

PROPOSED RULES

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

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

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 22. PROCEDURAL RULES

SUBCHAPTER D. NOTICE

16 TAC §22.52

The Public Utility Commission of Texas (commission) proposes amendments to §22.52, relating to Notice in Licensing Proceedings. The proposed amendments will require the applicant in electric certificate of convenience and necessity proceedings except minor boundary changes to give notice that the deadline for intervention is 30 days after the date the formal application was filed with the commission. This modification will allow the commission to process certificate of convenience and necessity applications more expeditiously, as required by Senate Bill 1076, enacted by the 88th Texas Legislature (R.S.).

The proposed amendments also require an applicant for a certificate of convenience and necessity to provide notice of each substation that is proposed to be authorized by the certificate of convenience and necessity to property owners that live adjacent to the proposed substations. This modification will implement Senate Bill 365, enacted by the 88th Texas Legislature (R.S.).

Growth Impact Statement

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

- (1) the proposed rules will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rules will not create a new regulation, but will implement a new requirement enacted by Senate Bill 365;
- (6) the proposed rules will not repeal an existing regulation;

(7) the same number of individuals will be subject to the proposed rules' applicability as were subject to the applicability of the rule it is being proposed to replace; and

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

Fiscal Impact on Small and Micro-Businesses and Rural Communities

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

Takings Impact Analysis

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

Fiscal Impact on State and Local Government

John Poole, Engineering Specialist, Engineering Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Public Benefits

John Poole has also determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the section will allow the commission to more expeditiously process CCN applications as required by Senate Bill 1076, and to provide more transparency on the siting of substations, as required by Senate Bill 365. There is no significant anticipated economic cost to persons who are required to comply with these sections as proposed. Any economic costs would vary from person to person and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed sections will outweigh these costs.

Local Employment Impact Statement

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

Costs to Regulated Persons

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

Public Hearing

The commission staff will conduct a public hearing on this rule-making if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by August 7, 2023. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by August 7, 2023. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rules. All comments should refer to Project Number 55153.

Statutory Authority

These amendments are proposed under the Public Utility Regulatory Act §14.002 and §14.052, which provide the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §14.052.

§22.52. *Notice in Licensing Proceedings.*

(a) Notice in electric licensing proceedings. In all electric licensing proceedings except minor boundary changes, the applicant must give notice in the following ways:

(1) Applicant must publish notice once of the applicant's intent to secure a certificate of convenience and necessity in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, no later than the week after the application is filed with the commission. This notice must identify the commission's docket number and the style assigned to the case by Central Records. In electric transmission line cases, the applicant must obtain the docket number and style no earlier than 25 days prior to making the application by filing a preliminary pleading requesting a docket assignment. The notice must identify in general terms the type of facility if applicable, and the estimated expense associated with the project. The notice must describe all routes without designating a preferred route or otherwise suggesting that a particular route is more or less likely to be selected than one of the other routes.

(A) The notice must include all the information required by the standard format established by the commission for published notice in electric licensing proceedings. The notice must state the date established for the deadline for intervention in the proceeding (date 30 [45] days after the date the formal application was filed with the commission[; or date 30 days after the date the formal application was filed with the commission for an application for certificate of convenience and necessity filed under PURA §39.203(e)]) and that a letter requesting intervention should be received by the commission by that date.

(B) - (E) (No change.)

(2) (No change.)

(3) Applicant must, on the date it files an application, mail notice of its application to the owners of land, as stated on the current county tax roll(s), who would be directly affected by the requested certificate. For purposes of this paragraph, land is directly affected if an easement or other property interest would be obtained over all or any portion of it, or if it contains a habitable structure that would be within 300 feet of the centerline of a transmission project of 230kV or less, or

within 500 feet of the centerline of a transmission project greater than 230kV. Land is also directly affected by the requested certificate if it is adjacent to a property on which a substation proposed to be authorized by the certificate of convenience and necessity is located or is directly across a highway, road, or street that is adjacent to a property on which such a substation is located.

(A) (No change.)

(B) The notice delivered to an owner of land adjacent to a property on which a proposed substation is located or directly across a highway, road, or street that is adjacent to a property on which such a substation is located must notify the owner of each proposed substation.

(C) [(B)] The notice must include a map as described in paragraph (1)(C) of this subsection.

(D) [(C)] Before final approval of any modification in the applicant's proposed route(s), applicant must provide notice as required under subparagraphs (A) through (C) [and (B)] of this paragraph to all directly affected landowners who have not already received such notice.

(E) [(D)] Proof of notice may be established by an affidavit affirming that the applicant sent notice by first-class mail to each of the persons listed as an owner of directly affected land on the current county tax roll(s). The proof of notice must include a list of all landowners to whom notice was sent and a statement of whether any formal contact related to the proceeding between the utility and the landowner other than the notice has occurred. This proof of notice must be filed with the commission no later than 20 days after the filing of the application.

(F) [(E)] Upon the filing of proof of notice as described in subparagraph (E) [(D)] of this paragraph, the lack of actual notice to any individual landowner will not in and of itself support a finding that the requirements of this paragraph have not been satisfied. If, however, the utility finds that an owner of directly affected land has not received notice, it must immediately advise the commission by written pleading and must provide notice to such landowner(s) by priority mail, with delivery confirmation, in the same form described in subparagraphs (A) through (C) [and (B)] of this paragraph, except that the notice must state that the person has fifteen days from the date of delivery to intervene. The utility must immediately file a supplemental affidavit of notice with the commission.

(4) The utility must hold at least one public meeting prior to the filing of its licensing application if 25 or more persons would be entitled to receive direct mail notice of the application. Direct mail notice of the public meeting must be sent by first-class mail to each of the persons listed on the current county tax rolls as an owner of land within 300 feet of the centerline of a transmission project of 230kV or less, an owner of land [or] within 500 feet of the centerline of a transmission project greater than 230kV, an owner of land directly adjacent to a property on which a substation proposed to be authorized by the certificate of convenience and necessity is located, or an owner of land across a highway, road, or street that is adjacent to such a substation. The utility must also provide written notice to the Department of Defense Siting Clearinghouse of the public meeting. In the notice for the public meeting, at the public meeting, and in other communications with a potentially affected person, the utility must not describe routes as preferred routes or otherwise suggest that a particular route is more or less likely to be selected than one of the other routes. In the event that no public meeting is held, the utility must provide written notice to the Department of Defense Siting Clearinghouse of the planned filing of an application prior to completion of the routing study.

(5) - (7) (No change.)

(b) (No change.)

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

Filed with the Office of the Secretary of State on July 20, 2023.

TRD-202302604

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: September 3, 2023

For further information, please call: (512) 936-7322



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 37. MATERNAL AND INFANT HEALTH SERVICES

SUBCHAPTER U. EPINEPHRINE

AUTO-INJECTOR POLICIES IN SCHOOLS

25 TAC §§37.601 - 37.611

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes the repeal of §§37.601 - 37.611, concerning Epinephrine Auto-Injector Policies in Schools.

BACKGROUND AND PURPOSE

The purpose of the proposed repeal of 25 Texas Administrative Code (TAC) Chapter 37, Subchapter U, is to place all stock medication rules under 25 TAC Chapter 40. This rule proposal repeals 25 TAC, Chapter 37, Subchapter U. The new rules for 25 TAC Chapter 40, Subchapter E, Epinephrine Auto-Injector Policies in Schools, is published in this same issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§37.601 - 37.611 removes the rules as no longer necessary under 25 TAC Chapter 37. The new rules in 25 TAC, Chapter 40, Subchapter F, §§40.81 - 40.89 aligns the rules with similar TAC rules relating to stock medications in schools, youth facilities, and other entities such as amusement parks, restaurants, and sport venues.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS 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 DSHS employee positions;

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

(4) the proposed rules will not affect fees paid to DSHS;

(5) the proposed rules will not create new rules;

(6) the proposed rules will repeal existing rules;

(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

Donna Sheppard has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules 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 are necessary to protect the health, safety, and welfare of the residents of Texas.

PUBLIC BENEFIT AND COSTS

Dr. Manda Hall, Associate Commissioner, Community Health Improvement Division, has determined that for each year of the first five years the rules are in effect, the public will benefit from having all stock medication rules in the same chapter of the TAC.

Donna Sheppard 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 repeals will not require these persons to alter their current business practices.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247; street address 701 West 51st Street, Austin, Texas 78751; or by email to SchoolHealth@dshs.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 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 "23R051" in the subject line.

STATUTORY AUTHORITY

The repeals are adopted and authorized by Texas Education Code Chapter 38; and Texas Government Code §531.0055, and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The repeals implement Texas Government Code §531.0055; Texas Education Code Chapter 38; and Texas Health and Safety Code Chapter 1001.

§37.601. *Purpose.*

§37.602. *Voluntary Unassigned Epinephrine Auto-Injector Policies for School Districts, Open-enrollment Charter Schools, and Private Schools.*

§37.603. *Definitions.*

§37.604. *Applicability.*

§37.605. *Maintenance, Administration, and Disposal of Unassigned Epinephrine Auto-Injectors.*

§37.606. *Assignment and Recruitment of School Personnel and School Volunteers to be Trained to Administer Epinephrine Auto-Injectors.*

§37.607. *Training.*

§37.608. *Report on Administering Epinephrine Auto-Injectors.*

§37.609. *Notice to Parents Regarding Unassigned Epinephrine Auto-Injector Policies in Schools.*

§37.610. *Gifts, Grants, and Donations.*

§37.611. *Immunity from Liability.*

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

Filed with the Office of the Secretary of State on July 17, 2023.

TRD-202302566

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: September 3, 2023

For further information, please call: (512) 413-9089



CHAPTER 40. STOCK MEDICATION IN SCHOOLS AND OTHER ENTITIES [EPINEPHRINE AUTO-INJECTOR AND ANAPHYLAXIS POLICIES]

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes new Subchapter E, §§40.61 - 40.71, concerning Epinephrine Auto-Injector Policies in Schools; and new Subchapter F, §§40.81 - 40.89, concerning Opioid Antagonist Medication Requirements in Schools. This proposal renames 25 Texas Administrative Code (TAC) Chapter 40, as "Stock Medication in Schools and Other Entities" to reflect the broader scope of stock medication rules that will be included under this chapter.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement Senate Bill (S.B.) 629, 88th Legislature, Regular Session, 2023, which amends Texas Education Code Chapter 38 by adding Subchapter E-1. S.B. 629 requires the Executive Commissioner of HHSC consult with the commissioner of the Texas Education Agency to adopt rules regarding maintenance, administration, and disposal of opioid antagonists. S.B. 629 also requires the rules to establish a process for checking inventory and the amount of training for school personnel and volunteers. Finally, S.B. 629 requires schools to report information on the administration of opioid antagonists to the commissioner of DSHS.

To place all stock medication rules under the same chapter in TAC, this rule proposal adds new Subchapter E, Epinephrine Auto-Injector Policies in Schools, to 25 TAC Chapter 40. The repeal of 25 TAC Chapter 37, Subchapter U is published in this same issue of the *Texas Register*.

This proposal adds new Subchapter F, Opioid Antagonist Medication Requirements in Schools, as required by S.B. 629.

SECTION-BY-SECTION SUMMARY

Subchapter E, Epinephrine Auto-Injector Policies In Schools

Proposed new §40.61 states the purpose of the subchapter, which is to establish minimum standards for administering, maintaining, and disposing of epinephrine auto-injectors in school districts, open-enrollment charter schools, and private schools who adopt unassigned epinephrine auto-injector policies. These standards are implemented under Texas Education Code Chapter 38, Subchapter E.

Proposed new §40.62 states that school districts, open-enrollment charter schools, and private schools may adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine auto-injectors at each school campus. Policies adopted must comply with Texas Education Code §38.208.

Proposed new §40.63 defines terms used in Subchapter E.

Proposed new §40.64 states that the rules apply to any school district, open-enrollment charter school, or private school who voluntarily chooses to adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine auto-injectors on each school campus.

Proposed new §40.65 outlines the standards for maintenance, administration, and disposal of unassigned epinephrine auto-injectors for school districts, open-enrollment charter schools, or private schools. The standards address unassigned epinephrine auto-injector prescriptions; policy implementation; training for school personnel or school volunteers to administer an unassigned epinephrine auto-injector; notification for emergency medical services and parents; records retention; and epinephrine auto-injector storage, replacement, and disposal.

Proposed new §40.66 addresses the assignment and recruitment of school personnel and school volunteers to be trained to administer epinephrine auto-injectors.

Proposed new §40.67 addresses training requirements for school personnel and volunteers in the recognizing of anaphylaxis signs and symptoms and administration of an unassigned epinephrine auto-injector.

Proposed new §40.68 requires schools to report on administering epinephrine auto-injectors per Texas Education Code §38.209.

Proposed new §40.69 addresses the notification to parents or guardians regarding unassigned epinephrine auto-injector policies in schools.

Proposed new §40.70 addresses gifts, grants, and donations that a school district, open-enrollment charter school, or private school may accept to implement the unassigned epinephrine auto-injector policy.

Proposed new §40.71 addresses the immunity from liability per Texas Education Code §38.215.

Subchapter F, Opioid Antagonist Medication Requirements In Schools

Proposed new §40.81 describes the purpose of the subchapter, which is to establish minimum standards for administering, maintaining, and disposing of opioid antagonist medication in school districts, open-enrollment charter schools, and private schools that adopt opioid antagonist medicine policies. These standards are implemented under Texas Education Code Chapter 38, Subchapter E-1.

Proposed new §40.82 defines terms used in Subchapter F relating to the maintenance, administration, and disposal of opioid antagonist medication.

Proposed new §40.83 states that the rules apply to school districts, open-enrollment charter schools, and private schools that may adopt and implement a written policy regarding the maintenance, administration, and disposal of opioid antagonist medication.

Proposed new §40.84 addresses unassigned opioid antagonist medication policy requirements in school districts, open-enrollment charter schools, or private schools.

Proposed new §40.85 states that once a policy is implemented, the school district, open-enrollment charter school, or private school must stock opioid antagonist medication. The new rule addresses the authorized healthcare provider prescription, administration to a person who is reasonably believed to be experiencing an opioid-related drug overdose, and the storage and disposal of opioid antagonist medication.

Proposed new §40.86 addresses training requirements for school personnel and school volunteers in the administration of opioid antagonist medication, recognition of opioid-related drug overdose, disposal of used or expired opioid antagonists, and use of an opioid antagonist trainer device.

Proposed new §40.87 addresses the required reporting of administering opioid antagonist medications and retention of records.

Proposed new §40.88 addresses gifts, grants, donations, and federal and local funds that a school district, open-enrollment charter school, or private school may accept to implement the unassigned opioid antagonist policy.

Proposed new §40.89 addresses the immunity from liability as outlined in this subchapter or Texas Education Code §38.227.

FISCAL NOTE

Donna Sheppard, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS 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 DSHS employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to DSHS;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will not expand, limit, or repeal existing rules;
- (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

Donna Sheppard has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does 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 are necessary to protect the health, safety, and welfare of the residents of Texas and to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Dr. Manda Hall, Associate Commissioner, Community Health Improvement Division, has determined that for each year of the first five years the rules are in effect, the public will benefit from safer public, charter, and private schools that are authorized to administer opioid antagonist medicine to a person who is reasonably believed to be experiencing an opioid overdose. The public will also benefit from having all stock medication rules in the same chapter of the TAC.

Donna Sheppard has also determined that for the first five years the rules are in effect, schools that are required to comply with the proposed rules or that elect to adopt and implement a voluntary policy regarding the maintenance, administration, and disposal of opioid antagonists may incur economic costs for opioid antagonist supplies. School campuses would most likely use a currently available over-the-counter, nasal spray opioid antagonist. DSHS estimates that nasal spray opioid antagonists cost approximately \$47.50 per box and have a shelf life of three years. Any school district, open-enrollment charter school, or private school that adopts a policy under this rule is recommended to stock 1-5 boxes of an opioid antagonist depending on the size of the school campus and need. Based on data from the Texas Education Agency, which is the agency that regulates public and charter schools, there are approximately 8,778 k-12 public campuses and 951 k-12 charter school campuses, in Texas in 2023. According to the Texas Private School Accreditation Commission, there are approximately 1,179 private k-12 schools in Texas

in 2023. Assuming all 10,908 schools adopt this policy and inventory is replaced due to use or expiration over the following three years, and the price of the medication is \$47.50, the total cost for schools will initially be \$518,130 (10,908 schools multiplied by \$47.50/medication) with an additional \$518,130, per year. The cost could be as high as (\$518,130 multiplied by 5 boxes) \$2,590,650 if all schools purchase, use, or replace over five years.

The cost may vary significantly due to: (1) not all schools are required to adopt a policy and stock medication, and some schools may choose not to do so; (2) the recommended amount of medication to stock varies depending on the need and size of the school campus; and (3) schools may be able to obtain opioid antagonist medication at no cost from HHSC, non-profit organizations, or other sources.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247; street address 701 West 51st Street, Austin, Texas 78751; or by email to SchoolHealth@dshs.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 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 "23R051" in the subject line.

SUBCHAPTER E. EPINEPHRINE AUTO-INJECTOR POLICIES IN SCHOOLS

25 TAC §§40.61 - 40.71

STATUTORY AUTHORITY

The new rules are required to comply with Texas Education Code Chapter 38, Subchapter E. The new rules are also authorized by Texas Government Code §531.0055, and Texas Health and Safety Code §1001.075, which authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The new rules implement Texas Education Code Chapter 38, Texas Government Code §531.0055, and Texas Health and Safety Code Chapter 1001.

§40.61. Purpose.

The purpose of this subchapter is to establish minimum standards for administering, maintaining, and disposing of epinephrine auto-injectors in school districts, open-enrollment charter schools, and private schools that adopt unassigned epinephrine auto-injector policies. These standards are implemented under Texas Education Code Chapter 38, Subchapter E.

§40.62. Voluntary Unassigned Epinephrine Auto-Injector Policies for School Districts, Open-enrollment Charter Schools, and Private Schools.

(a) A school district, open-enrollment charter school, or private school may adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine auto-injectors at each school campus.

(b) If a written policy is adopted under this subchapter, the policy must comply with Texas Education Code §38.208 and this subchapter.

(c) A school district or open-enrollment charter school that chooses to adopt and implement a written unassigned epinephrine auto-injector policy under Texas Education Code Chapter 38, Subchapter E, and this subchapter, is not required to create an additional policy for care of certain students at risk for anaphylaxis under Texas Education Code §38.0151.

§40.63. Definitions.

The following terms and phrases, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) All hours the campus is open--At a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.

(2) Anaphylaxis--As defined in Texas Education Code §38.201.

(3) Authorized healthcare provider--A physician or person who has been delegated prescriptive authority under Texas Occupations Code Chapter 157.

(4) Campus--A unit of a school district, open-enrollment charter school, or private school that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

(5) Physician--As defined in Texas Education Code §38.201.

(6) Private school--As defined in Texas Education Code §38.201.

(7) School nurse--As defined in Title 19, Texas Administrative Code §153.1022.

(8) School personnel--As defined in Texas Education Code §38.201.

(9) School volunteer--As defined in Texas Education Code §22.053.

(10) Unassigned epinephrine auto-injector--An epinephrine auto-injector prescribed by an authorized healthcare provider in the name of the school issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, issued by a physician or person who has been delegated prescriptive authority under Texas Occupations Code Chapter 157.

§40.64. Applicability.

This subchapter applies to any school district, open-enrollment charter school, or private school that voluntarily chooses to adopt and implement a written policy regarding the maintenance, administration, and disposal of unassigned epinephrine auto-injectors on each school campus.

§40.65. Maintenance, Administration, and Disposal of Unassigned Epinephrine Auto-Injectors.

(a) A school district, open-enrollment charter school, or private school shall obtain a prescription from an authorized healthcare provider each year, to stock, possess, and maintain at least one unassigned adult epinephrine auto-injector pack (two doses) on each school campus as described in Texas Education Code §38.211.

(1) A school may choose to stock unassigned pediatric epinephrine auto-injector packs, based on the need of the school's population.

(2) A school district or the governing body of an open-enrollment charter school or private school may develop, as part of the policy, provisions for additional doses to be stocked and utilized at off campus school events, or in transit to or from school events.

(b) Each school district superintendent, open-enrollment charter school administrator, or private school administrator will designate appropriate school personnel to coordinate and manage policy implementation, including training of school personnel, and the acquisition or purchase, usage, expiration, and disposal of unassigned epinephrine auto-injectors. Throughout the school calendar year, the designated school personnel shall coordinate with each campus to ensure that the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented.

(c) At least one school personnel or one school volunteer who is authorized and trained to administer an unassigned epinephrine auto-injector must be present on campus during all hours the campus is open for school-sponsored activities.

(d) School personnel or school volunteers who are trained and authorized may administer an unassigned epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus, or as indicated in the school's unassigned epinephrine auto-injector policy.

(e) Local emergency medical services must be promptly notified by the school when an individual is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered. If the trained school personnel or school volunteer is the only individual available to notify emergency medical services, the trained individual should administer the unassigned epinephrine auto-injector before notifying emergency medical services.

(f) The parent, legal guardian, or emergency contact must be promptly notified by the school when an unassigned epinephrine auto-injector is utilized on their child as soon as is feasible during the emergency response to suspected anaphylaxis. School records of the administration of the unassigned epinephrine auto-injector and suspected anaphylaxis must be provided to the parent or guardian of the recipient upon request.

(g) Records relating to implementation and administration of the school's unassigned epinephrine auto-injector policy shall be retained per the record retention schedule for records of public school districts found in Title 13, Texas Administrative Code §7.125.

(h) Unassigned epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency, in accordance with the manufacturer's guidelines. It is recommended that the school administrator develop a map to be placed in high traffic areas that indicates the location of the unassigned epinephrine auto-injectors on each school campus. It is recommended that the map also indicates the locations of the automated external defibrillator.

(i) The school district, open-enrollment charter school, or private school shall develop a plan to replace, as soon as reasonably pos-

sible, any unassigned epinephrine auto-injector that is used or close to expiration.

(j) Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy.

(k) Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy.

§40.66. Assignment and Recruitment of School Personnel and School Volunteers to be Trained to Administer Epinephrine Auto-Injectors.

(a) At each school campus in which a school adopts an unassigned epinephrine auto-injector policy, the school principal may:

(1) assign school personnel or school volunteers to be trained to administer unassigned epinephrine auto-injectors; or

(2) seek school personnel or school volunteers who volunteer to be trained to administer unassigned epinephrine auto-injectors.

(b) In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools may distribute to school personnel and school volunteers in the school district, open-enrollment charter school, or private school, at least once per school year, a notice that includes:

(1) a description of the request seeking volunteers to be trained to administer an epinephrine auto-injector to a person believed to be experiencing anaphylaxis; and

(2) a description of the training that the school personnel or school volunteers will receive in the administration of epinephrine with an auto-injector.

(c) Trained school personnel or school volunteers who administer the unassigned epinephrine auto-injector must submit a signed statement indicating that they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis.

§40.67. Training.

Each school district, open-enrollment charter school, or private school that adopts an unassigned epinephrine auto-injector written policy under this subchapter is responsible for training school personnel and school volunteers in the recognizing of anaphylaxis signs and symptoms and administration of an unassigned epinephrine auto-injector. Each assigned school personnel or school volunteer shall receive initial training and an annual refresher training. Training shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention.

(1) Training may be provided in a formal face-to-face training session or through an online education course.

(2) Training required under this subchapter must meet the requirements found in Texas Education Code §38.210 and include information on properly inspecting unassigned epinephrine auto-injectors for usage and expiration.

(3) The initial training must include hands-on training with an epinephrine auto-injector trainer.

(4) The annual refresher training must include a hands-on demonstration of administration skills.

(5) The training must also include information about promptly notifying local emergency medical services.

(6) Each school campus shall maintain training records and make available upon request a list of those school personnel or school

volunteers trained and authorized to administer the unassigned epinephrine auto-injector on the campus.

§40.68. Report on Administering Epinephrine Auto-Injectors.

(a) A report shall be submitted by the school no later than the 10th business day after the date school personnel or a school volunteer administers an epinephrine auto-injector in accordance with the unassigned epinephrine auto-injector policy adopted under this subchapter. The report shall be submitted to the individuals and entities identified in Texas Education Code §38.209, including the commissioner of the Texas Education Agency and the commissioner of the Department of State Health Services (DSHS).

(b) Notifications to the commissioner of DSHS shall be submitted on the designated electronic form available on the DSHS School Health Program website found at dshs.texas.gov.

§40.69. Notice to Parents Regarding Unassigned Epinephrine Auto-Injector Policies in Schools.

(a) If a school district, open-enrollment charter school, or private school implements an unassigned epinephrine auto-injector policy under this subchapter, the district or school shall provide written or electronic notice to a parent or guardian of each student in accordance with Texas Education Code §38.212.

(b) If a school district, open-enrollment charter school, or private school changes or discontinues the policy under this subchapter, written or electronic notice detailing the change or discontinuation must be provided to a parent or guardian of each student within 15 calendar days.

§40.70. Gifts, Grants, and Donations.

A school district, open-enrollment charter school, or private school may accept gifts, grants, donations, and federal and local funds to implement the unassigned epinephrine auto-injector policy in accordance with Texas Education Code §38.213.

§40.71. Immunity from Liability.

A person who in good faith takes, or fails to take, any action under this subchapter or Texas Education Code Chapter 38, Subchapter E is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act in accordance with the Texas Education Code §38.215.

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

Filed with the Office of the Secretary of State on July 17, 2023.

TRD-202302567

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: September 3, 2023

For further information, please call: (512) 413-9089



SUBCHAPTER F. OPIOID ANTAGONIST MEDICATION REQUIREMENTS IN SCHOOLS

25 TAC §§40.81 - 40.89

STATUTORY AUTHORITY

The new rules are required to comply with Texas Education Code Chapter 38, Subchapter E. The new rules are also authorized

by Texas Government Code §531.0055, and Texas Health and Safety Code §1001.075, which authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The new rules implement Texas Education Code Chapter 38, Texas Government Code §531.0055, and Texas Health and Safety Code Chapter 1001.

§40.81. Purpose.

The purpose of this subchapter is to establish minimum standards for administering, maintaining, and disposing of opioid antagonist medication in school districts, open-enrollment charter schools, and private schools that adopt opioid antagonist medicine policies. These standards are implemented under Texas Education Code Chapter 38, Subchapter E-1.

§40.82. Definitions.

The following terms and phrases, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

(1) Authorized healthcare provider--A physician, as defined in Texas Education Code §38.201, or person who has been delegated prescriptive authority by a physician under Texas Occupations Code Chapter 157.

(2) Campus--A unit of a school district, open-enrollment charter school, or private school that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

(3) Opioid antagonist--As defined in Texas Health and Safety Code §483.101, any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors.

(4) Opioid-related drug overdose--As defined in Texas Health and Safety Code §483.101, a condition, evidenced by symptoms of extreme physical illness, decreased level of consciousness, constriction of the pupils, respiratory depression, or coma, that a layperson would reasonably believe to be the result of the consumption or use of an opioid.

(5) Private school--As defined in Texas Education Code §38.201.

(6) School personnel--As defined in Texas Education Code §38.201.

(7) School volunteer--As defined in Texas Education Code §22.053.

§40.83. Applicability.

This subchapter applies to any school district, open-enrollment charter school, or private school that adopts and implements a written policy regarding the maintenance, administration, and disposal of opioid antagonist medication on a campus or campuses.

§40.84. Required and Voluntary Opioid Antagonist Policies.

(a) Each school district shall adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that serves students in grades 6 through 12 and may voluntarily adopt and implement such a policy at each campus in the district, including campuses serving students in a grade level below grade 6.

(b) An open-enrollment charter school or private school may adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists. If a school adopts a policy under this subchapter, the opioid antagonist policy must comply with the Texas Education Code §38.222. The school may apply the policy:

(1) only at campuses of the school serving students in grades 6 through 12; or

(2) at each campus of the school, including campuses serving students in a grade level below grade 6.

(c) A policy adopted under this subchapter must:

(1) provide that school personnel and school volunteers who are authorized and trained may administer an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose;

(2) require that each school campus subject to a policy adopted under this subchapter have one or more school personnel members or school volunteers authorized and trained to administer an opioid antagonist present during regular school hours;

(3) establish the number of opioid antagonists that must be available at each campus at any given time; and

(4) require that the supply of opioid antagonists at each school campus subject to a policy adopted under this subchapter must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist.

§40.85. Maintenance, Administration, and Disposal of Opioid Antagonist Medication.

(a) Once a school district, open-enrollment charter school, or private school adopts an opioid antagonist medication policy, a campus that implements an opioid policy must stock opioid antagonist medication as defined by §40.84 of this subchapter (relating to Required and Voluntary Opioid Antagonist Policies).

(b) A campus must obtain a prescription from a physician or a person who has been delegated prescriptive authority each year to stock, possess, and maintain the established number of opioid antagonists determined by a school district, on each campus as described in Texas Education Code §38.225.

(1) The campus must renew this prescription or obtain a new prescription annually.

(2) The number of additional doses may be determined by an individual campus review led by a physician or a person who has been delegated prescriptive authority.

(c) A physician or other person who has been delegated prescriptive authority under Texas Occupations Code Chapter 157 and prescribes opioid antagonist medication under subsection (a) of this section must provide the school district, open-enrollment charter school, or private school with a standing order for administration of an opioid antagonist medication to a person who is reasonably believed to be experiencing an opioid-related drug overdose. The standing order must comply with the Texas Education Code §38.225.

(d) The unassigned opioid antagonist medication must be stored in a secure location and be easily accessible, in accordance with the manufacturer's guidelines and local policy of the school district, open-enrollment charter school, or private school.

(e) Used unassigned opioid antagonists shall be considered infectious waste and shall be disposed of according to the school's blood-borne pathogen control policy.

(f) Expired unassigned opioid antagonists must be disposed of in accordance with the Federal Drug Administration's disposal of unused medications guidelines and local policy of the school district, open-enrollment charter school, or private school.

§40.86. Training.

(a) Each school district, open-enrollment charter school, and private school that adopts a written unassigned opioid antagonist policy under Texas Education Code §38.222, is responsible for training school personnel and school volunteers in the administration of an opioid antagonist.

(b) Training under this subchapter must:

(1) include information on:

(A) recognizing the signs and symptoms of an opioid-related drug overdose;

(B) responding to an opioid-related drug overdose and administering an opioid antagonist;

(C) implementing emergency procedures, after administering an opioid antagonist;

(D) understanding the medical purpose and misuse of opioids;

(E) practicing the administration of an opioid antagonist with an opioid antagonist trainer device; and

(F) properly disposing of used or expired opioid antagonists;

(2) be provided annually in a formal training session or through online education; and

(3) be provided in accordance with the policy adopted under Texas Education Code §21.4515.

(c) Each campus must maintain training records and must make available upon request a list of school personnel and school volunteers that are trained and authorized to administer the unassigned opioid antagonist medication on the campus.

§40.87. Report on Administering Unassigned Opioid Antagonist Medication.

(a) Records relating to implementing and administering the school district, open-enrollment charter school, or private school's unassigned opioid antagonist medication policy must be retained per the campus record retention schedule.

(b) The campus must submit the report no later than the 10th business day after the date a school personnel member or school volunteer administers an opioid antagonist in accordance with the unassigned opioid antagonist medication policy adopted under this subchapter. The report shall be submitted to the individuals and entities identified in Texas Education Code §38.223.

(c) Notifications to the commissioner of the Department of State Health Services (DSHS) must be submitted on the designated electronic form available on DSHS's School Health Program website found at dshs.texas.gov.

§40.88. Gifts, Grants, and Donations.

A school district, open-enrollment charter school, or private school may accept gifts, grants, donations, and federal and local funds to implement this subchapter.

§40.89. Immunity from Liability.

A person who in good faith takes, or fails to take, any action under this subchapter, or Texas Education Code Chapter 38, Subchapter E-1, is

immune from civil or criminal liability or disciplinary action resulting from that action or failure to act in accordance with Texas Education Code §38.227.

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

Filed with the Office of the Secretary of State on July 17, 2023.

TRD-202302568

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: September 3, 2023

For further information, please call: (512) 413-9089



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 374. MENTAL HEALTH EARLY INTERVENTION AND TREATMENT GRANT

26 TAC §§374.1 - 374.4

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §374.1, concerning Purpose and Objectives; §374.2, concerning Definitions; §374.3, concerning Eligibility Criteria for Applicants; and §374.4, concerning Application and Selection Process, in new Chapter 374 Mental Health Early Intervention and Treatment Grant.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with Senate Bill (S.B.) 26, 88th Legislature, Regular Session, 2023, which adds new §531.09915 to the Texas Government Code effective September 1, 2023. Section 531.09915 requires the Health and Human Services Commission (HHSC) to implement a competitive grant program to support community-based initiatives that promote identification of mental health issues and improve access to early intervention and treatment for children and families and to establish by rule the application and eligibility requirements for an entity to be awarded a grant.

SECTION-BY-SECTION SUMMARY

Proposed new §374.1 describes the purpose and objective of the Mental Health Early Intervention and Treatment Grant, so that applicants understand the intent and general objectives of establishing community-based initiatives.

Proposed new §374.2 describes the definitions for terms used throughout the chapter.

Proposed new §374.3 lists the entities eligible for a grant awarded under the grant program in accordance with Texas Government Code §531.09915(e). The new rule is necessary to establish in rule eligibility requirements for entities applying for the grant.

Proposed new §374.4 describes the application and selection process leading to final award for potential applicants. The proposed new rule is necessary to establish in rule the application process for entities applying for the grant.

FISCAL NOTE

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

Participation in providing the new service described in the proposed new rules is optional; the rules merely provide guidance on application and eligibility requirements to receive the grant funds.

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 rules;
- (6) the proposed rules will not expand, limit, or repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as these rules do not apply to small or micro-businesses, or rural communities, and do not impose any additional costs on those required to comply.

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 rule does not impose a cost on regulated people, the rule relates to a state agency procurement, and it implements legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Rob Ries, Deputy Executive Commissioner of Family Health Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be to promote family preservation, better academic outcomes for children and youth, and positive social behaviors through earlier identification of mental health issues and improved access to early intervention and treatment for children and families.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because participation in providing the new service described in the proposed rules is optional.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 701 W. 51st 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 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 23R050" in the subject line.

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.09915(d), which requires the Executive Commissioner of HHSC to establish by rule eligibility and application requirements for an entity to be awarded a Mental Health Early Intervention and Treatment Grant.

The new sections affect Texas Government Code §531.0055 and Texas Government Code §531.09915.

§374.1. Purpose and Objectives.

(a) Purpose. This chapter implements Texas Government Code §531.09915, which authorizes the Health and Human Services Commission to implement a competitive matching grant program to support the initial establishment and operation of community-based initiatives that promote identification of mental health issues and improve access to early intervention and treatment for children and families.

(b) Grant objectives. The grants awarded under this chapter are intended to assist with the establishment or operation of community-based initiatives that may:

(1) be evidence-based or otherwise demonstrate positive outcomes, including:

- (A) improved relationship skills;
- (B) improved self-esteem;
- (C) reduced involvement in the juvenile justice system;
- (D) participation in the relinquishment avoidance program under Texas Family Code Chapter 262, Subchapter E; and
- (E) avoidance of emergency room use; and

(2) include:

- (A) training; and

(B) services and supports for:

(i) community-based initiatives;

(ii) agencies that provide services to children and families;

(iii) individuals who work with children or caregivers of children showing atypical social or emotional development or other challenging behaviors; and

(iv) children in or at risk of placement in the foster care or juvenile justice system.

§374.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise.

(1) Applicant--An entity eligible to apply for a grant.

(2) Children--Individuals who are younger than 13 years of age.

(3) Commission--The Health and Human Services Commission.

(4) Early intervention--Services to identify and provide effective early support to children and young people who are at risk of poor outcomes.

(5) Grantee--A recipient of a grant awarded under this chapter.

§374.3. Eligibility Criteria for Applicants.

The following entities are eligible to apply for a grant:

(1) a hospital licensed under Texas Health and Safety Code Chapter 241;

(2) a mental hospital licensed under Texas Health and Safety Code Chapter 577;

(3) a hospital district;

(4) a local mental health authority, as defined in Texas Health and Safety Code §571.003;

(5) a child-care facility, as defined in Texas Human Resources Code §42.002;

(6) a county or municipality; and

(7) a nonprofit organization that is exempt from taxation under §501(a), Internal Revenue Code of 1986, as an exempt entity described in §501(c)(3) of that code.

§374.4. Application and Selection Process.

(a) Application and selection process.

(1) An applicant must submit an application for a grant directly to the Commission in the time and manner specified by the Commission.

(2) An application received after the deadline will not be considered.

(3) A panel selected by the Commission reviews and evaluates eligible, complete, and timely applications in accordance with the evaluation methodology published in the request for proposal or other notice of potential grant award issued by the Commission.

(b) Selection criteria. In selecting a grantee, the Commission must consider:

(1) the extent to which an applicant's proposed program meets the objectives established by Texas Government Code §531.09915; and

(2) other criteria established by the Commission as described in the specific request for proposal or other notice of potential grant award issued by the Commission.

(c) Award prioritization. In selecting grantees, the Commission prioritizes entities that work with children and family members of children with a high risk of experiencing a crisis or developing a mental health condition to reduce:

(1) the need for future intensive mental health services;

(2) the number of children at risk of placement in foster care or the juvenile justice system; or

(3) the demand for placement in:

(A) a state hospital, as defined in Texas Health and Safety Code §552.0011;

(B) an inpatient mental health facility, as defined in Texas Health and Safety Code §571.003; and

(C) a residential behavioral health facility.

(d) Contract execution.

(1) Grantees are required to execute a contract with the Commission on mutually agreeable terms and conditions in the manner and format prescribed by the Commission.

(2) The Commission does not distribute grant funds to a grantee before the execution of a contract with the Commission.

(3) A grantee is required under the contract to comply with:

(A) the performance objectives established by the Commission and monitored by the Commission through progress reports;

(B) any financial and reporting requirements established by the Commission;

(C) all applicable policies and procedures; and

(D) all applicable federal and state laws and their implementing regulations.

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 July 17, 2023.

TRD-202302569

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 3, 2023

For further information, please call: (512) 705-5138



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 17. TEXAS STATE SOIL AND WATER CONSERVATION BOARD

CHAPTER 519. TECHNICAL ASSISTANCE

SUBCHAPTER A. TECHNICAL ASSISTANCE PROGRAM

31 TAC §519.8

The Texas State Soil and Water Conservation District Board proposes an amendment to the existing rule Title 31, Part 17, Subchapter A, §519.8, which limits the maximum pay for district employees. The agency is proposing the removal of the amount from the rule and basing the amount on a routine State Board decision every biennium.

Fiscal Note

Kenny Zajicek, Fiscal Officer, has determined that for each year of the first five years that the rule is in effect, there are no anticipated increases or reductions in costs to the state and local governments due to enforcing or administering the rule.

Kenny Zajicek, Fiscal Officer, has also determined that for each year of the first five years that the rule is in effect, there is no anticipated impact in revenue to state government as a result of enforcing or administering the rule.

Public Benefit and Cost Note

Kenny Zajicek, Fiscal Officer, has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be to protect the public by establishing and maintaining a high standard of integrity, skills, and practice. By removing the rule for max pay for district employees, the Agency can recruit qualified personnel.

Local Employment Impact Statement

Kenny Zajicek, Fiscal Officer, has determined that the rule will not impact local employment or economy. The number of employees is finite. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

Economic Impact Statement and Regulatory Flexibility Analysis

Kenny Zajicek, Fiscal Officer, has determined that there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities because of the rule. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code, because the biennium budget allocates Technical Assistance Funds

Takings Impact Assessment

Kenny Zajicek, Fiscal Officer, has determined that no private real property interests are affected by the rule, as the rule does not concern real property. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

Public Benefit/Cost Note

Kenny Zajicek, Fiscal Officer, has determined, under Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit will be efficient use of state resources. He further has determined there will be no probable economic cost to persons required to comply with the rule because the rule would provide funds to districts through the Technical Assistance Program.

Government Growth Impact Statement

For the first five years that the rule would be in effect, it is estimated that; the proposed rule would not create or eliminate a government program; implementation of the proposed rule would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule would not require an increase or decrease in future legislative appropriations to the agency; the proposed rule would not require an increase in the fees paid to the agency; the proposed rule would not create a new regulation; the proposed rule would not expand, limit, or repeal an existing regulation; the proposed rule would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed rule would not positively or adversely affect the state's economy.

Environmental Rule Analysis

The proposed rule is not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

Request for Public Comments

The Texas State Soil and Water Conservation Board invites comments on the proposed rule amendment from any interested persons, including any member of the public. A written statement should be mailed or delivered to Heather Bounds, Texas State Soil and Water Conservation Board, 1497 Country View Lane, Temple, Texas 76504, or by e-mail to hbounds@TSS-WCB.Texas.Gov Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after the publication of this proposal to be considered.

Statutory Authority

This rule is proposed pursuant to Texas Agriculture Code §201.020(a) and §203.012 provides the basis for the TSSWCB

to pass rules, which can be found in the Texas Administrative Code, Title 31 - Natural Resources and Conservation, Part 17 - Texas State Soil and Water Conservation Board and The General Appropriations Act, 88th(R) Strategy A.1.1. Riders 2&3.

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

§519.8. *Eligible Pay Rates.*

The State Board will establish a maximum hourly pay rate prior to the beginning of each biennium. Established pay rates will not exceed a 40-hour maximum per week. Expenditures for wages or salaries above the maximum pay rate or expenditures for hours over the maximum hours per week will not otherwise be eligible for reimbursement without prior approval from the State Board. If no new rate is established, the existing rate remains in effect. [hereby establishes a maximum pay rate of \$20.00 per hour not to exceed a maximum of 40 hours per week. With the prior approval of the State Board a district may exceed the maximum pay rate or maximum hours per week. Expenditures for wages or salaries that are above the maximum pay rate or expenditures for hours over the maximum hours per week will not otherwise be eligible for reimbursement.]

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 July 24, 2023.

TRD-202302622

Heather Bounds

Government Affairs Specialist

Texas State Soil and Water Conservation Board

Earliest possible date of adoption: September 3, 2023

For further information, please call: (254) 778-8741

