

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 4. AGRICULTURE

PART 13. PRESCRIBED BURNING BOARD

CHAPTER 226. REQUIREMENTS FOR CERTIFICATION BY THE BOARD

4 TAC §226.3

The Board of Directors (Board) of the Prescribed Burning Board (PBB), a board established within the Texas Department of Agriculture (TDA), adopts the amendment of Title 4, Part 13, §226.3 of the Texas Administrative Code without changes to the proposed text as published in the January 22, 2016, issue of the *Texas Register* (41 TexReg 679). The adoption concerns the required experience necessary for certified and insured prescribed burn managers.

No comments were received on the adopted amendment.

The adoption is made pursuant to the Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by the adoption.

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 March 9, 2016.

TRD-201601190

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Prescribed Burning Board

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For further information, please call: (512) 463-4075



TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 197. EMERGENCY MEDICAL SERVICE

22 TAC §§197.1, 197.2, 197.7

The Texas Medical Board (Board) adopts amendments to §197.1, concerning Purpose; and §197.2, concerning Definitions; and new §197.7, concerning Physician Supervision of Emergency Medical Technician-Paramedic or Licensed Paramedic Care Provided in a Health Care Facility Setting. The amendments and new rule are adopted without changes to the proposed text as published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7376). The text of the rules will not be republished.

The Board sought stakeholder input through Stakeholder Groups, which made comments on the proposed rule at a meeting held on August 10, 2015. The stakeholder comments were incorporated into the proposed rules.

The amendments to §197.1 reorganize the section and make other general "clean-up" changes to the language, necessitated by the amendments made adding new §197.7.

The amendments to §197.2 reflect general "clean-up" changes to the language, necessitated by the amendments made adding new §197.7.

New §197.7 sets forth language reflecting the substantive changes to the law made by HB 2020. The new section sets forth definitions and the scope of allowed practice by emergency medical technician-paramedics or licensed paramedics (EMT-Ps or LPs, respectively) in a health care facility setting under a licensed physician's direct supervision and delegated authority, as permitted by HB 2020 and other law, and provides for the scope of a physician's responsibility for such acts.

Summary of Written Comments Received

The Board received one written comment from the Texas Nurse's Association (TNA). No one appeared at the public hearing held on December 4, 2015, regarding the proposed amendments to Chapter 197.

TNA Comment:

TNA asserted opposition to certain provisions proposed under the rules. First, TNA asserted that the term "drug therapy procedures" referenced under §197.7(a)(1) requires further clarification, stating that the phrase is insufficient as to what lifesaving drugs may be administered to patients and the allowed methods of administration. TNA recommended that the rule specify "urgent and life saving drugs only", provide a limited list of what specific drug therapy procedures would be allowed, and delineate who would be responsible for monitoring the patient after the administration of such procedures. Next, TNA stated that the proposed terms under §197.7(a)(2) referencing an "area adjacent to the area" where a procedure is being performed, and "direct supervision" require further definition, and recommended that the definition for "direct supervision" include language requiring a

physician to be no more than four minutes away from the area in which the patient would receive care. Lastly, TNA asserted that requirements found under §197.7(e) related to an EMT-P or LP's documentation of care in a patient's medical record should provide more information as to the minimum documentation elements required and citations to the specific laws that apply, and recommended adding clarifying language that would expressly require that an EMT-P/LP document only his or her care provided in the medical record, and so that the records at issue are designated as the "facility's official patient record."

Board Response:

The Board respectfully disagrees with the comments and believes the adopted language amending the rule is sufficient and appropriate. With respect to new §197.7(a)(1) defining "advanced life support", the Board disagrees with TNA's suggestion that adding the phrase "urgent and life-saving" to the term "drug therapy procedures" would provide better guidance than the language of the definition adopted, which provides that such drug therapy procedures allowed would be those that are related to "health care provided to sustain life in an emergency, life-threatening situation." The language also reflects language related to an EMT-P or LP's allowed scope of practice found under §773.0496 of the Texas Health and Safety Code. The Board disagrees that delineating a limited list of drug therapy procedures through the rules would be prudent, as such a list might inappropriately exclude the administration of appropriate and necessary drug therapy procedures that may be authorized by a delegating physician and/or health care facility through protocols in place for the emergency care or urgent care facility setting, as well as a physician's direct supervision as defined under the rules, thereby unnecessarily limiting vital options for providing life-saving procedures to patients experiencing emergency, life-threatening situations. The Board further disagrees that prescribing through the rules a limited list of health care professionals who will be responsible for monitoring the patient after the administration of such drug therapy procedures would be prudent. Outlining such requirements would risk inappropriately limiting a health care facility's ability to safely manage a patient's course of treatment according to the facility's health care personnel resources and qualifications. Ultimately, as stated under new §197.7(d), the supervising physician remains professionally and legally responsible for the patient care provided by the EMT-P or LP, as is also provided under Chapter 157 of the Texas Occupations Code, related to physician delegation of medical acts. The supervising physician's role with respect to responsibility for patient care is well-understood and will not be changed by the adoption of these rules. The Board believes that the rules provide appropriate limits with enough flexibility so that physicians and health care facilities will have increased options for making timely and appropriate responses to patients facing emergency, life-threatening situations, thereby increasing the health and safety of Texans.

Next, with respect to TNA's assertion that the proposed terms under §197.7(a)(2) defining "direct supervision" require further clarification stating that the physician should be "no more than four minutes away" from where the patient is receiving care, the Board respectfully disagrees. The terms "area adjacent," "same area," and "immediately available" are self-explanatory. Dictating that a physician be no more than "four minutes" away from the area in which patients are undergoing a procedure performed by an EMT-P or LP will risk creating an arbitrary, inflexible standard that may hamper a physician's ability to provide appropriate patient care according to the circumstances presented.

The Board believes that the rules provide appropriate limits with enough flexibility so that physicians and health care facilities will have increased options for timely and appropriately responding to patients facing emergency, life-threatening situations, thereby increasing the health and safety of Texans.

Lastly, the Board respectfully disagrees with TNA's assertion that requirements found under §197.7(e) related to an EMT-P or LP's documentation of care in the patient's medical record require more information as to the minimum documentation elements required and citations to the specific laws that apply, and that the rule should expressly require that an EMT-P/LP document only his or her care provided in the medical record. The Board believes that the rule as published, providing that the supervising physician remains responsible for the medical record documented by the EMT-P or LP provides appropriate guidance, considering that there are in place other rules providing specific guidance on the minimum requirements for maintenance of an adequate medical record (Chapter 165) and physician delegation and supervision of medical acts (Chapter 193), found under the same Title 22, Part 9 of the Texas Administrative Code.

The amendments and new rule are adopted under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure. The amendments are also adopted under the authority of Texas Occupations Code Annotated, Chapter 157, and Texas Health and Safety Code Annotated, Chapter 773, as amended by HB 2020, R.S. (2015).

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-201601218

Mari Robinson, J.D.

Executive Director

Texas Medical Board

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For further information, please call: (512) 305-7016



PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 273. GENERAL RULES

22 TAC §273.14

The Texas Optometry Board adopts amendments to §273.14 without changes to the proposed text as published in the January 1, 2016, issue of the *Texas Register* (41 TexReg 98).

The amendments enlarge the eligibility for the alternate licensing procedure to include applicants currently on active duty in the military and veterans of active duty. The amendments include an exemption from the application fees for military service member, military veteran and military spouse applicants currently licensed in another state.

No comments were received.

The amendments are adopted under the Texas Optometry Act, Texas Occupations Code, §§351.151, 351.152, 351.252, and 351.254, and Senate Bills 807, 1296 and 1307, 84th Legislature. No other sections are affected by the amendments.

The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession and §351.151 as authorizing fees. The agency interprets §351.252 and §351.254 as setting the requirements for license, and Senate Bills 807, 1296 and 1307, 84th Legislature, Regular Session, as authorizing the application fee exemption and alternate licensing procedure to military service member, military veteran or military spouse applicants.

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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For further information, please call: (512) 305-8500



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

25 TAC §§97.1 - 97.7, 97.13

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), adopts amendments to §§97.1 - 97.7 and §97.13, concerning the control of communicable diseases. Sections 97.1, 97.3, 97.4, 97.6, and 97.13 are adopted with changes to the proposed text as published in the October 9, 2015, issue of the *Texas Register* (40 TexReg 7016). Sections 97.2, 97.5 and 97.7 are adopted without changes and will not be republished.

BACKGROUND AND PURPOSE

The purpose of the amendments is to clarify the conditions and diseases that must be reported; clarify the minimal reportable information requirements for the conditions and diseases; and adjust the list of reportable diseases to include diseases and conditions of concern to public health. The amendments comply with guidance from the Centers for Disease Control and Prevention (CDC) regarding surveillance for reportable conditions, and allow the department to conduct more relevant and efficient disease surveillance. The amendments comply with Health and Safety Code, Chapter 81, which requires the department to identify each communicable disease or health condition which is reportable under the chapter.

House Bill 2055, 84th Legislature, Regular Session, 2015, amended Health and Safety Code, Chapter 100, to establish a sentinel surveillance program to monitor the incidence, prevalence and trends of emerging and neglected tropical diseases. Due to a public comment, the department has added six diseases to Subchapter A, Control of Communicable Diseases, listed by the World Health Organization (WHO) that could be transmissible in Texas.

Zika virus, an emerging disease within the Americas, has also been added to these rules due to the possibility of infection within Texas.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 97.1 - 97.7 and 97.13 have been reviewed, and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed to administer the program effectively. Sections 97.8 - 97.12 have been reviewed and the amendments will not be revised.

SECTION-BY-SECTION SUMMARY

The amendments update §97.1 to "Definitions and Applicability" for clarity of scope.

The amendments to §§97.1, 97.3, and 97.4 alphabetize the conditions to improve organization.

The amendments to §§97.1, 97.3, and 97.4 update the definition of Vancomycin-intermediate *Staphylococcus aureus* (VISA) and the nomenclature for Multidrug-resistant *Acinetobacter* (MDR-A) for consistency.

The amendments to §§97.1 - 97.6 replace references to §§97.132 - 97.134 with a reference to Subchapter F for information on reporting and other control requirements applicable to sexually transmitted diseases (including HIV/AIDS).

The amendments to §§97.2, 97.4, 97.5, and 97.6 update language for clarity, consistency to avoid redundancy and correct spelling; update phone numbers and references; and update the reporting period for multidrug-resistant organisms from immediate to one working day.

The amendments to §97.3 group together the hepatitis infections; update the Shiga toxin-producing *E.coli* nomenclature to align with the CDC; clarify the culture isolation sites for *Neisseria meningitidis*; and correct the spelling of *meningitidis*.

The amendments to §97.3 revise "*Haemophilus influenzae* type b infection, invasive" to "*Haemophilus influenzae*, invasive" to ensure that all *Haemophilus influenzae* in Texas are identified, especially in children under five years of age which is the age group targeted for vaccine and are at most risk from the disease.

The amendments to §97.3(a)(2)(A) add echinococcosis, the foodborne trematodiases fascioliasis and paragonimiasis, and the soil-transmitted helminthiases ascariasis, trichuriasis, and ancylostomiasis to the list of notifiable conditions or isolates due to a public comment. Although these conditions are already reportable under §97.3(a)(2)(B) which reads "...any outbreak, exotic disease, or unusual group expression of disease that may be of public health concern should be reported by the most expeditious means." House Bill 2055 requires the Executive Commissioner to identify specific emerging and neglected tropical diseases to be included in a sentinel surveillance program. After consulting with the CDC, department subject

matter experts determined that these six neglected tropical diseases should be added to §97.3(a)(2)(A) because there has been historical disease transmission in and around Texas, or transmission is conceivable.

The amendments to §97.3(a)(2)(A) also add Zika virus to the list of notifiable conditions or isolates due to the emergence of the disease within the Americas and possibility of infection within Texas.

The amendments to §97.3 and §97.13 replace Creutzfeldt-Jakob disease (CJD) with "prion diseases, such as Creutzfeldt-Jakob disease (CJD)" to include all types and forms of prion disease occurring in the human population.

The amendments to §97.3 and §97.13 update the language for arboviral conditions to allow novel or emerging arboviruses (such as Chikungunya) to be reported, and remove reporting of relapsing fever in humans and Chagas disease and psittacosis in animals to align with national guidelines.

The amendments to §§97.3, 97.7 and 97.13 update the language for consistency; clarify the different types of tuberculosis infection; and update the type of Hansen's disease to report.

The amendments to §97.5 allow the submission of isolates referenced in §97.3(a)(4) to other public health laboratories designated by the department to expand testing capacity and improve outbreak detection.

The amendments to §97.7 add typhoid fever to the diseases requiring exclusion from schools, and clarify language for exclusion criteria for Measles and Pertussis.

COMMENTS

The department received eight written comments from five stakeholders during the 30-day comment period. The stakeholders who commented included the director of the Disease Control and Prevention Division from the Williamson County and Cities Health District; an infection preventionist from the Houston Methodist San Jacinto Hospital; a doctor in veterinarian medicine and board-certified member of the American College of Veterinary Preventive Medicine; the director of the Department of Pediatrics of the University of Texas Medical Branch (UTMB) in Galveston; and an epidemiologist from Hays County Health Department.

The department, on behalf of the commission, has reviewed and prepared responses to the comments, which the commission has reviewed and accepts. The commenters were not against the rules in their entirety. However, the commenters suggested recommendations for change as discussed in the summary of comments.

COMMENT: An epidemiologist from Hays County Health Department submitted a comment to suggest that the proposed rules include a new definition for what constitutes a person under monitoring.

RESPONSE: The commission disagrees with the commenter because the suggestion does not apply to this rule. No changes were made to the rules as a result of this comment.

COMMENT: The director of the Disease Control and Prevention Division from the Williamson County and Cities Health District submitted a comment regarding a spelling error for the disease "*Listeria monocytogene*."

RESPONSE: The commission agrees with the commenter. In §97.3(a)(4), the spelling of the disease "*Listeria monocytogene*" was replaced with "*Listeria monocytogenes*."

COMMENT: An infection preventionist from the Houston Methodist San Jacinto Hospital submitted a comment about not adhering to the correct text for microorganism's genus and species names for *Clostridium difficile*.

RESPONSE: The commission agrees with the commenter. Section 97.1(19) was revised by italicizing *Clostridium difficile*.

COMMENT: Concerning §97.1(3), an infection preventionist from the Houston Methodist San Jacinto Hospital submitted a comment requesting clarification of the source of the definition for Carbapenem resistant *Enterobacteriaceae* (CRE) knowing that the National Healthcare Safety Network's Patient Safety Component does not have a protocol for CRE, only methicillin-resistant *Staphylococcus aureus* (MRSA) of the blood and *Clostridium difficile* colitis (CDI).

RESPONSE: The commission agrees with the commenter. The reference to the "National Healthcare Safety Network (NHSN) Manual" was removed because it does not sufficiently clarify the case criteria for multidrug-resistant organisms in §97.1(3) and (19).

COMMENT: Concerning §97.4(a)(1), an infection preventionist from the Houston Methodist San Jacinto Hospital submitted a comment about changing the reporting time frame of the multidrug-resistant organisms (MDRO) from "a week" to "one day."

RESPONSE: The commission disagrees with the commenter. The reporting time frame was changed to "within one working day" in the proposal by moving the organisms from §97.4(a)(1) to §97.4(a)(2) because the local health departments need time to verify that control measures are in place; any additional delay will hinder this and potentially increase time that a case may go without proper control measures in place. No change was made to the rule as a result of this comment.

COMMENT: The director of the Department of Pediatrics of UTMB in Galveston submitted a comment about the language used in the proposed text and questioned why "all non-negative rabies tests..." in §97.3(b)(1) was used instead of "all positive rabies tests..."

RESPONSE: The commission disagrees with the commenter because non-negative rabies tests include specimens that the rabies laboratories determine are decomposed, destroyed, and unsatisfactory for testing, or have inconclusive results, as well as those that test positive for rabies. Due to the high consequences of untreated rabies exposures, the department requires that all non-negative rabies test results be reported so that a public health investigation can determine whether there were potential rabies exposures to people or animals and appropriate post-exposure recommendations can be made. No change was made to the rule as a result of this comment.

COMMENT: Concerning §97.4(a)(2), the director of the Department of Pediatrics of UTMB in Galveston submitted a comment about the reporting of perinatal hepatitis B. The commenter was questioning why it is required to be reported within one day. The commenter indicated that "there is no good rationale as it is not a casually communicable disease and there are no specific isolation or contact tracing or other requirements that need to be handled urgently in comparison to the other infectious agents in this section."

RESPONSE: The commission disagrees with the commenter. The rationale behind reporting perinatal hepatitis B so quickly is so that if there is still time to provide treatment that might stop the infection in the infant (e.g., if the mom just delivered), it can be performed. No change was made to the rule as a result of this comment.

COMMENT: A doctor in veterinarian medicine and board-certified member of the American College of Veterinary Preventive Medicine stated: "I noticed that some of the emerging and neglected tropical diseases listed by the WHO are already reportable in Texas. There is increased interest in this category of disease as evidenced by House Bill 2055 in the most recent legislative session." The doctor suggested that the department consider inclusion of other diseases listed by WHO in the Texas reportable diseases as listed in Chapter 97.

RESPONSE: The commission agrees with the commenter. Six emerging and neglected tropical diseases were added to §97.3(a)(2)(A) which include echinococcosis, the food-borne trematodiasis fascioliasis and paragonimiasis, and the soil-transmitted helminthiasis ascariasis, trichuriasis, and ancylostomiasis.

DEPARTMENT COMMENTS

The department staff, on behalf of the commission, provided comments and the commission has reviewed and agrees to the following changes.

Section 97.3(a)(2)(A) was amended to add the Zika virus to the list of notifiable conditions or isolates due to the emergence of the disease within the Americas and possibility of infection within Texas.

Concerning §97.3(a)(2)(A), the department removed italicization of the words "invasive" in *Haemophilus influenzae*, *invasive*, and "infection" in Shiga toxin-producing *Escherichia coli* infection. The italics for MDR-A were removed in §97.1(19) and §97.3(a)(2)(A). The department also italicized *Staphylococcus aureus* in §97.1(32) and §97.3(a)(2)(A) to follow the correct text for microorganism's genus and species.

Concerning §97.3(a)(2)(A), §97.4(a)(1) and §97.13(c), the department replaced the disease "viral hemorrhagic fevers" with "viral hemorrhagic fever" to be consistent with most nomenclature determined by the CDC and adopted by the department and the *Control of Communicable Diseases Manual*.

Concerning §97.1 and §97.6(c), the department replaced the phrase "Subchapter F of this title" with "Subchapter F of this chapter" to maintain consistency in the subchapter.

LEGAL CERTIFICATION

The Department of State Health Services, General Counsel, Lisa Hernandez, certifies that the rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agencies' legal authority.

STATUTORY AUTHORITY

The amendments are authorized by Health and Safety Code, §81.004, which authorizes rules necessary for the effective administration of the Communicable Disease Prevention and Control Act; §81.042, which requires a rule on the exclusion of children from schools; §81.050 which requires a rule to prescribe criteria that constitute exposure to reportable diseases; Health and Safety Code, §100.005 and §100.006, for rulemaking authority granted to the Executive Commissioner to establish a sen-

tinel surveillance program to monitor the incidence, prevalence and trends of emerging and neglected tropical diseases; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

§97.1. Definitions and Applicability.

This subchapter contains the general reporting and other control requirements related to communicable disease. Specific reporting and other control requirements applicable to sexually transmitted diseases (including AIDS and HIV) are found in Subchapter F of this chapter (relating to Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)). The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Act--Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 81.

(2) Advanced practice nurse--A registered nurse authorized by the Board of Nurse Examiners to practice as an advanced practice nurse based on completing an advanced educational program. The term includes a nurse practitioner, nurse-midwife, nurse anesthetist, and clinical nurse specialist.

(3) Carbapenem resistant *Enterobacteriaceae* (CRE)--CRE-*E. coli* or CRE-*Klebsiella* species as defined in the Centers for Disease Control and Prevention, Patient Safety Component, Protocol for Multidrug-Resistant Organism and *Clostridium difficile* Infection (MDRO/CDI) Module, or its successor.

(4) Carrier--An infected person or animal that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source or reservoir of infection.

(5) Case--As distinct from a carrier, the term "case" is used to mean a person or animal in whose tissues the etiological agent of a communicable disease is lodged and which usually produces signs or symptoms of disease. Evidence of the presence of a communicable disease may also be revealed by laboratory findings.

(6) Commissioner--Commissioner of the Department of State Health Services.

(7) Common carrier--Any vehicle or device available to the public for transportation of persons, goods, or messages.

(8) Communicable disease--An illness due to an infectious agent or its toxic products which is transmitted directly to a well person from an infected person or animal, or indirectly through an intermediate plant or animal host, vector, or the inanimate environment.

(9) Contact--A person or animal that has been in such association with an infected person or animal or a contaminated environment so as to have had opportunity to acquire the infection.

(10) Department--Department of State Health Services.

(11) Diarrhea--A watery or loose stool that takes the shape of the container that holds it.

(12) Disinfection--Application of chemical or physical agents to destroy infectious agents outside the body.

(13) Epidemic--The occurrence in a community or region of a group of illnesses of similar nature, clearly in excess of normal expectancy, and derived from a common or a propagated source.

(14) Exposure--A situation or circumstance in which there is significant risk of becoming infected with the etiologic agent for the disease involved.

(15) Fever--A temperature of 100 degrees Fahrenheit (37.8 degrees Celsius) or higher.

(16) Health authority--A physician designated to administer state and local laws relating to public health under the Local Public Health Reorganization Act, Health and Safety Code, Chapter 121. The health authority, for purposes of this subchapter, may be:

(A) a local health authority appointed by the local government jurisdiction; or

(B) a regional director of the Department of State Health Services if no physician has been appointed by the local government.

(17) Hepatitis B, perinatal infection--HBsAg positivity in any infant aged >1 through 24 months.

(18) Hospital laboratory--Any laboratory that performs laboratory test procedures for a patient of a hospital either as a part of the hospital or through contract with the hospital.

(19) Multidrug-resistant *Acinetobacter* (MDR-A)--MDR-*Acinetobacter* species as defined by the Centers for Disease Control and Prevention, Patient Safety Component, Protocol for Multidrug-Resistant Organism and *Clostridium difficile* Infection (MDRO/CDI) Module, or its successor.

(20) Notifiable condition--Any disease or condition that is required to be reported under the Act or by this chapter. See §97.3 of this title (relating to What Condition to Report and What Isolates to Report or Submit). Any outbreak, exotic disease, or unusual group expression of illness which may be of public health concern, whether or not the disease involved is listed in §97.3 of this title, shall be considered a "notifiable condition." The term "notifiable condition" is the same as the term "reportable disease" as used in the Health and Safety Code, Chapter 81.

(21) Outbreak--See definition of epidemic in this section.

(22) Pandemic--A global disease epidemic or an epidemic that crosses international borders and affects an extremely large number of people.

(23) Physician--A person licensed by the Texas Medical Board to practice medicine in Texas.

(24) Physician assistant--A person licensed as a physician assistant by the Texas Physician Assistant Board.

(25) Regional director--The physician who is the chief administrative officer of a region as designated by the department under the Local Public Health Reorganization Act, Health and Safety Code, Chapter 121.

(26) Report--Information that is required to be provided to the department.

(27) Report of a disease--The notification to the appropriate authority of the occurrence of a specific communicable disease in man or animals, including all information required by the procedures established by the department.

(28) Research facility--A facility that is licensed by the United States Department of Agriculture to use vertebrate animals for research purposes and is in compliance with the federal Animal Welfare Act (7 U.S.C., Chapter 54).

(29) School Administrator--The city or county superintendent of schools or the principal of any school not under the jurisdiction of a city or county board of education.

(30) Significant risk--A determination relating to a human exposure to an etiologic agent for a particular disease, based on reasonable medical judgments given the state of medical knowledge, relating to the following:

(A) nature of the risk (how the disease is transmitted);

(B) duration of the risk (how long an infected person may be infectious);

(C) severity of the risk (what is the potential harm to others); and

(D) probability the disease will be transmitted and will cause varying degrees of harm.

(31) Specimen Submission Form--A current Department of State Health Services laboratory specimen submission form available from the Department of State Health Services, Laboratory Services Section, 1100 West 49th Street, Austin, Texas, 78756-3199.

(32) Vancomycin-intermediate *Staphylococcus aureus* (VISA)--*Staphylococcus aureus* with a vancomycin minimum inhibitory concentration (MIC) of 4 µg/mL through 8 µg/mL.

(33) Vancomycin-resistant *Staphylococcus aureus* (VRSA)--*Staphylococcus aureus* with a vancomycin MIC of 16 µg/mL or greater.

(34) Veterinarian--A person licensed by the Texas State Board of Veterinary Medical Examiners to practice veterinary medicine in Texas.

§97.3. *What Condition to Report and What Isolates to Report or Submit.*

(a) Humans.

(1) Identification of notifiable conditions.

(A) A summary list of notifiable conditions and reporting time frames is published on the Department of State Health Services web site at <http://www.dshs.state.tx.us/idcu/investigation/conditions/>. Copies are filed in the Emerging and Acute Infectious Disease Branch, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756.

(B) Repetitive test results from the same patient do not need to be reported except those for mycobacterial infections.

(2) Notifiable conditions or isolates.

(A) Confirmed and suspected human cases of the following diseases/infections are reportable: acquired immune deficiency syndrome (AIDS); amebiasis; amebic meningitis and encephalitis; anaplasmosis; ancylostomiasis; anthrax; arboviral infections including, but not limited to, those caused by California serogroup virus, chikungunya virus, dengue virus, Eastern equine encephalitis (EEE) virus, St. Louis encephalitis (SLE) virus, Western equine encephalitis (WEE) virus, yellow fever virus, West Nile (WN) virus, and Zika virus; ascariasis; babesiosis; botulism, adult and infant; brucellosis; campylobacteriosis; carbapenem resistant *Enterobacteriaceae* (CRE); Chagas disease; chancroid; chickenpox (varicella); *Chlamydia trachomatis* infection; cryptosporidiosis; cyclosporiasis; diphtheria; echinococcosis; ehrlichiosis; fascioliasis; gonorrhea; *Haemophilus influenzae*, invasive; Hansen's disease (leprosy); hantavirus infection; hemolytic uremic syndrome (HUS); hepatitis A, acute hepatitis B infection, hepatitis B acquired perinatally, any hepatitis B infection identified prenatally or at delivery, acute hepatitis C infection, and

acute hepatitis E infection; human immunodeficiency virus (HIV) infection; influenza-associated pediatric mortality; legionellosis; leishmaniasis; listeriosis; Lyme disease; malaria; measles (rubeola); meningococcal infection, invasive; multidrug-resistant *Acinetobacter* (MDR-A); mumps; novel coronavirus causing severe acute respiratory disease; novel influenza; paragonimiasis; pertussis; plague; poliomyelitis, acute paralytic; poliovirus infection, non-paralytic; prion diseases, such as Creutzfeldt-Jakob disease (CJD); Q fever; rabies; rubella (including congenital); salmonellosis, including typhoid fever; Shiga toxin-producing *Escherichia coli* infection; shigellosis; smallpox; spotted fever group rickettsioses (such as Rocky Mountain spotted fever); streptococcal disease: invasive group A, invasive group B, or invasive *Streptococcus pneumoniae*; syphilis; *Taenia solium* and undifferentiated *Taenia* infections, including cysticercosis; tetanus; trichinosis; trichuriasis; tuberculosis (*Mycobacterium tuberculosis* complex); tuberculosis infection; tularemia; typhus; vancomycin-intermediate *Staphylococcus aureus* (VISA); vancomycin-resistant *Staphylococcus aureus* (VRSA); *Vibrio* infection, including cholera (specify species); viral hemorrhagic fever; and yersiniosis.

(B) In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease that may be of public health concern should be reported by the most expeditious means.

(3) Minimal reportable information requirements. The minimal information that shall be reported for each disease is as follows:

(A) AIDS, chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection, and syphilis shall be reported in accordance with Subchapter F of this chapter (relating to Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV));

(B) for tuberculosis disease - complete name, date of birth, physical address and county of residence, information on which diagnosis was based or suspected. In addition, if known, radiographic or diagnostic imaging results and date(s); all information necessary to complete the most recent versions of forms TB 400 A & B (Report of Case and Patient Services), TB 340 (Report of Contacts) and TB 341 (Continuation of Report of Contacts); laboratory results used to guide prescribing, monitoring or modifying antibiotic treatment regimens for tuberculosis to include, but not limited to, liver function studies, renal function studies, and serum drug levels; pathology reports related to diagnostic evaluations of tuberculosis; reports of imaging or radiographic studies; records of hospital or outpatient care to include, but not limited to, histories and physical examinations, discharge summaries and progress notes; records of medication administration to include, but not limited to, directly observed therapy (DOT) records, and drug toxicity and monitoring records; a listing of other patient medications to evaluate the potential for drug-drug interactions; and copies of court documents related to court ordered management of tuberculosis.

(C) for contacts to a known case of tuberculosis - complete name; date of birth; physical address; county of residence; and all information necessary to complete the most recent versions of forms TB 400 A & B (Report of Case and Patient Services), TB 340 (Report of Contacts), and TB 341 (Continuation of Report of Contacts);

(D) for other persons identified with TB infection - complete name; date of birth; physical address and county of residence; and diagnostic information;

(E) for hepatitis B (chronic and acute) identified prenatally or at delivery - mother's name, address, telephone number, age, date of birth, sex, race and ethnicity, preferred language, hepatitis B laboratory test results; estimated delivery date or date and time of birth;

name and phone number of delivery hospital or planned delivery hospital; name of infant; name, phone number, and address of medical provider for infant; date, time, formulation, dose, manufacturer, and lot number of hepatitis B vaccine and hepatitis B immune globulin administered to infant;

(F) for hepatitis A, B, C, and E - name, address, telephone number, age, date of birth, sex, race and ethnicity, disease, diagnostic indicators (diagnostic lab results, including all positive and negative hepatitis panel results, liver function tests, and symptoms), date of onset, pregnancy status, and physician name, address, and telephone number;

(G) for hepatitis B, perinatal infection - name of infant; date of birth; sex; race; ethnicity; name, phone number and address of medical provider for infant; date, time, formulation, dose, manufacturer, and lot number of hepatitis B vaccine and hepatitis B immune globulin administered to infant, hepatitis B laboratory test results;

(H) for chickenpox - name, date of birth, sex, race and ethnicity, address, date of onset, and varicella vaccination history;

(I) for Hansen's disease - name; date of birth; sex; race and ethnicity; disease type; place of birth; address; telephone number; date entered Texas; date entered U.S.; education/employment; insurance status; location and inclusive dates of residence outside U.S.; date of onset and history prior to diagnosis; date of initial biopsy and result; disease type i.e., tuberculoid, borderline and lepromatous; date initial drugs prescribed and name of drugs; name, date of birth and relationship of household contacts; and name, address, and telephone number of physician;

(J) for novel influenza investigations occurring during an influenza pandemic--minimal reportable information on individual cases, a subset of cases or aggregate data will be specified by the department;

(K) for all other notifiable conditions listed in paragraph (2)(A) of this subsection - name, address, telephone number, age, date of birth, sex, race and ethnicity, disease, diagnostic indicators (diagnostic lab results and specimen source, and clinical indicators), date of onset, and physician name, address, and telephone number; and

(L) other information may be required as part of an investigation in accordance with Texas Health and Safety Code, §81.061.

(4) Diseases requiring submission of cultures. For all anthrax (*Bacillus anthracis*); botulism, adult and infant (*Clostridium botulinum*); brucellosis (*Brucella* species); all *Haemophilus influenzae*, invasive, in children under five years old (*Haemophilus influenzae* from normally sterile sites); listeriosis (*Listeria monocytogenes*); meningococcal infection, invasive (*Neisseria meningitidis* from normally sterile sites or purpuric lesions); plague (*Yersinia pestis*); Shiga toxin-producing *Escherichia coli* infection (*E.coli* O157:H7, isolates or specimens from cases where Shiga toxin activity is demonstrated); *Staphylococcus aureus* with a vancomycin MIC greater than 2 µg/mL; tuberculosis (*Mycobacterium tuberculosis* complex); tularemia (*Francisella tularensis*); and vibriosis (*Vibrio* species) - pure cultures (or specimens as indicated in this paragraph) shall be submitted accompanied by a current department Specimen Submission Form.

(5) Laboratory reports. Reports from laboratories shall include patient name, identification number, address, telephone number, age, date of birth, sex, race and ethnicity; specimen submitter name, address, and phone number; specimen type; date specimen collected; disease test and test result; normal test range; date of test report; and physician name and telephone number.

(b) Animals.

(1) Clinically diagnosed or laboratory-confirmed animal cases of the following diseases are reportable: anthrax, arboviral encephalitis, tuberculosis (*Mycobacterium tuberculosis* complex) in animals other than those housed in research facilities, and plague. Also, all non-negative rabies tests performed on animals from Texas at laboratories located outside of Texas shall be reported; all non-negative rabies tests performed in Texas will be reported by the laboratory conducting the testing. In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease which may be of public health concern should be reported by the most expeditious means.

(2) The minimal information that shall be reported for each disease includes species and number of animals affected, disease or condition, name and phone number of the veterinarian or other person in attendance, and the animal(s) owner's name, address, and phone number. Other information may be required as part of an investigation in accordance with Texas Health and Safety Code, §81.061.

§97.4. *When to Report a Condition or Isolate.*

(a) Humans.

(1) The following notifiable conditions are public health emergencies and suspect cases shall be reported immediately by phone to the local health authority or the regional director of the Department of State Health Services (department): anthrax; botulism; diphtheria; measles (rubeola); meningococcal infection, invasive; novel coronavirus causing severe acute respiratory disease; novel influenza; poliomyelitis, acute paralytic; plague; rabies; smallpox; tularemia; viral hemorrhagic fever; yellow fever; and any outbreak, exotic disease, or unusual group expression of disease that may be of public health concern. Vancomycin-intermediate *Staphylococcus aureus* (VISA) and vancomycin-resistant *Staphylococcus aureus* (VRSA) shall be reported immediately by phone to the Emerging and Acute Infectious Disease Branch, Department of State Health Services, Austin, Texas at (888) 963-7111.

(2) The following notifiable conditions shall be reported within one working day of identification as a suspected case: brucellosis; carbapenem resistant *Enterobacteriaceae* (CRE); hepatitis A, acute; hepatitis B, perinatal infection; influenza-associated pediatric mortality; multidrug-resistant *Acinetobacter* (MDR-A) species; pertussis; poliovirus infection, non-paralytic; Q fever; rubella (including congenital); tuberculosis (*Mycobacterium tuberculosis* complex); and *Vibrio* infection (including cholera).

(3) AIDS, chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection, and syphilis shall be reported in accordance with Subchapter F of this chapter (relating to Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)).

(4) Tuberculosis antibiotic susceptibility results should be reported by laboratories no later than one week after they first become available.

(5) For all other notifiable conditions not listed in paragraphs (1) - (3) of this subsection, reports of disease shall be made no later than one week after a case or suspected case is identified including TB infection.

(6) All diseases requiring submission of cultures in §97.3(a)(4) of this title (relating to What Condition to Report and What Isolates to Report or Submit) shall be submitted as they become available.

(b) Animals. Reportable conditions affecting animals shall be reported within one working day following the diagnosis.

§97.6. *Reporting and Other Duties of Local Health Authorities and Regional Directors.*

(a) The purpose of this section is to provide procedures for local health authorities and regional directors to report a disease to the Department of State Health Services (department) central office.

(b) Those notifiable conditions identified as public health emergencies in §97.4(a) of this title (relating to When to Report a Condition or Isolate) shall be reported immediately to the department by telephone at (888) 963-7111.

(c) AIDS, chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection and syphilis shall be reported in accordance with Subchapter F of this chapter (relating to Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)).

(d) For notifiable conditions not listed in subsections (b) and (c) of this section, the local health authority or the department's regional director shall collect reports of disease and transmit the information listed in §97.3(a)(3) of this title (relating to What Condition to Report and What Isolates to Report or Submit) at weekly intervals as directed by the department.

(e) Transmittal may be by telephone, mail, courier, or electronic transmission.

(1) If by mail or courier, the reports shall be on a form provided by the department and placed in a sealed envelope addressed to the attention of the appropriate receiving source and marked "Confidential."

(2) Any electronic transmission of the reports must provide at least the same degree of protection against unauthorized disclosure as those of mail or courier transmittal.

(f) The health authority shall notify health authorities in other jurisdictions of a case or outbreak of a communicable disease that has been reported if the case resides in another jurisdiction or there is cause to believe transmission of a disease may have occurred in another jurisdiction. The department shall assist the health authority in providing such notifications upon request. The health authority of the area where the case or outbreak is diagnosed shall report the case or outbreak to the department on the same basis as other reports.

(g) The health authority upon identification of a case or upon receipt of notification or report of disease shall take such action and measures as may be necessary to conform with the appropriate control measure standards. The health authority may upon identification of a case or upon report of a communicable disease in a child attending a public or private child-care facility or a school notify the owner or operator of the child-care facility or the school administrator. The commissioner is authorized to amend, revise, or revoke any control measure or action taken by the health authority if necessary or desirable in the administration of a regional or statewide public health program or policy.

(h) The health authority is empowered to close any public or private child-care facility, school or other place of public or private assembly when in his or her opinion such closing is necessary to protect the public health; and such school or other place of public or private assembly shall not reopen until permitted by the health authority who caused its closure.

(i) Persons reporting notifiable conditions in animals shall be referred to the central office or the appropriate regional office of the department's Zoonosis Control Branch.

§97.13. *Death of a Person with Certain Communicable Diseases.*

(a) If a physician has knowledge that a person had, at the time of death, a communicable disease listed in subsection (c) of this sec-

tion, then the hospital administrator, clinic administrator, nurse, or the physician shall affix or cause to be affixed a tag on the body, preferably the great toe.

(b) The tag shall be on card stock paper and shall be no smaller than five centimeters by ten centimeters. The tag shall include the words "COMMUNICABLE DISEASE--BLOOD/BODY SUBSTANCE PRECAUTIONS REQUIRED" in letters no smaller than six millimeters in height. The name of the deceased person shall be written on the tag. The tag shall remain affixed to the body until the preparation of the body for burial has been completed.

(c) Diseases that shall require tagging are acquired immune deficiency syndrome (AIDS); anthrax; brucellosis; cholera; Hantavirus pulmonary syndrome; hepatitis, viral; human immunodeficiency virus (HIV) infection; novel coronavirus causing severe acute respiratory disease; novel influenza; plague; prion diseases, such as Creutzfeldt-Jakob disease (CJD); Q fever; rabies; Rocky Mountain spotted fever; smallpox; syphilis; tuberculosis (*Mycobacterium tuberculosis* complex); tularemia; and viral hemorrhagic fever.

(d) All persons should routinely practice standard infection control procedures when performing postmortem care on a deceased person who is known or suspected of having a communicable disease listed in 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 March 14, 2016.
TRD-201601223
Lisa Hernandez
General Counsel
Department of State Health Services
Effective date: April 3, 2016
Proposal publication date: October 9, 2015
For further information, please call: (512) 776-6972

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER D. FIRE AND ALLIED LINES INSURANCE

DIVISION 5. PREMIUM REDUCTION CERTIFICATE UNDER THE INSURANCE CODE, ARTICLE 5.33A

28 TAC §5.3401

The Texas Department of Insurance (TDI) adopts the repeal of 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401, concerning premium reduction certificates under Insurance Code Article 5.33A. The repeal is adopted without changes to the proposal published in the December 18, 2015, issue of the *Texas Register* (40 TexReg 9071).

REASONED JUSTIFICATION. The repeal is necessary because SB 14, 78th Legislature, Regular Session (2003), repealed Article 5.33A, effective June 11, 2003. Former Insurance Code Article 5.33A formed the statutory basis for §5.3401, which adopted the premium reduction certificate by reference, effective October 1, 1982. Article 5.33A required TDI to issue a premium reduction certificate to a homeowner who submitted an inspection report certifying that the homeowner had installed certain safety and security devices. With the passage of SB 14, §5.3401 became an obsolete regulation.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed repeal.

STATUTORY AUTHORITY. Former Insurance Code, Article 5.33A formed the statutory basis for §5.3401. Insurance Code §36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

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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Norma Garcia
General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6584

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 833. COMMUNITY DEVELOPMENT INITIATIVES

The Texas Workforce Commission (Commission) adopts the repeal of Chapter 833 in its entirety, relating to Community Development Initiatives, *without* changes, as published in the December 4, 2015, issue of the *Texas Register* (40 TexReg 8744). Chapter 833 is comprised of Subchapter A, §833.1, and Subchapter C, §§833.31 - 833.33.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

In 2001, the 77th Texas Legislature (Regular Session), passed House Bill (HB) 2593 (effective September 1, 2001), which authorized the Agency to adopt rules to establish and implement a pilot program under which the Agency's three-member Commission would be authorized to provide adult technology training for certain residents of the state through:

- competitive grants; or
- contracts with other entities.

With the expiration of HB 2593 (expired September 1, 2005), Chapter 833 Community Development Initiatives rules are no longer needed and therefore should be repealed.

No comments were received on the proposed chapter repeal.

SUBCHAPTER A. GENERAL PROVISIONS

40 TAC §833.1

The repeal is adopted under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

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 March 9, 2016.

TRD-201601191

Patricia Gonzalez

Deputy Director, Workforce Development Division Programs

Texas Workforce Commission

Effective date: March 29, 2016

Proposal publication date: December 4, 2015

For further information, please call: (512) 475-0829

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SUBCHAPTER C. TEXAS ADULT TECHNOLOGY TRAINING PILOT PROJECT

40 TAC §§833.31 - 833.33

The repeal is adopted under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

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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