,189 in administrative penalties with $4,237 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 Republic Plastics Ltd, Docket No. 2024-0689-AIR-E on August 26, 2026 assessing $41,100 in administrative penalties with $8,220 deferred. Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, 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 Wilbarger Creek Mud 2, Docket No. 2024-0794-MWD-E on August 26, 2026 assessing $54,375 in administrative penalties with $10,875 deferred. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Village APACS Inc, Docket No. 2024-0854-DCL-E on August 26, 2026 assessing $927 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Moore Water Supply Corporation, Docket No. 2024-1121-MWD-E on August 26, 2026 assessing $67,719 in administrative penalties with $13,543 deferred. Information concerning any aspect of this order may be obtained by contacting Bethany Batchelor, 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 Stanton, Docket No. 2024-1143-MSW-E on August 26, 2026 assessing $58,963 in administrative penalties with $11,792 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, 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 Exxon Mobil Corporation, Docket No. 2024-1682-AIR-E on August 26, 2026 assessing $23,750 in administrative penalties. 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 Alba, Docket No. 2024-1684-MWD-E on August 26, 2026 assessing $23,625 in administrative penalties. 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 Salazar, Elsa, Docket No. 2024-1695-MSW-E on August 26, 2026 assessing $40,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Circle 7 Dairy LLC, Docket No. 2024-1888-AGR-E on August 26, 2026 assessing $54,301 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, 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 Wolf Valley Buildings LLC, Docket No. 2024-1936-MLM-E on August 26, 2026 assessing $7,518 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Mirando City Water Supply Corporation, Docket No. 2025-0045-PWS-E on August 26, 2026 assessing $8,748 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Thunder Sun Inc, Docket No. 2025-0400-PWS-E on August 26, 2026 assessing $6,952 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS Oligomers USA LLC, Docket No. 2025-0406-AIR-E on August 26, 2026 assessing $111,300 in administrative penalties with $22,260 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 Riley Permian Operating Company LLC, Docket No. 2025-0505-AIR-E on August 26, 2026 assessing $17,348 in administrative penalties with $3,469 deferred. Information concerning any aspect of this order may be obtained by contacting Raven Daigle, 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 Gerdau Ameristeel US Inc, Docket No. 2025-0616-AIR-E on August 26, 2026 assessing $35,325 in administrative penalties with $7,065 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 The Dow Chemical Company, Docket No. 2025-0619-AIR-E on August 26, 2026 assessing $15,105 in administrative penalties with $3,021 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 Bazan, Baltazar, Docket No. 2025-0625-MLM-E on August 26, 2026 assessing $246,778 in administrative penalties with $49,355 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 Wes Operating Holdco LLC, Docket No. 2025-0883-AIR-E on August 26, 2026 assessing $19,126 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, 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 Gulf Coast Trades Center, Docket No. 2025-1011-MWD-E on August 26, 2026 assessing $14,250 in administrative penalties with $2,850 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 Kaufman Development & Construction LLC, Docket No. 2025-1157-WQ-E on August 26, 2026 assessing $21,850 in administrative penalties with $4,370 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, 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 Magnum Fabrications Inc, Docket No. 2025-1219-WQ-E on August 26, 2026 assessing $46,775 in administrative penalties with $9,355 deferred. Information concerning any aspect of this order may be obtained by contacting Amy Lane, 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 Scout Energy Management LLC, Docket No. 2025-1269-AIR-E on August 26, 2026 assessing $62,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, 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 SJRR Power LLC, Docket No. 2025-1381-AIR-E on August 26, 2026 assessing $48,863 in administrative penalties with $9,772 deferred. Information concerning any aspect of this order may be obtained by contacting Nicholas Lohret-Froio, 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 Marlin, Addie, Docket No. 2025-1388-PWS-E on August 26, 2026 assessing $4,689 in administrative penalties. 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 National Oilwell Varco LP, Docket No. 2025-1550-IWD-E on August 26, 2026 assessing $20,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Oxy USA WTP LP, Docket No. 2025-1575-AIR-E on August 26, 2026 assessing $31,030 in administrative penalties with $6,206 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, En-

forcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JB Stone LLC, Docket No. 2025-1745-EAQ-E on August 26, 2026 assessing $14,000 in administrative penalties with $2,800 deferred. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, 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 Sandoval Capital ELP Inc, Docket No. 2025-1746-MSW-E on August 26, 2026 assessing $19,375 in administrative penalties with $3,875 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, 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 Municipal Utility District 102, Docket No. 2025-1829-MWD-E on August 26, 2026 assessing $33,250 in administrative penalties with $6,650 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 ARLANXEO USA LLC, Docket No. 2025-1834-AIR-E on August 26, 2026 assessing $26,500 in administrative penalties with $5,300 deferred. Information concerning any aspect of this order may be obtained by contacting John Burkett, 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 Ingleside, Docket No. 2026-0091-MWD-E on August 26, 2026 assessing $70,125 in administrative penalties with $14,025 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 Arcelormittal Texas HBI LLC, Docket No. 2026-0101-AIR-E on August 26, 2026 assessing $82,000 in administrative penalties with $16,400 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 Cowtown Gas Processing Partners LP, Docket No. 2026-0126-AIR-E on August 26, 2026 assessing $16,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, 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 ExxonMobil Oil Corporation, Docket No. 2026-0346-AIR-E on August 26, 2026 assessing $17,875 in administrative penalties. 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 Permian Lodging Midland LLC, Docket No. 2026-0423-PWS-E on August 26, 2026 assessing $3,450 in administrative penalties with $2,875 deferred. Information concerning any aspect of this order may be obtained by contacting Katherine Mckinney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202603743
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 26, 2026

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Notice of Correction to Agreed Order Number 11

In the July 10, 2026, issue of the *Texas Register* (51 TexReg 4581), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 11, for City of Aransas Pass; Docket Number 2022-1076-MLM-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "$110,588."

The reference to the Supplemental Environmental Project Offset Amount should be corrected to read: "$88,471."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202603687
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 21, 2026

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Notice of Correction to Agreed Order Number 12

In the June 19, 2026, issue of the *Texas Register* (51 TexReg 4031), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 12, for City of Amarillo; Docket Number 2022-1576-MWD-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "$330,260."

The reference to the Supplemental Environmental Project Offset Amount should be corrected to read: "$330,260."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202603688
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 21, 2026

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Notice of Correction to Agreed Order Number 19

In the June 19, 2026, issue of the *Texas Register* (51 TexReg 4031), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 19, for Frida Sofia Juraidini; Docket Number 2025-1013-MLM-E. The error is as submitted by the commission.

The reference to the Docket Number should be corrected to read: "2025-1013-IHW-E."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202603686
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 21, 2026

♦ ♦ ♦

Notice of District Petition - D-07082026-032

Notice issued August 19, 2026

TCEQ Internal Control No. D-07082026-032: PETITION. NORTEX VALENCIA LAND BANK, LP, a Texas limited partnership; VALENCIA SERIES A PROTECTED SERIES OF CYD LAND, LLC, a Texas limited liability company; and NORTEX VALENCIA PHASE 1, L.P., a Texas limited partnership (Petitioners) filed a petition for creation of Nortex Municipal Utility District of Kaufman 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 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 District; (3) the proposed District will contain approximately 752.100 acres of land located entirely within Kaufman County, Texas; and (4) none of the land to be included within the proposed district is located within corporate limits or extraterritorial jurisdiction of any city. The petition further states that the work proposed to be done by the District at the present time is the maintenance and operation of works, improvements, facilities, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, all as more particularly described in an engineer's report filed simultaneously with the filing of this petition, to which reference is hereby made for more detailed description, and such other maintenance and operation of such additional road facilities, as shall be consistent with all of the purposes for which the District is created. According to the petition, the District will be operating and maintaining drainage, detention or road facilities payable from an operations and maintenance tax. The District does not anticipate issuing bonds to finance improvements at this time. The financial analysis in the application was based on an estimated annual operating and maintenance (O&M) cost of $122,910 ($80,510 for drainage facilities and $42,400 for roads), plus an additional $76,320 per year for administrative costs for a total O&M cost of $199,230 annually.

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-202603734
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Notice of District Petition - D-080422026-008

Notice issued August 19, 2026

TCEQ Internal Control No. D-080422026-008: GRBK HOU, LLC, a Texas limited liability company, (Petitioner), filed a petition for creation of Waller County Municipal Utility District No. 75 (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 lands 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 145.7 acres located within Waller County, Texas; and (4) the proposed District is entirely outside the corporate limits or extraterritorial jurisdiction of any city or town. The territory to be included in the proposed District is depicted in the vicinity map designated as Exhibit "A", which is attached to this document. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, extend, maintain, and operate a water works and sanitary sewer 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 waters; and (4) purchase interest in land and purchase, construct, acquire, improve, extend, maintain, and operate improvements, facilities, and equipment for the purpose of providing recreational facilities. Pursuant to Section 54.234, Texas Water Code, as amended, the proposed 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. This expression is not intended to limit the future powers and purposes of the proposed District, or the acquisition, financing, operation, maintenance by the proposed District of such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created 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 Pe-

titioner that the cost of said project will be approximately $35,895,000 ($23,500,000 for water, sewer, and drainage facilities plus $1,545,000 for recreational facilities plus $10,850,000 for road facilities).

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-202603735
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Notice of Opportunity to Comment on a Default 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 Default Order (DO). 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 **October 6, 2026**. 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 the 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. Additionally, copies of the DO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed DO's identifying information, such as its docket number. 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 October 6, 2026**. The commission's attorneys are available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Efrain Aranda; DOCKET NUMBER: 2024-1535-MSW-E; TCEQ ID NUMBER: RN111328779; LOCATION: 5701 County Road 6150, Lubbock, Lubbock County; TYPE OF FACILITY: an automotive recycling facility; PENALTY: $10,000; STAFF ATTORNEY: Jun Zhang, Litigation, MC 175, (512) 239-6517; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

TRD-202603733
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Notice of Opportunity to Comment on Agreed 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 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 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 **October 6, 2026**. 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 physical 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. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. 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 October 6, 2026**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Christian G Moreno; DOCKET NUMBER: 2025-0980-WOC-E; TCEQ ID NUMBER: RN105012041; LOCATION: 3839 Cortez Drive, Dallas, Dallas County; TYPE OF FACILITY: a landscape irrigation business; PENALTY: $1,112; STAFF ATTORNEY: Emily Guest, Litigation, MC 175, (512) 239-5774; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Southwest Texas Commercial Properties LLC; DOCKET NUMBER: 2025-0494-PST-E; TCEQ ID NUMBER: RN102438462; LOCATION: 117 South Broadway Avenue, Mertzon, Irion County; TYPE OF FACILITY: an underground storage tank system and a convenience store with retail sales of gasoline; PENALTY: $18,562; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

TRD-202603732
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of C&M Baskin Investments, LLC SOAH Docket No. 582-26-28507 TCEQ Docket No. 2023-0987-WQ-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. (CT) - September 10, 2026

To join the Zoom meeting via computer or smart device:

https://soah-texas.zoomgov.com

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 27, 2025 concerning assessing administrative penalties against and requiring certain actions of C&M BASKIN INVESTMENTS, LLC, for violations in Polk County, Texas, of: Tex. Water Code §26.121(a)(2), 30 Texas Administrative Code §281.25(a)(4), and Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit No. TXR1577HG, Part III, Section C.

The hearing will allow C&M BASKIN INVESTMENTS, LLC, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford C&M BASKIN INVESTMENTS, LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of **C&M BASKIN INVESTMENTS, LLC** to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. C&M BASKIN INVESTMENTS, LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and Tex. Water Code chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 281; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting David Keagle, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting the Office of Public Interest Counsel, Mail Code 103, at the same P. O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at **www.tceq.texas.gov/goto/efilings** or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at **www.soah.texas.gov**, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: August 25, 2026

TRD-202603737
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of R B B and Dock Investments, LLC SOAH Docket No. 582-26-28418 TCEQ Docket No. 2024-1546-PWS-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. (CT) - September 10, 2026

To join the Zoom meeting via computer or smart device:

https://soah-texas.zoomgov.com

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Executive Director's Preliminary Report and Petition mailed October 30, 2025 concerning assessing administrative penalties against and requiring certain actions of R B B AND DOCK INVESTMENTS, LLC, for violations in Brewster County, Texas, of: Tex. Health & Safety Code §341.0315(c) and 30 Texas Administrative Code §§290.39(l)(5), 290.44(c), and 290.45(c)(1)(B)(i), (iii), and (i).

The hearing will allow R B B AND DOCK INVESTMENTS, LLC, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford R B B AND DOCK INVESTMENTS, LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of **R B B AND DOCK INVESTMENTS, LLC** to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's **Preliminary** Report and Petition, attached hereto and incorporated herein for all purposes. R B B AND DOCK INVESTMENTS, LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Health & Safety Code ch. 341 And 30 Texas Administrative Code chs. 70 and 290; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting William Hogan, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting the Office of Public Interest Counsel, Mail Code 103, at the same P. O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at **www.tceq.texas.gov/goto/efilings** or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at **www.soah.texas.gov**, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: August 25, 2026

TRD-202603738
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 25, 2026

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Texas Health and Human Services Commission

Correction of Error

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Office of Inspector General (OIG), adopted amendments to Title 1, Chapter 373 in the August 21, 2026, issue of the *Texas Register* (51 TexReg 5531). Due to an error by the Texas Register, text was omitted from the first paragraph of the preamble. The first paragraph should read as follows:

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Office of Inspector General (OIG), adopts in the Texas Administrative Code Title 1, Part 15, Chapter 373, Subchapter A, amendments to §§373.101, 373.103, 373.105; Subchapter B, amendments to §§373.201, 373.203, 373.205, 373.207, 373.209, 373.211, 373.213, 373.215, 373.217, and 373.219; and Subchapter C, amendments to §§373.301, 373.303, 373.305, and 373.307.

TRD-202603706

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Correction of Error

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopted a repeal, amendments and new rules in Title 26, Chapter 358, Subchapter C in the August 21, 2026, issue of the *Texas Register* (51 TexReg 5543). Due to an error by the Texas

Register, the new subchapter name for the amendments and new rules was omitted. The subchapter name should read as follows:

SUBCHAPTER C. FOCUSED ABA SERVICES

TRD-202603721

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Texas Department of Housing and Community Affairs

Notice of Public Comment Period on the Draft 2026 State of Texas Consolidated Plan: One-Year Action Plan First Substantial Amendment

The Texas Department of Housing and Community Affairs (TDHCA) will hold a 31-day Public Comment period to accept public comment on the draft 2026 State of Texas Consolidated Plan: One-Year Action Plan, First Substantial Amendment. The Public Comment period for the draft Substantial Amendment will be held Monday, September 7, 2026 - Wednesday, October 7, 2026.

The State of Texas Consolidated Plan: One-Year Action Plan was previously approved by the TDHCA Governing Board at the July 9, 2026, Board meeting and submitted to HUD in accordance with 24 CFR §91.320 and CPD notice 26-05. This submission included estimates of funding for the Department's National Housing Trust Fund (NHTF) allocation.

HUD released NHTF allocations on August 3, 2026, and notified TDHCA of the $12,100,536.40 allocation.

This Substantial Amendment reflects the Department's allocation of NHTF funds, and the amounts dedicated to specific NHTF activities. This will serve as the Department's First Substantial Amendment to the 2026 One-Year Action Plan.

In addition, the Amendment updates allowable preferences for developments that are 100% Single Room Occupancy (SRO), and adds to the allowable preferences the Department may approve for subpopulations that are Homeless or At-Risk of Homelessness.

The Amendment may be accessed from TDHCA's Public Comment Web page at: https://www.tdhca.texas.gov/tdhca-public-comment-center. The public comment period for the Amendment will be open from Monday, September 7, 2026, through Wednesday, October 7, 2026. Written comments concerning the Amendment may be submitted in the following ways:

1. by mail to: The Texas Department of Housing and Community Affairs, Housing Resource Center, P.O. Box 13941, Austin, Texas 78711-3941,

2. by email to: Jeremy.stremler@tdhca.texas.gov

Comments may be submitted at any time during the comment period. Comments must be received no later than Wednesday, October 7, 2026, at 5:00 p.m. Central Standard Time.

TRD-202603704
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: August 24, 2026

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Texas Department of Licensing and Regulation

Scratch Ticket Game Number 2762 "500X LOTERIA SPECTACULAR"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2762 is "500X LOTERIA SPECTACULAR". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2762 shall be $50.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2762.

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: AIRPLANE SYMBOL, ARMORED CAR SYMBOL, BANK SYMBOL, BIRD SYMBOL, CARD SYMBOL, COINS SYMBOL, CROWN SYMBOL, FLAG SYMBOL, GOLD BAR SYMBOL, HEART SYMBOL, KEY SYMBOL, LAMP SYMBOL, LEMON SYMBOL, MOON SYMBOL, RAINBOW SYMBOL, RING SYMBOL, SEVEN SYMBOL, SPADE SYMBOL, SUN SYMBOL, WISHBONE SYMBOL, ARMADILLO SYMBOL, BAT SYMBOL, BICYCLE SYMBOL, BLUEBONNET SYMBOL, BOAR SYMBOL, BUTTERFLY SYMBOL, CACTUS SYMBOL, CARDINAL SYMBOL, CHERRIES SYMBOL, CHILE PEPPER SYMBOL, CORN SYMBOL, COVERED WAGON SYMBOL, COW SYMBOL, COWBOY SYMBOL, COWBOY HAT SYMBOL, DESERT SYMBOL, FIRE SYMBOL, FOOTBALL SYMBOL, GEM SYMBOL, GUITAR SYMBOL, HEN SYMBOL, HORSE SYMBOL, HORSESHOE SYMBOL, JACKRABBIT SYMBOL, LIZARD SYMBOL, LONE STAR SYMBOL, MARACAS SYMBOL, MOCKINGBIRD SYMBOL, MOONRISE SYMBOL, MORTAR PESTLE SYMBOL, NEWSPAPER SYMBOL, OIL RIG SYMBOL, PECAN TREE SYMBOL, PIÑATA SYMBOL, RACE CAR SYMBOL, RATTLESNAKE SYMBOL, ROADRUNNER SYMBOL, SADDLE SYMBOL, SHIP SYMBOL, SHOES SYMBOL, SOCCER BALL SYMBOL, SPEAR SYMBOL, SPUR SYMBOL, STRAWBERRY SYMBOL, SUNSET SYMBOL, WHEEL SYMBOL, WINDMILL SYMBOL, BAR SYMBOL, BELL SYMBOL, BILL SYMBOL, CAMERA SYMBOL, CANDY SYMBOL, CHERRY SYMBOL, CHEST SYMBOL, CLOVER SYMBOL, DICE SYMBOL, DOLLAR SIGN SYMBOL, DRUM SYMBOL, GEM SYMBOL, GIFT SYMBOL, MELON SYMBOL, NECKLACE SYMBOL, PEARL SYMBOL, SHELL SYMBOL, STAR SYMBOL, VAULT SYMBOL, WATER BOTTLE SYMBOL, $50.00, $75.00, $100, $150, $200, $250, $500, $1,000, $5,000, $25,000 and $3,000,000.

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. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2762 - 1.2D

PLAY SYMBOL	CAPTION
AIRPLANE SYMBOL	AIRPLANE
ARMORED CAR SYMBOL	ARMCAR
BANK SYMBOL	BANK
BIRD SYMBOL	BIRD
CARD SYMBOL	CARD
COINS SYMBOL	COINS
CROWN SYMBOL	CROWN
FLAG SYMBOL	FLAG
GOLD BAR SYMBOL	GOLDBAR
HEART SYMBOL	HEART
KEY SYMBOL	KEY
LAMP SYMBOL	LAMP
LEMON SYMBOL	LEMON
MOON SYMBOL	MOON
RAINBOW SYMBOL	RAINBOW
RING SYMBOL	RING
SEVEN SYMBOL	SEVEN
SPADE SYMBOL	SPADE
SUN SYMBOL	SUN
WISHBONE SYMBOL	WISHBONE
ARMADILLO SYMBOL	ARMADILLO
BAT SYMBOL	BAT
BICYCLE SYMBOL	BICYCLE
BLUEBONNET SYMBOL	BLUEBONNET
BOAR SYMBOL	BOAR
BUTTERFLY SYMBOL	BUTTERFLY
CACTUS SYMBOL	CACTUS

CARDINAL SYMBOL	CARDINAL
CHERRIES SYMBOL	CHERRIES
CHILE PEPPER SYMBOL	CHILE PEPPER
CORN SYMBOL	CORN
COVERED WAGON SYMBOL	COVERED WAGON
COW SYMBOL	COW
COWBOY SYMBOL	COWBOY
COWBOY HAT SYMBOL	COWBOY HAT
DESERT SYMBOL	DESERT
FIRE SYMBOL	FIRE
FOOTBALL SYMBOL	FOOTBALL
GEM SYMBOL	GEM
GUITAR SYMBOL	GUITAR
HEN SYMBOL	HEN
HORSE SYMBOL	HORSE
HORSESHOE SYMBOL	HORSESHOE
JACKRABBIT SYMBOL	JACKRABBIT
LIZARD SYMBOL	LIZARD
LONE STAR SYMBOL	LONE STAR
MARACAS SYMBOL	MARACAS
MOCKINGBIRD SYMBOL	MOCKINGBIRD
MOONRISE SYMBOL	MOONRISE
MORTAR PESTLE SYMBOL	MORTAR PESTLE
NEWSPAPER SYMBOL	NEWSPAPER
OIL RIG SYMBOL	OIL RIG
PECAN TREE SYMBOL	PECAN TREE
PIÑATA SYMBOL	PIÑATA
RACE CAR SYMBOL	RACE CAR
RATTLESNAKE SYMBOL	RATTLESNAKE

ROADRUNNER SYMBOL	ROADRUNNER
SADDLE SYMBOL	SADDLE
SHIP SYMBOL	SHIP
SHOES SYMBOL	SHOES
SOCCER BALL SYMBOL	SOCCER BALL
SPEAR SYMBOL	SPEAR
SPUR SYMBOL	SPUR
STRAWBERRY SYMBOL	STRAWBERRY
SUNSET SYMBOL	SUNSET
WHEEL SYMBOL	WHEEL
WINDMILL SYMBOL	WINDMILL
BAR SYMBOL	BAR
BELL SYMBOL	BELL
BILL SYMBOL	BILL
CAMERA SYMBOL	CAMERA
CANDY SYMBOL	CANDY
CHERRY SYMBOL	CHERRY
CHEST SYMBOL	CHEST
CLOVER SYMBOL	CLOVER
DICE SYMBOL	DICE
DOLLAR SIGN SYMBOL	DOLLAR
DRUM SYMBOL	DRUM
GEM SYMBOL	GEM
GIFT SYMBOL	GIFT
MELON SYMBOL	MELON
NECKLACE SYMBOL	NECKLACE
PEARL SYMBOL	PEARL
SHELL SYMBOL	SHELL
STAR SYMBOL	STAR

VAULT SYMBOL	VAULT
WATER BOTTLE SYMBOL	WATER
$50.00	FFTY$
$75.00	SVFV$
$100	ONHN
$150	ONFF
$200	TOHN
$250	TOFF
$500	FVHN
$1,000	ONTH
$5,000	FVTH
$25,000	25TH
$3,000,000	TPPZ

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 (2762), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 020 within each Pack. The format will be: 2762-0000001-001.

H. Pack - A Pack of the "500X LOTERIA SPECTACULAR" Scratch Ticket Game contains 020 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 020 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 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "500X LOTERIA SPECTACULAR" Scratch Ticket Game No. 2762.

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. Each Scratch Ticket contains exactly eighty-five (85) Play Symbols. A prize winner in the "500X LOTERIA SPECTACULAR" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose Play Symbols as follows: PLAY AREA 1 INSTRUCTIONS (BONUS): If the player reveals 2 matching symbols in the BONUS $100, the player wins $100. If the player reveals 2 matching symbols in the BONUS $200, the player wins $200. If the player reveals 2 matching symbols in the BONUS $500, the player wins $500. If the player reveals 2 matching symbols in the BONUS $1,000, the player wins $1,000. PLAY AREA 2 INSTRUCTIONS (PLAYBOARD): (1) The player completely scratches the CALLER'S CARD to reveal 27 symbols. (2) The player scratches ONLY the symbols on the PLAYBOARD that exactly match the symbols revealed on the CALLER'S CARD. (3) If the player reveals a complete row, column or diagonal line, the player wins the prize for that line. PLAY AREA 3 INSTRUCTIONS (GAMES 1 - 8): The player scratches ONLY the symbols on GAMES 1 - 8 that exactly match the symbols revealed on the CALLER'S CARD. If the player reveals 2 symbols in the same GAME, the player wins the PRIZE for that GAME. PLAY AREA 4 INSTRUCTIONS (2X, 5X, 10X, 50X, 500X MULTIPLIER): The player scratches the 2X, 5X, 10X, 50X and 500X MULTIPLIER boxes to reveal 2 symbols in each box. If the player reveals 2 matching symbols in the same MULTIPLIER box, the player multiplies the total prize won on the Ticket by that MULTIPLIER and wins that amount. For example, revealing 2 "STAR" Play Symbols in the 10X MULTIPLIER box will multiply the total prize won by 10 TIMES. INSTRUCCIONES PARA ÁREA DE JUEGO 1 (BONO): Si el jugador revela 2 símbolos iguales en el área de BONO $100, el jugador gana $100. Si el jugador revela 2 símbolos iguales en el área de BONO $200, el jugador gana $200. Si el jugador revela 2 símbolos iguales en el área de BONO $500, el jugador gana $500. Si el jugador revela 2 símbolos iguales en el área de BONO $1,000, el jugador gana $1,000. INSTRUCCIONES PARA ÁREA DE JUEGO 2

(TABLA DE JUEGO): (1) El jugador raspa completamente la CARTA DEL GRITÓN para revelar 27 símbolos. (2) El jugador SOLAMENTE raspa los símbolos en la TABLA DE JUEGO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. (3) Si el jugador revela una línea completa, horizontal, vertical o diagonal, el jugador gana el premio para esa línea. INSTRUCCIONES PARA ÁREA DE JUEGO 3 (JUEGOS 1- 8): El jugador SOLAMENTE raspa los símbolos en los JUEGOS 1- 8 que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. Si el jugador revela 2 símbolos en el mismo JUEGO, el jugador gana el PREMIO para ese JUEGO. INSTRUCCIONES PARA ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): El jugador raspa las cajas de MULTIPLICADOR 2X, 5X, 10X, 50X y 500X para revelar 2 símbolos en cada caja. Si el jugador revela 2 símbolos iguales en la misma caja de MULTIPLICADOR, el jugador multiplica el premio total ganado en el boleto por ese MULTIPLICADOR y gana esa cantidad. Por ejemplo, revelando 2 Símbolos de Juego de "ESTRELLA" en la caja MULTIPLICADOR 10X multiplicará por 10 el premio total ganado. 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 eighty-five (85) 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;

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 eighty-five (85) 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 eighty-five (85) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the eighty-five (85) 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: A Ticket can win up to fifteen (15) times in accordance with the prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. PLAY AREA 1 (BONUS)/ÁREA DE JUEGO 1 (BONO): There will never be identical Play Symbols in the BONUS/BONO play areas, unless used as a winning play.

D. PLAY AREA 1 (BONUS)/ÁREA DE JUEGO 1 (BONO): Non-winning Play Symbols from one (1) BONUS/BONO play area will not match winning Play Symbols from another BONUS/BONO play area.

E. PLAY AREA 1 (BONUS)/ÁREA DE JUEGO 1 (BONO): Non-winning Play Symbols will never appear more than one (1) time on a Ticket.

F. PLAY AREA 1 (BONUS)/ÁREA DE JUEGO 1 (BONO): Winning Play Symbols will be identical and appear in the same BONUS/BONO play area and will not appear more than two (2) times on a Ticket.

G. PLAY AREA 2 (PLAYBOARD)/ÁREA DE JUEGO 2 (TABLA DE JUEGO): No identical Play Symbols are allowed on the same PLAYBOARD/TABLA DE JUEGO play area.

H. PLAY AREA 3 (GAMES 1 - 8)/ÁREA DE JUEGO 3 (JUEGOS 1 - 8): Non-winning Prize Symbols will all be different.

I. PLAY AREA 4 (2X, 5X, 10X, 50X, 500X MULTIPLIER)/ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): There

will never be identical Play Symbols in the MULTIPLIER/MULTIPLICADOR play areas, unless used as a winning play.

J. PLAY AREA 4 (2X, 5X, 10X, 50X, 500X MULTIPLIER)/ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): Non-winning Play Symbols from one (1) MULTIPLIER/MULTIPLICADOR play area will not match winning Play Symbols from another MULTIPLIER/MULTIPLICADOR play area.

K. PLAY AREA 4 (2X, 5X, 10X, 50X, 500X MULTIPLIER)/ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): Non-winning Play Symbols will never appear more than one (1) time on a Ticket.

L. PLAY AREA 4 (2X, 5X, 10X, 50X, 500X MULTIPLIER)/ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): Winning Play Symbols will be identical and appear in the same MULTIPLIER/MULTIPLICADOR play area and will not appear more than two (2) times on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "500X LOTERIA SPECTACULAR" Scratch Ticket Game prize of $50.00, $75.00, $100, $150, $200, $250, $300 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 $50.00, $75.00, $100, $150, $200, $250, $300 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 "500X LOTERIA SPECTACULAR" Scratch Ticket Game prize of $1,000, $5,000, $10,000 or $25,000, 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. To claim a "500X LOTERIA SPECTACULAR" Scratch Ticket Game top level prize of $3,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers in Austin, Dallas, Fort Worth, Houston or San Antonio, Texas. 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 and proof of Social Security number or Taxpayer Identification (for U.S. Citizens or Resident Aliens). The Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service () and shall withhold federal income tax at a rate set by the 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.

D. As an alternative method of claiming a "500X LOTERIA SPECTACULAR" Scratch Ticket Game prize, including the top level prize of $3,000,000, 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 Taxpayer 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.

E. 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.

F. 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 "500X LOTERIA SPECTACULAR" 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 "500X LOTERIA SPECTACULAR" 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 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2762. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2762 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$50.00	804,000	10.00
$75.00	402,000	20.00
$100	402,000	20.00
$150	402,000	20.00
$200	201,000	40.00
$250	201,000	40.00
$300	50,250	160.00
$500	40,200	200.00
$1,000	1,675	4,800.00
$5,000	469	17,142.86
$10,000	67	120,000.00
$25,000	20	402,000.00
$3,000,000	4	2,010,000.00

*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 3.21. 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. 2762 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 §140.302(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. 2762, 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 140, and all final decisions of the Executive Director.

TRD-202603744
Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: August 26, 2026

♦ ♦ ♦

Scratch Ticket Game Number 2774 "THE PRICE IS RIGHT™"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2774 is "THE PRICE IS RIGHT™". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2774 shall be $10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2774.

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: COMMA, 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, $10.00, $20.00, $30.00, $50.00, $100, $200, $500, $1,000, $10,000, $50,000 and $250,000.

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. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2774 - 1.2D

PLAY SYMBOL	CAPTION
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
0	0
COMMA	,
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN

17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
$10.00	TEN$
$20.00	TWY$
$30.00	TRTY$
$50.00	FFTY$
$100	ONHN
$200	TOHN
$500	FVHN
$1,000	ONTH
$10,000	10TH
$50,000	50TH
$250,000	250TH

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 (2774), 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: 2774-0000001-001.

H. Pack - A Pack of "THE PRICE IS RIGHT™" Scratch Ticket Game contains 050 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 050 will both be exposed.

I. Non-Winning 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 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "THE PRICE IS RIGHT™" Scratch Ticket Game No. 2774.

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 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "THE PRICE IS RIGHT™" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-one (51) Play Symbols. WHAT'S UP FOR BID Play Instructions: The player scratches each GAME to reveal YOUR BID and the ACTUAL RETAIL PRICE. If YOUR BID matches the ACTUAL RETAIL PRICE in the same GAME, the player wins the PRIZE for that GAME. EACH GAME IS PLAYED SEPARATELY. PUNCH-A-BUNCH™ Play Instructions: If the player matches any of the YOUR PUNCHBOARD NUMBERS Play Symbols to any of the KEY NUMBERS Play Symbols, the player wins the prize for that number. SHOWCASE™ 1 & 2 Play Instructions: The player scratches each SHOWCASE to reveal YOUR BID and the ACTUAL PRICE. If YOUR BID matches the ACTUAL PRICE in the same SHOWCASE, the player wins the PRIZE for that SHOWCASE. EACH SHOWCASE IS PLAYED SEPARATELY. 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 fifty-one (51) 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;

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 fifty-one (51) 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 fifty-one (51) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-one (51) 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 of the Texas Lottery ("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: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. WHAT'S UP FOR BID: A YOUR BID in one GAME will never match an ACTUAL RETAIL PRICE in another GAME.

D. WHAT'S UP FOR BID: The YOUR BID and ACTUAL RETAIL PRICE will be random numbers between one thousand (1,000) and nine

thousand nine hundred seventy-five (9,975) divisible by twenty-five (25).

E. WHAT'S UP FOR BID: In a non-winning GAME, the difference between YOUR BID and the ACTUAL RETAIL PRICE will be between one hundred (100) and three thousand (3,000).

F. WHAT'S UP FOR BID: There will be no duplicate non-winning Prize Symbols across each GAME.

G. WHAT'S UP FOR BID: A YOUR BID in one GAME will never match a YOUR BID in another GAME.

H. WHAT'S UP FOR BID: An ACTUAL RETAIL PRICE in one GAME will never match an ACTUAL RETAIL PRICE in another GAME.

I. WHAT'S UP FOR BID: In a non-winning GAME, the YOUR BID will always be higher than the ACTUAL RETAIL PRICE in the same GAME.

J. WHAT'S UP FOR BID: The "," (comma) Play Symbol will always appear in the second play spot of each YOUR BID and ACTUAL RETAIL PRICE play areas.

K. WHAT'S UP FOR BID: A YOUR BID or ACTUAL RETAIL PRICE from GAME 1, GAME 2 or GAME 3 will never match a YOUR BID or ACTUAL PRICE from either SHOWCASE play area.

L. PUNCH-A-BUNCH™: There will be no matching non-winning YOUR PUNCHBOARD NUMBERS Play Symbols on a Ticket.

M. PUNCH-A-BUNCH™: There will be no matching KEY NUMBERS Play Symbols on a Ticket.

N. PUNCH-A-BUNCH™: No prize amount in a non-winning spot will correspond with the YOUR PUNCHBOARD NUMBERS Play Symbol (i.e., 10 and $10).

O. PUNCH-A-BUNCH™: A non-winning Prize Symbol will never match a winning Prize Symbol.

P. PUNCH-A-BUNCH™: A Ticket may have up to four (4) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

Q. SHOWCASE 1 & 2: The YOUR BID of one SHOWCASE will never match the ACTUAL PRICE of the other SHOWCASE.

R. SHOWCASE 1 & 2: The YOUR BID and ACTUAL PRICE will be random numbers between fifteen thousand (15,000) and thirty thousand (30,000) divisible by twenty-five (25).

S. SHOWCASE 1 & 2: In a non-winning SHOWCASE, the difference between YOUR BID and the ACTUAL PRICE will be between one hundred (100) and three thousand (3,000).

T. SHOWCASE 1 & 2: There will be no duplicate non-winning Prize Symbols across each SHOWCASE.

U. SHOWCASE 1 & 2: The YOUR BID of one SHOWCASE will never match the YOUR BID of the other SHOWCASE.

V. SHOWCASE 1 & 2: A RETAIL PRICE of one SHOWCASE will never match the RETAIL PRICE of the other SHOWCASE.

W. SHOWCASE 1 & 2: In a non-winning SHOWCASE, the ACTUAL PRICE will always be at least three hundred (300) more than the YOUR BID in the same SHOWCASE.

X. SHOWCASE 1 & 2: The "," (comma) Play Symbol will always appear in the third play spot of each YOUR BID and ACTUAL PRICE play areas.

Y. SHOWCASE 1 & 2: In a non-winning SHOWCASE, the YOUR BID will always be higher than the ACTUAL PRICE in the same SHOWCASE.

2.3 Procedure for Claiming Prizes.

A. To claim a "THE PRICE IS RIGHT™" Scratch Ticket Game prize of $10.00, $20.00, $30.00, $50.00, $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, $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 "THE PRICE IS RIGHT™" Scratch Ticket Game prize of $1,000, $10,000, $50,000 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 "THE PRICE IS RIGHT™" 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 Taxpayer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt

to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 "THE PRICE IS RIGHT™" 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 "THE PRICE IS RIGHT™" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "THE PRICE IS RIGHT™" Scratch Ticket may be entered into one (1) of four (4) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 8,040,000 Scratch Tickets in the Scratch Ticket Game No. 2774. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2774 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$10.00	844,200	9.52
$20.00	482,400	16.67
$30.00	361,800	22.22
$50.00	160,800	50.00
$100	107,200	75.00
$200	26,800	300.00
$500	2,814	2,857.14
$1,000	201	40,000.00
$10,000	8	1,005,000.00
$50,000	4	2,010,000.00
$250,000	4	2,010,000.00

*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 4.05. 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.

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. 2774 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 Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §140.302(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. 2774, 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 140, and all final decisions of the Executive Director.

TRD-202603746
Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: August 26, 2026

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Scratch Ticket Game Number 2775 "CASINO 7s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2775 is "CASINO 7s". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2775 shall be $5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2775.

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: 2 SYMBOL, 3 SYMBOL, 4 SYMBOL, 5 SYMBOL, 6 SYMBOL, 8 SYMBOL, 9

SYMBOL, 10 SYMBOL, J SYMBOL, K SYMBOL, Q SYMBOL, A SYMBOL, 7 SYMBOL, 01, 02, 03, 04, 05, 06, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 77 SYMBOL, $5.00, $10.00, $15.00, $25.00, $50.00, $100, $500, $1,000 and $100,000.

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. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2775 - 1.2D

PLAY SYMBOL	CAPTION
2 SYMBOL	TWO
3 SYMBOL	THR
4 SYMBOL	FOR
5 SYMBOL	FIV
6 SYMBOL	SIX
8 SYMBOL	EGT
9 SYMBOL	NIN
10 SYMBOL	TEN
J SYMBOL	JAK
K SYMBOL	KNG
Q SYMBOL	QEN
A SYMBOL	ACE
7 SYMBOL	WIN$
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
18	ETN
19	NTN

20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
38	TRET
39	TRNI
40	FRTY
77 SYMBOL	DBL
$5.00	FIV$
$10.00	TEN$
$15.00	FFN$
$25.00	TWFV$
$50.00	FFTY$
$100	ONHN
$500	FVHN
$1,000	ONTH
$100,000	100TH

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 (2775), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2775-0000001-001.

H. Pack - A Pack of the "CASINO 7s" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse; i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

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 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "CASINO 7s" Scratch Ticket Game No. 2775.

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 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "CASINO 7s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty (40) Play Symbols. GAME 1: If the player matches any of the YOUR CARDS Play Symbols to either of the DEALER'S CARDS Play Symbols, the player wins the prize for that card. If the player reveals a "7" Play Symbol, the player wins the prize for that symbol instantly! GAME 2: The player scratches each ROLL Play Symbol to reveal 2 YOUR NUMBERS Play Symbols. If the YOUR NUMBERS Play Symbols add up to 7 or 11 in the same ROLL, the player wins the PRIZE for that ROLL. GAME 3: If the player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "77" Play Symbol, the player wins DOUBLE the PRIZE for that symbol. 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 forty (40) 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;

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 forty (40) 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 forty (40) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the forty (40) 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 of the Texas Lottery ("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 either Play Symbols or Prize Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to seventeen (17) times.

D. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of $1,000 and $100,000 will each appear at least one (1) time, except on Tickets winning seventeen (17) times, with respect to other parameters, play action or prize structure.

E. GENERAL: The "7" (WIN$) and "77" (DBL) Play Symbols will never appear on the same Ticket.

F. GAME 1: GAME 1 can win up to five (5) times.

G. GAME 1: The DEALER'S CARDS Play Symbols will never add up to "7" or "11". The Face Card JACK, QUEEN and KING Play Symbols are included in this parameter as a value of ten (10) and the ACE Card Play Symbol is included in this parameter as a value of one (1).

H. GAME 1: All non-winning YOUR CARDS Play Symbols will be different.

I. GAME 1: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

J. GAME 1: No matching DEALER'S CARDS Play Symbols will appear on a Ticket.

K. GAME 1: Tickets winning more than one (1) time will use as many DEALER'S CARDS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

L. GAME 1: On all Tickets, a Prize Symbol will not appear more than one (1) time, except as required by the prize structure to create multiple wins.

M. GAME 1: On Non-Winning Tickets, a DEALER'S CARDS Play Symbol will never match a YOUR CARDS Play Symbol.

N. GAME 1: All YOUR CARDS Play Symbols will never equal the corresponding Prize Symbol (i.e., 05 and $5 and 10 and $10).

O. GAME 1: The "7" (WIN$) Play Symbol will never appear as a DEALER'S CARDS Play Symbol.

P. GAME 1: The "7" (WIN$) Play Symbol will never appear on a Non-Winning Ticket.

Q. GAME 1: The "7" (WIN$) Play Symbol will win the prize for that Play Symbol.

R. GAME 1: The "7" (WIN$) Play Symbol will never appear more than one (1) time on a Ticket.

S. GAME 1: On Tickets winning with the "7" (WIN$) Play Symbol, the YOUR CARDS Play Symbols will not match either of the DEALER'S CARDS Play Symbols.

T. GAME 2: GAME 2 can win up to two (2) times.

U. GAME 2: On all winning and Non-Winning Tickets, identical PRIZE amounts will not appear, except as required by the prize structure to create multiple wins.

V. GAME 2: On all winning and Non-Winning Tickets, each ROLL Play Symbol will be different.

W. GAME 2: No ROLL Play Symbol combination will be repeated on the same Ticket (i.e., if one (1) ROLL displays "01 + 05", the other ROLL in the GAME will not display "01 + 05" or "05 + 01").

X. GAME 2: No ROLL Play Symbol will display a pair of identical values (i.e., doubles such as "05 + 05") in this GAME.

Y. GAME 2: ROLL Play Symbols totaling seven (7) or eleven (11) will win the PRIZE shown for that ROLL.

Z. GAME 2: On Non-Winning Tickets, no ROLL Play Symbols will total seven (7) or eleven (11) in the same ROLL.

AA. GAME 3: GAME 3 can win up to ten (10) times.

BB. GAME 3: All non-winning YOUR NUMBERS Play Symbols will be different.

CC. GAME 3: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

DD. GAME 3: No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

EE. GAME 3: Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

FF. GAME 3: On all Tickets, a Prize Symbol will not appear more than two (2) times, except as required by the prize structure to create multiple wins.

GG. GAME 3: On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

HH. GAME 3: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 15 and $15 and 25 and $25).

II. GAME 3: The "77" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

JJ. GAME 3: The "77" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

KK. GAME 3: The "77" (DBL) Play Symbol will win DOUBLE the PRIZE for that Play Symbol and will win as per the prize structure.

LL. GAME 3: The "77" (DBL) Play Symbol will never appear more than one (1) time on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "CASINO 7s" Scratch Ticket Game prize of $5.00, $10.00, $15.00, $25.00, $50.00, $100 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 $25.00, $50.00, $100 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 "CASINO 7s" Scratch Ticket Game prize of $1,000 or $100,000, 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 "CASINO 7s" 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 Taxpayer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, 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 "CASINO 7s" 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 "CASINO 7s" 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 5,040,000 Scratch Tickets in Scratch Ticket Game No. 2775. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2775 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$5.00	504,000	10.00
$10.00	291,200	17.31
$15.00	190,400	26.47
$25.00	134,400	37.50
$50.00	67,200	75.00
$100	14,000	360.00
$500	574	8,780.49
$1,000	40	126,000.00
$100,000	4	1,260,000.00

*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 4.19. 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.

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. 2775 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 §140.302 (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. 2775, 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 140, and all final decisions of the Executive Director.

TRD-202603741
Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: August 26, 2026

♦ ♦ ♦

Texas Parks and Wildlife Department

Notice of a Public Comment Hearing on an Application for a Sand and Gravel Permit

Real County and Citizens of Real County Partnership have applied to the Texas Parks and Wildlife Department (TPWD) for a General Permit pursuant to Parks and Wildlife Code, Chapter 86, to remove or disturb 50 cubic yards of sedimentary material within the Frio River in Real County. The purpose is to replace and extend an existing low water crossing on County Road Camino Bajo. The location is on County Road Camino Bajo approximately 1/10 mile west of the intersection of County Road Camino Bajo and County Road Camino Alto in Real County. The Latitude/Longitude is 29°43'30.35"N 99°44'52.76"W. This notice is being published and mailed pursuant to 31 TAC §69.105(d).

TPWD will hold a public comment hearing regarding the application at 10:00 a.m. on Friday, October 2, 2026, at TPWD headquarters, located at 4200 Smith School Road, Austin, Texas 78744. A remote participation option will be available upon request. Potential attendees should contact Beth Bendik at (512) 389-8521 or at beth.bendik@tpwd.texas.gov for information on how to participate in the hearing remotely. The hearing is not a contested case hearing under the Texas Administrative Procedure Act. Oral and written public comment will be accepted during the hearing.

Written comments may be submitted directly to TPWD and must be received no later than 30 days after the date of publication of this notice in the *Texas Register*. A written request for a contested case hearing from an applicant or a person with a justiciable interest may also be submitted and must be received by TPWD prior to the close of the public comment period. Timely hearing requests shall be referred to the State

Office of Administrative Hearings. Submit written comments, questions, requests to review the application, or requests for a contested case hearing to: TPWD Sand and Gravel Program by mail: Attn: Beth Bendik, Texas Parks and Wildlife Department, Inland Fisheries Division, 4200 Smith School Road, Austin, Texas 78744; or via e-mail: sand.gravel@tpwd.texas.gov.

TRD-202603731
James Murphy
General Counsel
Texas Parks and Wildlife Department
Filed: August 25, 2026

♦ ♦ ♦

Public Utility Commission of Texas

Memo Establishing Comment Deadline

TO: Interested Persons

FROM: Katelyn Lewis

Rules and Projects Division

DATE: August 26, 2026

RE: Staff Memorandum Establishing a Deadline and Filing Instructions for Comments on the Petition of Jeff Pelletier in Project No. 60154.

On August 24, 2026, petitioner Jeff Pelletier filed a petition for rulemaking in Project Number 59727. On August 26, 2026, Commission Staff filed a memo reassigning the petition to Project Number 60154.

The rulemaking petition requests the amendment of 16 TAC §25.211(n) to require electric utilities to submit distributed generation interconnection reports on a monthly basis, rather than annually. The proposed amendment is intended to provide more timely information regarding distributed generation interconnections and asserts that more frequent reporting would improve regulatory oversight, grid visibility, and monitoring of interconnection activity.

The deadline to file comments in this project is **Friday, October 2, 2026.** Comments may be filed through the interchange on the Commission's website at Filer Home. Interested persons may contact the commission via email at Katelyn.Lewis@puc.texas.gov with questions, however, Commission Staff notes that they are unable to publicly file comments sent via email on behalf of the public. All comments should reference **Project Number 60154**.

Please be aware that any personally identifiable or sensitive information, such as names or home addresses, included in your filing will be publicly available on the interchange, and that once a control number has been closed (at the conclusion of the project), information can no longer be redacted or removed.

TRD-202603742
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Filed: August 26, 2026

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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 51 (2026) is cited as follows: 51 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 "51 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 51 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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