March 14, 2016

The Health and Human Services Commission proposes, on behalf of the Department of Family and Protective Services (DFPS), amendments to §§748.685, 748.863, 748.881, 748.931, 748.1003, 748.1339, and 748.4701; and new §§748.701, 748.703, 748.705, 748.707, 748.709, 748.868, 748.882, and 748.944, in Chapter 748, concerning Minimum Standards for General Residential Operations. The purpose of the new rules and amendments are to implement Senate Bill (S.B.) 1407 that was passed by the 84th Texas Legislature in 2015 and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy and for clarity and consistency. Both S.B. 1407 and the federal law require that normalcy requirements apply to General Residential Operations (GROs).

"Normalcy" is the ability of a child in care to live as normal a life as possible, including engaging in childhood activities that are suitable for children of the same age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard.

Child Care Licensing (CCL) has met with three different workgroups that have provided input and comments regarding these rules related to normalcy. On September 29, 2015, CCL met with a workgroup of providers and advocates that were organized by Texas CASA (Court Appointed Special Advocates); On October 7, 2015, CCL met with the Committee for Advancing Residential Practices; and on December 16, 2015, CCL met with a workgroup of providers.

A summary of the changes related to normalcy include: (1) creating an independent Normalcy Division in Chapter 748 to clarify and highlight the issues and make the rules related to normalcy easier to find; (2) clarifying that children must participate in childhood activities, including unsupervised childhood activities (activities that are away from and not supervised by the operation) as much as possible; (3) defining "normalcy" and the "reasonable and prudent parent standard"; (4) listing items that must be taken into consideration when making a reasonable and prudent decision on whether a child may participate in a childhood activity; (5) clarifying who will make decisions regarding whether a child may participate in a childhood activity; (6) clarifying that a child's participation in childhood activities must be discussed during service planning meetings; (7) clarifying that each GRO must designate one or more persons to make these normalcy decisions for a child; (8) clarifying which persons may be designated to make normalcy decisions; (9) requiring two hours of pre-service training regarding normalcy for certain employees; (10) requiring that two hours of normalcy training be included in the mandated annual training for all caregivers; and (11) providing a list of curriculum components that must be included in the general pre-service and annual normalcy training.

Definitions for "childhood activities" and "unsupervised childhood activities" have been added to the definitions in §748.43 of this title (relating to What do certain words and terms mean in this chapter?). Since there will be many other changes to definitions in §748.43, the definition changes are being proposed in a different set of rules that will also make changes to Chapter 748 and be published in the same issue of the *Texas Register*. However, for purposes of understanding these proposed changes the proposed §748.43 definitions are as follows: (1) childhood activities--activities that are generally accepted as suitable for children of the same chronological age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard as specified in §748.705 of this title (relating to What is the "reasonable and prudent parent standard"?). Examples of childhood activities include extracurricular activities, in-school and out-of-school activities, enrichment activities, cultural activities, and employment opportunities. Childhood activities include unsupervised childhood activities; and (2) unsupervised childhood activities--childhood activities that a child in care participates in away from the operation and the caregivers. Childhood activities that are sponsored, conducted, or supervised by the operation are not unsupervised childhood activities. Unsupervised activities may include playing sports, going on field trips, spending the night with a friend, going to the mall, or dating. Unsupervised activities may last one or more days.

In addition, some minor changes related to normalcy are being made to the Chapter 748 rules relating to service planning and children's rights. Since there are other more significant changes being made to the service planning and children's rights rules, those rules are also being proposed in a different set of rules that will also make changes to Chapter 748 and be published in the same issue of the *Texas Register*.

Finally, there are some additional rule review changes not related to normalcy that are being proposed in these rules, including: (1) requiring that trauma informed care training be included in the mandated general pre-service training for all caregivers; (2) requiring that two hours of trauma informed care training be included in the mandated annual training for all caregivers; and (3) updating the language and numbering of tables for consistency and ease of understanding.

A summary of the changes follows:

The amendment to §748.685: Clarifies that a caregiver must: (1) be aware of a child's special supervision needs; and (2) provide, arrange, or confirm an appropriate method of transportation for an unsupervised childhood activity. The amendment also moves and revamps the current subsection (d) to new Division 6, Normalcy.

New §748.701 defines "normalcy".

New §748.703 states that: (1) children must participate in childhood activities, including unsupervised childhood activities, as much as possible; and (2) service planning meetings must discuss normalcy for the child.

New §748.705: (1) defines the "reasonable and prudent parent standard"; and (2) lists the items that must be taken into consideration when making a reasonable and prudent decision on whether a child may participate in a childhood activity.

New §748.707 states that: (1) a GRO must designate at least one person to make decisions regarding a child's participation in childhood activities; (2) when making these decisions the designated person must follow the reasonable and prudent parent standard; and (3) the service plan may not require prior approval of the parent before the designated person may consent to a child's participation in childhood activities.

New §748.709 requires: (1) caregivers hired after August 31, 2016, to receive either a two hour pre-service training or annual training regarding normalcy before the caregiver may be a designated person that makes decisions regarding a child's participation in childhood activities; (2) a designated person to work at the same location where the child resides and be knowledgeable of the child's current needs and history; and (3) the name of each designated person to be documented on the face sheet of the child's record.

The amendment to §748.863 requires two additional hours of pre-service training regarding normalcy for child care administrators, professional level service providers, treatment directors, and case managers.

New §748.868 provides an exemption to the requirement of two additional hours of pre-service training regarding normalcy for child-care administrators, professional level service providers, treatment directors, and case managers when the individuals have been trained on normalcy within the last 12 months.

The amendment to §748.881: (1) adds water safety as a topic that is appropriate for general pre-service training; and (2) adds trauma informed care and normalcy as required components for general pre-service training.

New §748.882 lists the curriculum components that must be included in the pre-service training regarding normalcy.

The amendment to §748.931: (1) requires that the mandatory annual training for caregivers and professional level service providers, treatment directors, and case managers who do not hold a relevant professional license must include two hours of training specific to trauma informed care; (2) requires that the mandatory annual training for caregivers, any designated persons, and professional level service providers, treatment directors, and case managers who do not hold a relevant professional license must include two hours of training specific to normalcy; and (3) clarifies the language and adds numbering to be more consistent throughout the rule and to make it easier to read.

New §748.944 requires: (1) the annual training regarding normalcy to include the curriculum components that are required in §748.882 of this chapter; and (2) subsequent training to further develop and refine an employee's knowledge and understanding of normalcy and how it should be implemented.

The amendment to §748.1003 clarifies the language of this rule and deletes an outdated cite.

The amendment to §748.1339: (1) requires a designated person to be involved in the development of the initial service plan; and (2) clarifies that a child that is verbal and developmentally able to participate must be invited to participate in the development of the child's service plan; and the service planning meeting must include discussions regarding the child's participation in childhood activities.

The amendment to §748.4701 clarifies the language of this rule and deletes an outdated cite.

Lisa Subia, Chief Financial Officer of DFPS, has determined that for each of the first five years that the amendments and new rules will be in effect, there will not be costs or revenues to state or local government as a result of enforcing or administering the amendments and new rules.

Ms. Subia also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the amendments and new rules will be that the safety of children in care and the quality of their care will be improved by integrating normalcy and trauma informed care into the minimum standards. There is an anticipated adverse impact on businesses, including small and micro-businesses, which must comply with the proposed rule changes. GROs will be impacted. The DFPS 2014 Annual Report and Data Book states that there are 239 GROs operating in Texas. There is no anticipated economic cost to persons who are required to comply with the proposed rule changes, other than the persons who have a financial stake in a GRO.

Licensing has identified six proposed rules in Chapter 748 as potentially having an adverse fiscal impact on GROs. The rules are discussed herein.

The size of the GRO and the number of residents that each operation has varies significantly. A few GROs have hundreds of residents; others GROs have 20 to 50 residents, while others have even fewer residents. Given this variation, it is not possible to project the fiscal impact to each GRO; however, it is possible to project an average "unit cost" for certain types of activities that are newly required by the new and amended rules.

The fiscal impact to GROs primarily results from additional staff time needed to

(1) attend new pre-service training regarding normalcy; and (2) update and develop curriculum.

Licensing staff developed the methodologies used to calculate the fiscal impact of these rules. The impacts were calculated using cost research conducted by staff and assumptions regarding child-care practices. The key assumptions and methodologies are described in detail herein, as these underlie the individual impact calculations for each rule that are projected to have a fiscal impact on at least some GROs.

For GROs, the staff time required to comply with the standards will impact case managers, professional level service providers, treatment directors, and the child-care administrators. For use in the impact analysis, DFPS calculated hourly wages for each of these categories of GRO staff, as follows (actual salaries paid to staff by a GRO may be greater or less than the averages used for these projections):

Case Managers - The 2016 average salary for Foster and Adoptive Development (FAD) Workers (Child Protective Services (CPS) Specialists I - V) was used to determine the salary costs for case managers because it is assumed they perform the functions most similar to those performed by case managers. The Fiscal Year (FY) 2016 average salary for a FAD Worker is $43,768 per year or $21.04 per hour.

Professional Level Service Providers and Treatment Directors - The 2016 average salary for CPS Foster and FAD Supervisors (CPS Supervisors I - II) was used to determine the salary costs for the professional level service providers and treatment directors, because it is assumed they perform functions similar to those performed by professional level service providers and treatment directors. The FY 2016 average salary for a FAD Supervisor is $52,071 per year or $25.03 per hour.

Child-Care Administrator - The 2016 average salary for CPS Regional Directors was used to determine the salary costs for the child-care administrator, because it is assumed that this position functions in a similar capacity to that of a child-care administrator. The FY 2016 average salary for a CPS Regional Director is $93,862 per year or $45.13 per hour.

Fiscal Impact for Proposed §748.709: The new rule requires new caregivers to have either a two hour pre-service or annual training regarding normalcy before the caregiver may be a designated person that makes decisions regarding a child's participation in childhood activities. Any costs for annual training is noted in the "Fiscal Impact for Proposed §748.931 and §748.941." Licensing is assuming that most GROs will not designate new caregivers as a person that makes decisions regarding a child's participation in childhood activities. However, in some instances GROs may want to designate new caregivers as a person that makes decisions regarding a child's participation in childhood activities, for example in cottage homes. Licensing is assuming that most GROs provide substantially more than the required pre-service training hours, and in these situations CCL is assuming two additional hours of pre-service training regarding normalcy can be incorporated into the current pre-service training. Therefore, Licensing does not anticipate any costs regarding this new rule.

Fiscal Impact for Proposed §748.863: Revisions to §748.863 add requirements for pre-service training regarding normalcy for GRO administrators, professional level service providers, treatment directors, and case managers. The proposed change to this rule requires two new hours of pre-service training regarding normalcy. The training must be completed before the employee can be a designated person that makes decisions regarding a child's participation in childhood activities or within 90 days of hire, whichever occurs earlier. There are two costs associated with the increase in hours for general pre-service training regarding normalcy for GRO employees: the hourly wages paid to the training participants while attending a class and instruction costs.

The average cost of group caregiver training offered by local resource and referral agencies is $20 per hour. Licensing assumed that training for these staff is 25% more expensive than training caregivers given that the level of expertise of trainers is usually higher. As such, the cost of instruction for pre-service training on normalcy would be $25 per hour per employee trained.

The training will only apply to new staff. But the cost to train these staff for two hours is estimated as follows:

(1) Child Care Administrators - $140.26 {(hourly wage of $45.13 X 2 hours of training) + ($25.00 X 2 hours of instruction costs)};

(2) Professional Level Service Providers and Treatment Directors - $100.06 {(hourly wage of $25.03 X 2 hours of training) + ($25.00 X 2 hours of instruction costs)}; and

(3) Case Managers - $92.08 {(hourly wage of $21.04 X 2 hours of training) + ($25.00 X 2 hours of instruction costs)}.

Fiscal Impact for Proposed §748.881: Revisions to this rule require two new curriculum components, normalcy and trauma informed care, to be included in a GRO's general pre-service training that is mandated for caregivers and employees. There is no increase in training hours, so the only fiscal impact relates to the update of the curriculum. The costs for developing the pre-service training curriculum regarding normalcy is included in "Fiscal Impact for Proposed §748.882". The costs for developing the annual training curriculum, regarding trauma informed care, is included in "Fiscal Impact for Proposed §748.931 and §748.944". It should be a minimal impact to incorporate portions of the pre-service training curriculum regarding normalcy and the annual training curriculum regarding trauma informed care into the general pre-service training. In addition, it will be a one-time cost. It is anticipated that a professional level service provider or an employee similarly situated will spend an average of 10 to 20 hours to incorporate the curriculum for each topic into the general pre-service training. Therefore, the one-time cost to update the curriculum regarding these two topics will be between approximately $500.60 {$25.03 (the hourly wage of a professional level service provider) X 10 hours X 2 topics} and $1,001.20 20 {$25.03 (the hourly wage of a professional level service provider) X 20 hours X 2 topics} per GRO. (Note: GROs that currently contract with DFPS have been required, by contract since 2012, to train their staff on trauma informed care.)

Fiscal Impact for Proposed §748.882: This new rule specifies the curriculum components that must be included in the pre-service training regarding normalcy for the child care administrator, professional level service providers, treatment director and case managers. The costs for sending these persons to training was discussed in "Fiscal Impact for Proposed §748.863". However, if a GRO determines they want to provide this training in-house, then the instruction costs noted above ($50 per each employee for the two hours of training) would no longer be applicable, but the normalcy training curriculum would need to be developed. The training for normalcy must be two hours. CCL is estimating 30 to 50 hours to develop one hour of training. It is anticipated that a professional level service provider or some employee similarly situated will spend an average of 60 hours (30 hours X 2 training hours) to 100 hours (50 hours X 2 training hours) to develop the curriculum. Therefore, the one-time cost to update the curriculum regarding normalcy will be between approximately $1,501.80 {$25.03 (the hourly wage of a professional level service provider) X 60 hours} and $2,503.00 {$25.03 (the hourly wage of a professional level service provider) X 100 hours} per GRO.

Fiscal Impact for Proposed §748.931 and §748.944: Revisions to §748.931 require that the currently mandated annual training for caregivers and employees of GROs must now include training regarding trauma informed care and normalcy. Revisions to §748.944 list the curriculum components that must be included in the required annual normalcy training. There is no increase in the number of annual training hours required; there is only the requirement that training must include two hours of training specific to normalcy and two hours of training specific to trauma informed care. Since there is only a change in the content of the training, there is no fiscal impact in the delivery of the training because the GRO already pays for or delivers the annual training for the same number of training hours. If the GRO is currently paying for outside annual training, then there are no additional costs for the GRO. However, there is a fiscal impact when a GRO actually delivers the training and must now develop a new curriculum for trauma informed care and may need to modify the normalcy curriculum that was developed for the pre-service training regarding normalcy, see "Fiscal Impact for Proposed §748.882". The training for trauma informed care must be two hours. CCL is estimating 30 to 50 hours to develop one hour of training. To modify the pre-service normalcy curriculum, CCL is estimating it will take 20 hours. It is anticipated that a professional level service provider or some employee similarly situated will spend an average of 80 hours {(30 hours to develop the trauma informed care curriculum X 2 training hours) + 20 hours to modify the normalcy curriculum} to 120 hours {(50 hours to develop the trauma informed care curriculum X 2 training hours) + 20 hours to modify the normalcy curriculum} to develop/modify the curriculum for these two topics. Therefore, the one-time cost to develop/modify the curriculum regarding trauma informed care and normalcy will be between approximately $2,002.40 {$25.03 (the hourly wage of a professional level service provider) X 80 hours} and $3,003.60 {$25.03 (the hourly wage of a professional level service provider) X 120 hours} per GRO. (Note: GROs that currently contract with DFPS have been required by contract since 2012 to train their staff on trauma informed care.)

Regulatory Flexibility Analysis - As previously noted, the amendments and new rules apply to the approximately 239 GROs. Of the 239 GROs, it is estimated that only 25% (or 60 GROs) are small businesses, and 16% (or 38 GROs) are micro-business. These 60 small businesses and 38 micro-businesses fall within the statutory definition, because only these businesses are for-profit businesses.

The projected economic impact on small and micro-businesses was addressed for GROs in the foregoing section of the preamble. As noted herein, with the widely varying number of children cared for by GROs, the fiscal impact of these rules to particular GROs will vary, with the total dollar impact likely to be greater for GROs that serve a larger number of children and less for GROs that serve a smaller number of children.

DFPS did not consider any alternatives to the rule amendments being proposed that require additional training for normalcy and trauma informed care to ameliorate the impact on GROs who are small or micro-businesses, because the very purpose of this legislative requirement and these rule changes is to ensure the health and safety of children and to improve their quality of care - regardless of the size of the GRO. However, DFPS did consider different training times for normalcy, but decided a shorter training time frame was not adequate, and a longer time frame was excessive.

Ms. Subia has determined that the proposed amendments and new sections do 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, do not constitute a taking under §2007.043, Government Code.

Questions about the content of the proposal may be directed to Gerry Williams at (512) 438-5559 in DFPS's Child Care Licensing Division. Electronic comments may be submitted to [CCLRules@DFPS.state.tx.us](mailto:CCLRules@DFPS.state.tx.us). Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-543, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter E, Personnel

Division 5, Caregivers

TAC Section Number(s) §748.685

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

September 1, 2016

The amendment is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment implements HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.685. What responsibilities does a caregiver have when supervising a child or children?

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

(c) Caregivers must:

(1) Be aware of the children's habits, interests, and any special needs**, including any special supervision needs**;

(2) - (6) (No change.)

(d) [A child may be away from the operation and caregivers in order to participate in an unsupervised activity, as appropriate based on the caregiver's assessment of the child and the supervision instructions in the child's service plan. The caregiver's assessment of the child must include the factors outlined in subsection (b) of this section. The child's service plan must specify if unsupervised activities are allowed, and under what circumstances. The unsupervised activity may extend into sleeping hours.] If a child is participating in an unsupervised **childhood** activity, the caregiver must:

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

**(3)** **Provide, arrange, or confirm an appropriate method of transportation to and from the activity;**

**(4)** [(3)] Give the child a way to contact the caregiver in an emergency; and

**(5)** [(4)] Be available to respond if the child contacts the caregiver and needs immediate assistance.

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

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

Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter E, Personnel

Division 6, **Normalcy**

TAC Section Number(s) §§748.701, 748.703, 748.705, 748.707, 748.709

Proposed Action

X New

Proposed Date of Adoption:

X Other (Specify)

September 1, 2016

The new sections are proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The new sections implement HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

**§748.701. What is "normalcy"?**

**Normalcy is the ability of a child in care to live as normal a life as possible, including engaging in childhood activities that are suitable for children of the same age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard.**

**§748.703. Are children in care required to participate in childhood activities?**

**(a) Children in care must participate in childhood activities, including unsupervised childhood activities, as much as possible.**

**(b) Service planning meetings, and any decision making regarding the child's need for supervision, must include discussions on how normalcy for the child can be achieved, and discussions, if applicable, regarding a child's refusal to participate in childhood activities. The child's service plan must specify whether there are any restrictions on the child's participation in these activities and whether the activities may extend into sleeping hours.**

**§748.705. What is the "reasonable and prudent parent standard"?**

**(a) The reasonable and prudent parent standard is the standard of care that a parent of reasonable judgment, skill, and caution would use to maintain the health, safety, and best interest of the child and encourage the emotional and developmental growth of the child.**

**(b) When using the reasonable and prudent parent standard, a person must take into consideration the following when deciding whether a child may participate in childhood activities:**

**(1) The child's age and level of maturity;**

**(2) The child's cognitive, social, emotional, and physical development level;**

**(3) The child's behavioral history and ability to participate in a proposed activity;**

**(4) The child's overall abilities;**

**(5) Whether the activity is a normal childhood activity;**

**(6) The child's desires;**

**(7) The surrounding circumstances, hazards, and risks of the activity;**

**(8) Outside supervision of the activity, if available and appropriate;**

**(9) The supervision instructions in the child's service plan; and**

**(10) The importance of providing the child with the most normal family-like living experience possible.**

**§748.707. Who makes the decision regarding a foster child's participation in childhood activities?**

**(a) A General Residential Operation (GRO) must designate one or more persons to make decisions regarding a child's participation in childhood activities, except as otherwise provided in subsection (c) of this section.**

**(b) When making decisions regarding a child's participation in childhood activities, a designated person must follow the reasonable and prudent parent standard.**

**(c) The service plan may not require the prior approval of the parent before a designated person may consent to a child's participation in childhood activities. However, if the parent provides notice in advance that the child is prohibited from participating in a specific activity, a designated person must follow the parent's decision.**

**§748.709. Are there any restrictions on who can be a designated person that makes decisions regarding a child's participation in childhood activities?**

**(a) Caregivers hired after August 31, 2016, may not be a designated person that makes decisions regarding a child's participation in childhood activities until the caregiver completes either a two hour pre-service training regarding normalcy or the annual training specific to normalcy.**

**(b) A designated person that makes decisions regarding a child's participation in childhood activities must:**

**(1) Work at the location where the child resides; and**

**(2) Be knowledgeable about the child's current needs and history.**

**(c) The name of each designated person must be documented on the face sheet of the child's record.**

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

Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter F, Training and Professional Development

Division 3, Pre-Service Experience and Training

TAC Section Number(s) §748.863, §748.868

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

September 1, 2016

The amendment is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment implements HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.863. What are the pre-service hourly training requirements for caregivers and employees?

(a) Caregivers and certain employees must complete the following training hours before the noted time frame:

|  |  |  |  |
| --- | --- | --- | --- |
| Who is required to receive the training? | What type of pre-service training? | How many hours of training are **required** [needed]? | When must the training be completed? |
| (1) All caregivers | General pre-service training | 8 hours | Before the person can be the only caregiver responsible for a child in care |
| **(2) Child care administrators, professional level service providers, treatment directors, and case managers** | **Pre-service training regarding normalcy** | **2 hours** | **Before the person can be a designated person that makes decisions regarding a child's participation in childhood activities, or within 90 days of beginning job duties, whichever occurs earlier** |
| **(3)**[2] Caregivers caring for children receiving only child care services or programmatic services | Pre-service training regarding emergency behavior intervention | 8 hours | At least 4 hours of training before the person can be the only caregiver responsible for a child in care, and all 8 hours of training within 90 days of being responsible for a child in care |
| **(4)**[3]Caregivers caring for children receiving treatment services, except for those exclusively caring for children receiving treatment services for primarymedical needs | Pre-service training regarding emergency behavior intervention | 16 hours, however, if your operation prohibits the use of emergency behavior intervention, then only 8 hours of training are needed | At least half of the required hours of training before the person can be the only caregiver responsible for a child in care, and all of the required hours of training within 90 days of being responsible for a child in care |
| **(5)**[4]Child care administrators, professional level service providers, treatment directors, and case managers**,** except those exclusively assigned to children receiving treatment services for primary medical needs | Pre-service training regarding emergency behavior intervention | 8 hours | All 8 hours of training within 90 days ofbeginning job duties |

(b) (No change.)

**§748.868. Must I provide pre-service training regarding normalcy to a child-care administrator, professional level service provider, treatment director, or case manager who was previously employed by a residential child-care operation?**

**(a) A child-care administrator, professional level service provider, treatment director, or case manager is exempt from completing the pre-service training regarding normalcy if the person:**

**(1) Has been employed by a residential child-care operation during the past 12 months;**

**(2) Has received training during the past 12 months on normalcy; and**

**(3) Can document that the training has been received.**

**(b) You must document the exemption factors in the appropriate personnel record.**

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

Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter F, Training and Professional Development

Division 4, General Pre-Service Training **and Pre-Service Training Regarding Normalcy**

TAC Section Number(s) §748.881, §748.882

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

September 1, 2016

The amendment and new section are proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment and new section implement HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.881. What curriculum components must be included in the general pre-service training?

The general pre-service training curriculum must include the following components:

(1) Topics appropriate to the needs of children for whom the caregiver will be providing care, such as developmental stages of children, fostering children's self-esteem, constructive guidance and discipline of children, **water safety,** strategies and techniques for monitoring and working with these children, and age-appropriate activities for the children;

(2) - (3) (No change.)

(4) Preventing the spread of communicable diseases; [and]

(5) The location and use of fire extinguishers and first-aid equipment[.]**;**

**(6) Trauma informed care; and**

**(7) Normalcy.**

**§748.882. What curriculum components must be included in the pre-service training regarding normalcy?**

**The pre-service training regarding normalcy must include the following components:**

**(1) A discussion of the definitions of normalcy and the reasonable and prudent parent standard;**

**(2) The developmental stages of children, including a discussion of the cognitive, social, emotional, and physical development of children;**

**(3) Age appropriate activities for children, including unsupervised childhood activities;**

**(4) The benefits of childhood activities to a child's well-being, mental health, and social, emotional, and developmental growth;**

**(5) How to apply the reasonable and prudent parent standard to make decisions; and**

**(6) The child's and the caregiver's responsibilities when participating in childhood activities.**

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

Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter F, Training and Professional Development

Division 6, Annual Training

TAC Section Number(s) §748.931, §748.944

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

September 1, 2016

The amendment and new section are proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment and new section implement HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.931. What are the annual training requirements for caregivers and employees?

(a)Caregivers and certain employees must complete the following training hours:

|  |  |
| --- | --- |
| Who is required to receive the annual training? | How many hours of annual training are **required** [needed]? |
| (1) Caregivers where an operation has less than 25children in care that are receiving treatment services and less than 30%of their total population of children in care are receiving treatment services | (A) 20 hours.  (B) Of the 20 hours, **the training must include:**  **(i) Two hours of training specific to trauma informed care;**  **(ii) Two hours of training specific to normalcy;**  **(iii)** [every six months a caregiver must complete at least four] **Four** hours of training, **every six months**, specifically related to the emergency behavior intervention techniques that you allow. The caregiver must have this training within 180 days from the date that **the caregiver** [he] last received such training[.]**; and**  **(iv)**[(C) The 20 hours must include two] **Two** hours of transportation safety training if the caregiver transports a child in care whose chronological or developmental age is younger than nine years old. |
| (2) Caregivers where an operation has 25or more children in care that are receiving treatment services or 30%or more of their total population of children in care are receiving treatment services | (A) 50 hours.  (B) Of the 50 hours, **the training must include:**  **(i) Two hours of training specific to trauma informed care;**  **(ii) Two hours of training specific to normalcy; and**  **(iii)** [every six months a caregiver must complete at least four]**Four** hours of training**, every six months,** specifically related to the emergency behavior intervention techniques that you allow. The caregiver must have this training within 180 days from the date that **the caregiver** [he] last received such training[.]**; and**  (iv)[(C) The 50 hours must include two] **Two** hours of transportation safety training if the caregiver transports a child in care whose chronological or developmental age is younger than nine years old. |
| (3) Caregivers in a cottage home | (A) 20 hours.  (B) Of the 20 hours, **the training must include:**  **(i) Two hours of training specific to trauma informed care;**  **(ii) Two hours of training specific to normalcy; and**  **(iii)**[a caregiver must complete at least four]**Four** hours of training [annually] specifically related to the emergency behavior intervention techniques that you allow. The caregiver must have this training within 12 months from the date that [he] **the** **caregiver** last received such training[.]**; and**  **(iv)**[(C) The 20 hours must include two] **Two** hours of transportation safety training if the caregiver transports a child in care whose chronological or developmental age is younger than nine years old. |
| (4)Child-care administrators, professional level service providers, treatment directors, and case managers who hold a relevant professional license | (A)15 hours, [however, annual training hours used to maintain a person's relevant professional license may be used to complete these hours.]  (**B) Of the 15 hours, the training must include:**  **(i) Two hours of training on normalcy if the person is a designated person that makes decisions regarding any child's participation in childhood activities; and**  **(ii)** [The 15 hours must include two]**Two** hours of transportation safety training if the person transports a child in care whose chronological or developmental age is younger than nine years old.  **(C) Annual training hours used to maintain a person's relevant professional license may be used to complete these hours, as long as they include the necessary components of subsection (B) or those components are completed separately.**  **(D)**[(B)] There are no annual training requirements for emergency behavior intervention. However, if there is a substantial change in techniques, types of intervention, or operation policies regarding emergency behavior intervention, then the staff must be re-trained in emergency behavior intervention. |
| (5)Professionallevel service providers, treatment directors, and case managers who do not hold a relevant professional license | (A)20 hours**.**[,]  **(B) Of the 20 hours, the training must include:**  **(i) Two hours of training specific to trauma informed care;**  **(ii) Two hours of training specific to normalcy; and**  **(iii)** [which must include two]**Two** hours of transportation safety training if the person transports a child in care whose chronological or developmental age is younger than nine years old.  **(C)**[(B)] There are no annual training requirements for emergency behavior intervention. However, if there is a substantial change in techniques, types of intervention, oroperation policies regarding emergency behavior intervention, then the staff must be re-trained in emergency behavior intervention. |

(b) (No change.)

**§748.944. What curriculum components must be included in the annual normalcy training?**

**(a) The annual training regarding normalcy must include the curriculum components covered in the pre-service training regarding normalcy, see §748.882 of this title (relating to What curriculum components must be included in the pre-service training regarding normalcy?).**

**(b) Subsequent annual training regarding normalcy should further develop and refine an employee's knowledge and understanding or normalcy and how it should be implemented.**

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

Issued in Austin, Texas, on .

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter G, Child/Caregiver Ratios

TAC Section Number(s) §748.1003

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

September 1, 2016

The amendment is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment implements HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.1003. For purposes of the child/caregiver ratio, how many children can a single caregiver care for during the children's waking hours?

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

(d) [A child may be away from the operation and caregivers in order to participate in an approved unsupervised activity as outlined in §748.685(d) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?).] A child does not count in the child/caregiver ratio while participating in an approved unsupervised **childhood** activity.

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

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Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 4, Service Plans

TAC Section Number(s) §748.1339

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

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The amendment is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment implements HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.1339. Who must be involved in developing an initial service plan?

(a) A service planning team must develop the service plan. The team must consist of:

(1) At least one of the child’s current caregivers; [and]

**(2)** **A person designated to make decisions regarding a child's participation in childhood activities; and**

**(3)**[(2)] At least one professional level service provider who provides direct services to the child.

(b) (No change.)

(c) The child, [as appropriate] **if verbal and developmentally able to participate**, and the parents must be invited to the meeting to develop the service plan**, including discussions regarding the child's participation in childhood activities**.

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

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Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Chapter 748, Minimum Standards for General Residential Operations

Subchapter V, Additional Requirements for Operations that Provide Trafficking Victim Services

Division 5, Child/Caregiver Ratios

TAC Section Number(s) §748.4701

Proposed Action

X Amendment

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The amendment is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment implements HRC §42.042, S.B. 1407 (84th Reg. Ses.), and portions of the federal law H.R. 4980 (also entitled "Preventing Sex Trafficking and Strengthening Families Act") related to normalcy.

§748.4701. For purposes of the child/caregiver ratio, how many children can a single caregiver care for during the children's waking hours?

(a) (No change.)

(b) A child does not count in the child/caregiver ratio while the child is away from the operation participating in an approved unsupervised **childhood** activity[, as outlined in §748.685(d) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?)].

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

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