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| MEMORANDUM**TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES** |

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| TO: | Department of Family and Protective Services Logo**Chair and MembersDepartment of Family and Protective Services Council** |
| FROM: | **H. L. Whitman, Jr.****DFPS Commissioner** |
| SUBJECT: | **Agenda Item 5c: Recommendation to propose rule changes in 40 TAC 748, Minimum Standards for General Residential Operations, related to a comprehensive review** |
| DATE: | **July 22, 2016** |

## BACKGROUND AND PURPOSE

The Child Care Licensing (CCL) Division proposes to amend 40 TAC, Chapter 748, Minimum Standards for General Residential Operations. Texas Human Resources Code (HRC) §42.042(b) requires CCL to conduct a comprehensive review of all rules and minimum standards every six years. The proposed changes are a result of the comprehensive review of all minimum standards located in Chapter 748.

During this review of standards, CCL's goal was to balance the concerns of child advocacy groups, general residential operations, children, and parents to formulate standards that promote the safety of every child in care.

In preparation for the review of minimum standards, CCL conducted a web-based survey open to permit holders, caregivers, advocates, parents, and anyone in the general public interested in commenting on the standards. The survey was available for public input from late August through December 2014. The next step in the review was to hold a series of 13 stakeholder forums throughout the state between September and November 2015 to solicit additional input from the public about proposed changes to the minimum standards.

Between the web-based survey and the stakeholder forums, CCL received almost three hundred comments (for both Chapters 748 and 749) from stakeholders for consideration in the review. These comments, along with a line-by-line review of all minimum standards conducted by both regional and State Office Licensing staff, formed the basis of the first round of recommendations that were then presented to a temporary workgroup. The temporary workgroup, comprised of 13 participants, including providers from child-placing agencies and general residential operations and representatives from Child Protective Services, Residential Contracts, and Licensing, met twice on December 16,2015 and February 2,2016. The workgroup reviewed and provided additional comments regarding the recommendations.

DFPS also received some comments in the surveys and forums related Emergency Behavior Intervention (EBI). In addition, CCL separately convened a temporary workgroup to undertake a review specific to EBI-related Minimum Standards. Included in this rule packet are non-substantive revisions related to EBI, such as moving EBI definitions to the general definitions section, and making non-substantive updates to provisions regarding required policies for an operation. In addition, this packet includes one clarifying provision related to inclusion of parents in service plan review meetings that resulted from the EBI-related temporary workgroup. At a later date, CCL will propose additional changes related to EBI that were identified during the survey and forums, as well as any substantive changes identified in the EBI-related review and temporary workgroup.

This comprehensive review includes changes to approximately two hundred minimum standards. Some of the changes are minimal (e.g. changing a cite to a rule, or deleting a masculine pronoun); other changes are small but have more of an impact (e.g. changing the treatment service terminology of "mental retardation" to "intellectual disability"); and still other changes are more complex and will have a wider impact. Below is a broad overview of some of the different areas and types of changes that DFPS is recommending:

* Updating definitions and treatment service types;
* A rewrite and reorganization of the Divisions 1, 2, and 5 of Subchapter C, Organization and Responsibilities, relating to Permit Holder Responsibilities; Governing Body; and Policies and Procedures. The focus of the rewrite and the reorganization is to clarify:
	+ The plans, policies, and procedures that are required during the application process; and
	+ A GRO's operational responsibilities, including responsibilities for notifications to Licensing. The rewrite is also intended to clarify confusion over a "permit holder's" and "governing body's" responsibilities;
* Clarifying training requirements, for example:
	+ Only permitting 10 hours of non-required pre-service training to be carried over to use as annual training during the upcoming year [§748.937(b)(4)]; and
	+ Increasing the number of annual training hours that may come from self- instructional training from 1/3 to 1/2 [§748.937(d)];;
* Continuing to modify the rules to improve normalcy for children, for example:
	+ Changing the Children's Rights rule to make the rights easier to understand and find by modifying the language of some of the rights and listing the rights under seven different categories (e.g. Safety and Care, Living a Normal Life, Discipline, etc.) [§748.1101];
	+ Requiring a child 14 and older to review and sign the child's service plan [§748.1349]; and
	+ Allowing more discretion in the use of trampolines, especially for older children [§748.3891];
* While much of trauma informed care is being integrated into the GRO minimum standards through the "Normalcy" rule packet with changes to the training requirements, the changes in this packet also continue to integrate trauma informed care as follows:
	+ Defines trauma informed care at §748.43;
	+ Integrates it into the discipline policies at §748.115(2); and
	+ Integrates it into the service planning process at §748.1337;
* Clarify service planning requirements, for example:
	+ Increasing the time to complete a service plan from 40 days to 45 days [§748.1335];
	+ Permitting multiple meetings to complete the service planning meeting requirements [§748.1340];
	+ Permitting parent notifications for a service planning meeting to come from other parties [§748.1341]; and
	+ Permitting a single service plan to continue throughout the time a child is in residential care as long as the GRO completes a preliminary service plan at admittance and continues to review and update the plan [§748.1386];
* Strengthening the minimum standards when it is necessary for the safety of children, for example:
	+ Requiring older runaway children to be reported missing within two hours (this is already the requirement for younger children) [§748.303(a)(9)];
	+ Restricting the use of e-cigarettes or any kind of vapors [§748.1661]; and
	+ Restricting infants from sleeping in restrictive devices [§748.1765]; and
* Allowing more discretion by providers while still ensuring the safety of children, for example:
	+ Clarifying that electronic and digital signatures, including e-mail and electronic approvals, are appropriate [§748.347];
	+ Shortening the experience requirements for professional level service providers [§748.563]; and
	+ Clarifying that an emergency admission includes when a GRO has 72 hours to place a child [§748.1263.

## DETAILED SECTION ANALYSIS AND DISPOSITION TABLE

| **Current Rule Sections** | **Proposed Action; New Rule Section** | **Summary Explanation of Proposed Action** |
| --- | --- | --- |
| §748.3 | Amend | Clarifies that administrators, owners, and operators and any other controlling person who has the ability to influence or direct the operation's management, expenditures, or policies are responsible for following these minimum standards; and updates terminology.  |
| §748.43 | Amend | Clarifies the definitions by:* Updating definitions;
* Moving and modifying definitions from other Subchapters that are used throughout the Chapter (e.g. chemical restraint, corrective or adverse action, emergency medication, sanitize, etc.);
* Adding and clarifying definitions regarding "normalcy" issues (e.g. childhood activities and unsupervised childhood activities); and
* Adding definitions to clarify the respective meanings of "permit holder" and "governing body" (e.g. corporation or other type of business entity, owner, and partnership).
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| §748.61 | Amend | Updates the names and description of the types of treatment services to be consistent with the DSM-5. |
| §748.65 | Amend | Deletes the 16-year old supervision requirement and incorporates it into subsection (b) to §748.1021(a). |
| Subchapter C, Division 1, Permit Holder Responsibilities | Repeal and NewSubchapter C, New Division 1, Plans and Policies Required During the Application Process | * Subchapter C deletes, rewrites, and reorganizes Divisions 1, 2, and 5.
* The rewrite is also intended to clarify confusion over a "permit holder's" and "governing body's" responsibilities.
* New Division 1 generally includes former Divisions 1 and 5 and clarifies the plans, policies, and procedures that are required during the application process.
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| §748.101 | Repeal | Repeals this rule because:* Portions of the rule are unnecessary; and
* The other requirements are incorporated into New §§745.243(6)(J), 748.103(a), and 748.139.
 |
| §748.103 | Repeal | Repeals this rule because:* Portions of the rule are unnecessary or duplicative; and
* The other requirements are incorporated into New §§748.151 and 748.153.
 |
| §748.109 | Repeal | The content of this rule is being incorporated into New §748.155. |
| §748.111 | Repeal | The content of this rule is being incorporated into New §748.157. |
|  | New §748.101 | Clarifies the plans that are required for the application process by: * Incorporating portions of repealed §748.161(1) - (3) and repealed paragraph §748.3351(1);
* Adding a requirement that the operation plan must include the location and telephone numbers of all offices, the hours of operation of the offices, and a list of persons or officers and their titles that comprise the governing body, if applicable; and
* Adding the Division 6 requirements from Subchapter O of an emergency evacuation and relocation plan.
 |
|  | New §748.103 | Clarifies the policies that are required for the application process by accumulating a complete list and referencing the relevant minimum standard. |
| §748.105 | Repeal and New  | The new rule includes:* The content of the repealed version of this rule with non-substantive modifications; and
* The written staffing plan requirements from repealed §§748.501 and 748.1009(b).
 |
| §748.107 | Repeal and New  | The new rule includes:* The content of the repealed version of this rule with non-substantive modifications; and
* The conflict of interest policies from repealed §748.131(a)(5).
 |
|  | New §748.109 | Includes the admission policies content from repealed §748.233 with updated but non-substantive modifications to the rule. |
|  | New §748.111 | Includes the child-care policies content from repealed §748.235 with non-substantive modifications to the rule. |
|  | New §748.113 | Includes the emergency behavior intervention policies content from repealed §748.237 with non-substantive modifications to the rule. |
|  | New §748.115 | Includes the discipline policies content from repealed §748.235(7) with non-substantive modifications to the rule for clarity to clarify that the discipline policy must be consistent with Subchapter M. |
|  | New §748.117 | This is a new requirement for a transitional living policy, which more than likely already exists if an operation is currently operating a transitional living program. It is also consistent with the CPA requirement in §749.125 that was previously required in repealed §749.351. |
|  | New §748.119 | Includes the volunteer policies content from repealed §748.239 with non-substantive modifications to the rule. |
|  | New §748.121 | This is a new requirement for abuse and neglect policies. It is also consistent with the new CPA policy requirement at §749.135. |
|  | New §748.123 | Includes the employee vaccine-preventable disease policy content from repealed §748.241.  |
|  | New §748.125 | Includes the operational policies content from repealed §748.231(a) and (d). |
|  | New §748.127 | Includes the content from repealed §748.231(b) with significant clarifications to explain how a GRO's plans, policies, and procedures must be adopted by a sole proprietor, partnership, or corporation.  |
|  | New §748.129 | Clarifies that Licensing may cite standards in Division 1 for deficiencies after the application process is granted.  |
| Subchapter C, Division 2, Governing Body | Repeal and NewNew Division 2, Operational Responsibilities and Notifications | * Deletes, rewrites, and reorganizes Divisions 1, 2, and 5 of Subchapter C.
* The rewrite is also intended to clarify confusion over a "permit holder's" and "governing body's" responsibilities.
* New Division 2 generally includes former Division 2 and clarifies a GRO's operational responsibilities, including responsibilities for notifications to Licensing.
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| §748.131 | Repeal | Repeals this rule because:* A grandfather clause is outdated and is no longer needed;
* Portions of the rule are unnecessary or duplicative; and
* The other requirements will be incorporated into New §748.107, New §748.127, New §748.151, and §748.161.
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| §748.133 | Repeal | The content of this rule will be incorporated into New §748.153. |
|  | New §748.151 | Includes portions of the content from repealed §748.103 with significant modifications, including the combining of some paragraphs and the deletion of some paragraphs because they were unnecessary and/or duplicative.  |
|  | New §748.153 | Includes: * Portions of the content from repealed §§748.103(a)(13), 748.133, 748.307(2) and (3), and 748.3351(1);
* Additions of items consistent with New §§748.101 and 748.103; and
* Modifications to the timeframes for notification to Licensing for consistency.
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|  | New §748.155 | Includes the content from repealed §§748.103(b) and 748.109. |
|  | New §748.157 | Includes the content from repealed §748.111. |
| §748.161 | Repeal | Incorporates the content of this repealed version into two New §§748.101 and 748.161. |
|  | New §748.161  | Creates a new rule by adding portions of the content from repealed §§748.161 and 748.163. |
| §748.163 | Repeal  | The content of this repealed rule is being incorporated into New §748.161. |
| §748.191 | Amend | Clarifies that cottage homes do not have to post the operations permit in the cottage home, as long as the operation posts the permit at the main office location. |
| Subchapter C,Division 5, Policies and Procedures | Repeal | * Subchapter C deletes, rewrites, and reorganizes Divisions 1, 2, and 5.
* Division 5 has been repealed and incorporated into new Division 1, which also includes former Divisions 1 and clarifies the plans, policies, and procedures that are required during the application process.
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| §748.231 | Repeal | The content of this rule is being incorporated into five New rules: §§748.103(a), 748.125, 748.127, 748.153, and 748.529.  |
| §748.233 | Repeal | The content of this rule is being incorporated into New §748.109. |
| §748.235 | Repeal | The content of this rule is being incorporated into New §§748.111 and 748.115. |
| §748.237 | Repeal | The content of this rule is being incorporated into §748.113.  |
| §748.239 | Repeal | The content of this rule is being incorporated into New §748.119. |
| §748.241 | Repeal | The content of this rule is being incorporated into New §748.123. |
| §748.301 | Amend | Clarifies that serious incidents are those incidents noted in §748.303. |
| §748.303 | Amend | Clarifies several issues, including:* Requiring a child death to be reported to law enforcement within one hour after the child's death, and reported to Licensing and the parents within two hours after the child's death;
* Making the language for "substantial physical injury" consistent with the new definition for that term;
* Requiring child-on-child physical abuse and sexual abuse to be reported when a GRO becomes aware of it;
* Clarifying that a serious incident includes when law enforcement responds to an alleged incident at the operation;
* Requiring an operation to report the absence of a 13 year old or older who cannot be located to Licensing, the parents, and law enforcement no later than two hours from the when the absence is discovered [Note: This is already the requirement for children younger than 13.];
* Adding a subsection from repealed §748.307(1) stating medical incidents that don't rise to the level of a serious incident don't have to be reported to Licensing, but they must be documented;
* Adding language requiring a report to the Hotline if there is reason to believe an adult resident has been abused, neglected, or exploited; and
* Making the language in these sections consistent with the rest of the Chapter.
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| §748.307 | Repeal | The content of this rule is being incorporated into two New rules: §§748.153 and 748.303(b). |
| §748.309 | Amend | Deletes the requirement for reporting to licensing in writing, because those issues will now be included in New §748.153; and updates the name of the Hotline. |
| §748.313 | Amend | Clarifies the language of the rule for consistency throughout the chapter. |
| §748.315 | Amend | Clarifies that incident reports must be easily accessible to Licensing; and deletes a subsection because it is already required by §748.399(a). |
| §748.341 | Repeal | The content of this rule will be incorporated into two New rules: §§748.343 and 748.345. |
|  | New §748.341 | Includes the content from portions of repealed §748.231. |
|  | New §748.343 | Includes the content from portions of repealed §§748.341 and 748.435 with non-substantive modifications.  |
|  | New §748.345 | Includes part of the content of repealed §748.341 with non-substantive modifications, and adds further requirements for protecting electronic records. |
|  | New §748.347 | Clarifies that electronic and digital signatures, approvals by e-mail, and electronic approvals are allowed.  |
| §748.361 | Amend | Deletes a cite to a rule regarding electronic records because it is unnecessary. In addition, the master list of active and archived personnel records must be kept at the main office and must include a notation of the location of those records.  |
| §748.363 | Amend | Clarifies:* That employees must sign a statement documenting that the employee has read the operational policies required by §748.103;
* What must go into personnel record regarding training;
* Deletes a signed statement requirement regarding the employee's training on abuse and neglect, because it has been clarified what must go into a personnel record regarding training; and
* The name of the Hotline.
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| §748.393 | Amend | Deletes the requirement that active child records must include the "date of each data entry and the name of the employee who makes the data entry", and deletes an unnecessary cite. |
| §748.395 | Amend | Deletes the timeline for written summaries, because written summaries are not required. |
| §748.435 | Repeal | The content of this rule is moved to New 748.341 |
| §748.501 | Repeal | Incorporates the content of this repealed rule into New §748.105(3). |
| §748.505 | Amend | All employees must meet the minimum qualifications, so deletes the erroneous caveat that the minimum qualifications only apply to employees that are "regularly or frequently present while children are in care". |
| §748.533 | Amend | Updating a reference for a cite to a rule. |
| §748.535 | Amend | Clarifies the wording of the question to improve readability and understanding; and deletes and unnecessary phrase.  |
| §748.539 | Amend | Clarifies the wording of the rule to improve readability and understanding. |
| §748.563 | Amend | Clarifies the qualification chart for professional level service providers by:* Reducing the professional qualifications (years of experience) for:
	+ Prior Option 2 from two years to one year; and
	+ Prior Option 4 from three years to two years;
* Combining:
	+ Prior Options 1 and 2 to create a New Option 1, while removing the nine credit hours in graduate level course on family and individual function and interaction; and
	+ Prior Options 3 and 4 to create New Option 2, while removing any requirement that the degree be in a social work or other human service field; and
* Deleting an outdated grandfather clause.
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| §748.571 | Amend | Deletes in rule the requirement for a nurse to comply with specific nurse delegation requirements, because nurses already have to comply with these requirements which are enforced by the Texas Board of Nurse Examiners. |
| §748.575 | Amend | Deletes in rule the requirement for a nurse to comply with specific nurse delegation requirements, because nurses already have to comply with these requirements which are enforced by the Texas Board of Nurse Examiners. |
| §748.605 | Amend | Updates treatment services terminology. |
| §748.681 | Amend | Adds to caregiver minimum qualifications that:* A high school diploma or high school equivalency (GED) can come from a private school accreditation; or
* There can be documentation to verify high school equivalency from home schooling.
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| §748.721 | Amend | Deletes a subsection regarding requirements for volunteers that provide short-term services through an organization and incorporates it into New §748.724; deletes a masculine pronoun; and updates the name of the Hotline. |
|  | New §748.724 | This amendment incorporates a portion of the content from deleted subsection §748.721(c) and clarifies that:* A volunteer or contractor from another organization:
	+ Must meet the relevant requirements of your policies and procedures; or
	+ You must confirm the organization provides adequate screening, training, and supervision; and
* An organization may be another licensed operation.
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| §748.725 | Amend | Combines repealed §748.727 with this rule and clarifies that a volunteer or sponsoring family that takes a child for an overnight visit is a volunteer activity. While the volunteer does not have to comply with the employee or caregiver requirements, the volunteer must meet the relevant background check requirements. |
| §748.727 | Repeal | Moves the content to §748.725, but clarifies that a sponsoring family must meet the relevant background checks. |
| §748.729 | Amend | This amendment:* Clarifies that the volunteer that takes a child for an overnight visit must be given the same information that a respite care provider would receive;
* Deletes the redundant requirement that taking a child for more than 48 hours requires approval from the parent, which is already required by §748.725(b)(2); and
* Deletes the information about another child inviting a child for an overnight visit, because this is a background check issue and does not apply to this question.
 |
| §748.731 | Repeal  | This rule is being repealed because issues of probation and parole are addressed in Subchapter F of Chapter 745, regarding Background Checks.  |
|  | New §748.731 | This new rule clarifies that a person at an operation may not perform community service hours at the operation. |
| §748.801 | Amend | Incorporates the description of the acronym CEU into §748.937(a), which is the only place it is used; and clarifies the definition of "instructor-led training".  |
| §748.861 | Amend | Clarifies the language of the rule for better readability and understanding.  |
| §748.867 | Amend | Clarifies the language of the rule and deletes masculine pronouns. |
| §748.869 | Amend | Reorders the subsections, and clarifies that a qualified instructor for pre-service training must hold a generally recognized credential or possess documented knowledge and/or experience relevant to the training the instructor will provide.  |
| §748.883 | Amend | Clarifies the rule question and answer for better readability and understanding; and clarifies that the training regarding SIDS must also cover understanding safe sleep environments. |
| §748.885 | Amend | Clarifies the rule question and answer for better readability and understanding |
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| §748.935 | Amend | Changes the "within 12-months from date of employment" to "within 12-months from when you hire the person"' for when an employee's or caregiver's annual training must be completed. |
| §748.937 | Amend | Clarifies certain aspects of the rule by:* Spelling out the acronym CEU;
* Limiting to 10 hours the amount of non-required pre-service training hours that may be carried over and counted for annual training hours;
* Stating that the "required" pre-service training hours may not be counted for annual training hours; and
* Increasing from one-third to one-half the number of annual training hours that may come from self-instructional hours; and clarifying that no more than three of those self-instructional hours may come from reading materials.
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| §748.939 | Amend | Clarifies that while Licensing does not approve or endorse training resources, the requirements for a GRO to ensure reliable training relevant to the population of children served applies to both instructor-led training and self-instructional training. |
| §748.941 | Amend | Clarifies that transportation safety training must be instructor-led. |
| §748.943 | Amend | Adds water safety and administration of medication as training topics appropriate for annual training.  |
| §748.945 | Amend | Clarifies the psychotropic medication training must be met; deletes masculine pronouns; and updates a cite to a rule. |
| §7489.985 | Amend | Clarifies that first-aid training may be obtained through self-instructional training. |
| §748.987 | Amend | Deletes "first-aid" from this rule, because first-aid training no longer needs to be instructor-led. |
| §748.1009 | Amend | Moves subsection (b) regarding a professional staffing plan for treatment services to New §748.105(3)(D) |
| §748.1013 | Amend | Deletes masculine pronouns. |
| §748.1021 | Amend | Adds the requirement that a child must be 16 years old to be in a transitional living program and not require supervision, which came from the repealed §748.65(b). |
| §748.1101 | Repeal and New | The new rule includes modified language of the repealed rule by: * Dividing the children rights into seven categories (e.g. Safety and Care, Living a Normal Life, Discipline, etc.) to make the rights easier to understand and find; and
* Improving the readability of the rule overall.
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| §748.1103 | Amend | Clarifies that a timely signed copy of the "CPS Rights of Children and Youth in Foster Care" will meet the Licensing requirements in this rule. |
| §748.1105 | Repeal | This child's personal care information was incorporated into the child's rights at §748.1101. |
| §748.1109 | Amend | Requires a reevaluation by child placement management staff when restrictions are imposed on a child's contact with siblings for more than 60 days (it is currently 90 days). The wording of this rule was also modified to be consistent with other re-evaluations in this Chapter.  |
| §748.1117 | Amend | Updates terminology. |
| §748.1119 | Amend | Clarifies that the list of the techniques that may not be used on a child is not an exhaustive list. |
| §748.1205 | Amend | Deletes the requirement to document:* The child's birthplace; and
* Court orders establishing the managing conservator of the child.
 |
| §748.1207 | Amend | Adds the Texas Family Code §32.203 requirement that in certain instances a child 16 years or older may sign a placement agreement for a transitional living program without the consent of the child's parent. |
| §748.1209 | Amend | Clarifies that during orientation a child must be provided information on how to make complaints to outside agencies and how to contact outside parties to a child's case. |
| §748.1211 | Amend | Amends this rule by:* Deleting the requirement that parents must be able to determine whether a program is appropriate for a child and can meet the child needs;
* Adding a new requirement to provide parents with required policies, including policies on fees, emergency behavior intervention, and discipline; and
* Adding the policies and explanations that must be provided to a child that signs a placement agreement as specified in §748.1207.
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| §748.1213 | Amend | Clarifies that one of the special needs that must be shared with caregivers is supervision needs; and the sharing of all special needs must be documented. |
| §748.1215 | Amend | Clarifies that the admission assessment must be completed prior to admission. |
| §748.1217 | Amend | Amends the language of the rule to:* Delete redundant phrases that are already clarified by a definition; and
* Clarify that an assessment must establish how the needs of the child can be met, which also allows for the deletion of the requirement for a rationale for the appropriateness of the admission.
 |
| §748.1219 | Amend | Amends the language of the rule to:* Allow any health care professional to evaluate a GRO can appropriately care for the child;
* Delete a supervision requirement, because the is already required to be reviewed for all children; and
* Update the treatment services terminology, delete a masculine pronoun, and correct a cite to a rule.
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| §748.1223  | Amend | Deletes a masculine pronoun and changes an acronym. |
| §748.1225 | Amend | Changes "physician" to "health-care professional", deletes a masculine pronoun, and changes an acronym. |
| §748.1263 | Amend | Adds to the list of situations that constitute an emergency admission to include, "if you must place a child within 72 hours"; clarifies the wording of the rule; and deletes a masculine pronoun. |
| §748.1269 | Amend | Makes the terminology for psychiatric evaluation, psychological evaluation, and psychosocial assessment consistent throughout the chapter. |
| §748.1303 | Amend | Parents (not GROs) are required to request and attend IEPs, so this requirement is being deleted for GROs. However, the changes clarify that a GRO should notify a parent if the caregivers believe an IEP should be requested, and GROs should attend an IEP if requested to do so. |
| §748.1331 | Amend | Clarifies that the preliminary service plan addressing the immediate needs of the child must be completed within 72 hours; and an example of an immediate need is supervision requirements. |
| §748.1335 | Amend | Clarifies that the initial service plan must be completed within 45 days (currently 40 days). |
| §748.1337 | Amend | This amendment:* Integrates "trauma informed care" into the service planning process;
* Adds some additional normalcy requirements to the service planning process; and
* Updates the items that are needed for an initial service plan, including:
* Updating the psychiatric evaluation, psychological evaluation, and psychosocial assessment language;
* Deleting redundant phrases that are already included in the definitions;
* Moving subsection (c) to (b)(2); and
* Clarifying references and other language for consistency.
 |
| §748.1339 | Amend | Clarifies:* The service planning team meetings can be face-to-face, by video conference, or teleconference; and
* The parent and the child must be invited to the service planning team meeting so they have the opportunity to participate and provide input into the development of the service plan.
 |
|  | New §748.1340 | Clarifies that the service planning team may meet in one meeting, two or more meetings, or in separate meetings to discuss and develop a child's service plan, provided that each service planning team member is informed of the discussion and comments regarding the child's service plan that were made in each meeting. |
| §748.1341 | Amend | Clarifies that child's parent must have at least two weeks' notice of the initial service planning meeting. The rule also requires documentation of the notice, but it does not specify who has to provide the notice.  |
| §748.1345 | Amend | Updates treatment services terminology. |
| §748.1349 | Amend | Requires: * A child 14 years of age or older to be given a copy or summary of the initial service plan, unless there is some justification for not providing the plan;
* A child that is given a copy or summary of the initial service plan to review and sign it; and
* The operation to document if the child disagrees with the plan or refuses to sign it.
 |
| §748.1351 | Amend | Clarifies that the service plan must be implemented within 15 days (currently 10days) after the date of the scheduled service planning meeting involving the parents and the child. |
| §748.1381 | Amend | Updates treatment services terminology. |
| §748.1385 | Amend | Removes the requirement to determine for children receiving treatment services whether the placement should continue, change the child's treatment service designation, transfer the child to a least restrictive setting, or refer the child to an inpatient hospital. This is being deleted because permanency goals should be considered for all children and are broader than this list. |
|  | New §748.1386 | Clarifies that a single service plan that continues throughout the time a child is in residential care is allowed as long as the GRO completes a preliminary service plan at admittance and complies with the review and update rules in this Division.  |
| §748.1389 | Amend | Updates treatment services terminology. |
| §§748.1433, 748.1435, and748.1437 | Amend | Deletes masculine pronouns in each rule. |
| §748.1501 | Amend | Clarifies what has to be included in a child's record regarding a dental exam. The requirements for the "date of examination" and "procedures completed" are being deleted because these requirements will be in the results of the dental examination. |
| §748.1531 | Amend | Clarifies what has to be included in a child's record regarding a medical exam. The requirements for the "date of examination" and "procedures completed" are being deleted because these requirements will be in the results of the medical examination. There is also clarification regarding documenting the date and time of an injury or illness resulting in a medical exam. |
| §748.1539 | Amend | This amendment:* Clarifies that the immunization requirements of DSHS must be met, instead of referencing the HRC;
* Clarifies that records for immunization exemptions and exceptions must be kept just like immunization records; and
* Deletes a duplicative statement regarding a child's health passport meeting Licensing documentation standards, which is already noted at §748.1543(b)(4).
 |
| §748.1541 | Amend | Clarifies the exemptions and exceptions to the immunization requirements. |
| §748.1543 | Amend | Clarifies the documentation requirements that are acceptable for an immunization record, including documentation of the name and address of the health-care professional (previously it only said RN) that administered the vaccine. Except the signature of a health-care professional is not required for official records from schools or state or local health authorities. |
| §748.1549 | Amend | Deletes the term "physician" because the definition is already included in the term "health-care professional". |
| §748.1551 | Amend | Corrects a cite to a rule. |
| §748.1581 | Amend | Clarifies the language of this rule. |
| §748.1661 | Amend | Clarifies that e-cigarettes and vaporizers, like tobacco products, are also prohibited. |
| §748.1695 | Amend | Deletes a masculine pronoun and replaces "physician" with "health-care professional". |
| §748.1697 | Amend | Updates treatment services terminology. |
| §748.1741 | Amend | Adds a definition for "restrictive devices", and changes the term "baby bungee jumper" to "baby doorway jumper".  |
| §748.1743 | Amend | Clarifies that infant care items necessary for diaper changing must be kept out of the reach of children, but do not need to be in locked storage. |
| §748.1751 | Amend | This amendment:* Clarifies that this rule applies to all full-size and non-full-size cribs;
* Requires that only mattresses designed for the crib may be used; and
* Clarifies the rule by replacing "child" with "infant".
 |
| §748.1753 | Repeal and New  | This rule is repealed and replaced with a new updated rule to:* Move the information regarding "port-a-cribs" (which are non-full-size cribs as defined by CPSC) to §748.1751, because these non-full-size cribs must meet all of the crib requirements in §748.1751;
* Clarify the term "play yard", which are mesh or fabric sided cribs;
* Clarify the requirements that a play yard must meet, including a firm, flat mattress that is designed for the crib, fitted sheets, a waterproof or washable mattress, and secure mattress supports and proper hardware; and
* Clarify that following the manufacturer's instructions also applies to the cleaning of the crib.
 |
| §748.1757 | Amend | Clarifies the prohibited equipment for use with an infant to be consistent with the Day Care requirements.  |
| §748.1759 | Amend | Clarifies that when infants are exploring, it should not be in restrictive devices. |
| §748.1761 | Amend | Since infants are should not be sleeping in restrictive devices, language is deleted that allows a child to remain in confining equipment for 30 minutes after the infant awakes. |
| §748.1763 | Amend | This amendment: * Clarifies that a health-care professional's sleeping orders for an infant must be kept in the child's record; and
* Adds the content from deleted §748.1765.
 |
| §748.1765 | Repeal | The content of this rule was moved to §748.1763. |
|  | New §748.1765 | Clarifies that infants may not sleep in restrictive devices; and if a child falls asleep in a restrictive device, the child must be placed in a crib as soon as possible. |
| §748.1791 | Amend | Clarifies the rule by replacing "child' with "toddler". |
| §748.1793 | Amend | Clarifies the wording of the rule for better readability and understanding. |
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| §748.2003 | Amend | Clarifies that these requirements only apply to the administration of prescription medication. |
| §748.2009 | Amend | Adds a requirement to inform a child's physician of any non-prescription medication or supplement to make sure there are no contraindications with other medications. |
| §748.2053 | Amend | Clarifies that for a child that is on a self-medication program the GRO must ensure there is a system for reviewing the child's medication each day.  |
| §748.2101 | Amend | Removes the requirement to store medications "for external use only" separately from other medications. |
| §748.2151 | Amend | This amendment:* Replaces "vitamin" with "supplement", which has been defined in §748.43 as "vitamins, herbs, and any supplement labeled dietary supplement";
* Clarifies that a medication record does not have to be updated immediately but "within 2 hours of administering medication", or "within 24 hours of administering medication if you operate a cottage home model;
* Requires the documentation of a non-prescription medication or supplement that is given to a child and how often the child receives the medication or supplement (no cumulative record is required); and
* Requires documentation in the medical record of any prohibited supplements.
 |
| §748.2231 | Amend | Clarifies the meaning of an "adverse reaction" to a medication; and adds a requirement to immediately report the reaction to the child's parent. |
| §748.2233 | Amend | Clarifies the meaning of a medication "side effect"; and adds a requirement to immediately report serious side effects to the child's parent. |
| §748.2307 | Amend | Clarifies the language for prohibited discipline techniques to include not screaming at a child. |
| §748.2309 | Amend | This amendment:* Deletes "schools and chores" as activities that can't be restricted, because it is confusing. School cannot be restricted because a child has to attend as a matter of law, and chores are not a restriction but something assigned to a child to do; and
* Changes the time from seven days to 14 days that a GRO may restrict a child's activities without a review by the treatment director, service planning team, or professional level service provider. This will be consistent with the requirement for foster homes if the proposal to change that time frame from 30 days to 14 days is adopted.
 |
| §748.2401 | Amend | Removes most of the definitions from this section and incorporates them into §748.43, because the terms that are being incorporated are used in more than this one Subchapter. |
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| §748.3015 | Amend | This amendment:* Adds that gloves contaminated with blood must be placed in a tied, sealed, or otherwise closed plastic bag and discarded immediately; and
* Clarifies the wording of the rule for better readability and understanding.
 |
| §748.3017 | Amend | Deletes the requirement that ferrets must be vaccinated, because this is not required by the Health and Safety Code; and specifies that vaccination is for rabies. |
| §748.3351 | Amend | The requirement for a sketch of the operation's floor plan showing the dimensions for all rooms and where children will sleep was moved to New §748.101(3). The requirement to notify Licensing of changes to the floor plan was moved to New §748.153(a)(2)(B). |
| §748.3353 | Amend | Deletes masculine pronouns. |
| §748.3357 | Amend | This amendment does not change the intent of the current rule, but the changes to the grandfather clauses are made for better readability and understanding. |
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| §748.3365 | Amend | Clarifies that mattresses must not be on the floor. |
| §§748.3481, 748.3535, and 748.3567 | Repeal | All three rules are being deleted because they relate to outdated grandfather clauses.  |
| §748.3601 | Amend | This amendment:* Moves two requirements for pools to §748.3603, which includes additional requirements for a pool located at the operation; and
* Clarifies that the visibility of the pool applies to when the pool is in use.
 |
| §748.3603 | Amend | This amendment:* Adds two requirements for a pool located at the operation. The requirements were moved from §748.3601; and
* Deletes an outdated grandfather clause.
 |
| §748.3701 | Amend | Updates treatment services terminology. |
| §748.3705 | Amend | Clarifies the swimming activities terminology. |
| §748.3751 | Amend | Clarifies that this rule applies to swimming activities that are sponsored by the operation.  |
| §748.3753 | Amend | The question and the answer to this rule are being modified, because the certification of a lifeguard is common practice as long as the certification is from a recognized organization.  |
| §748.3757 | Amend | This amendment:* Clarifies the chart by deleting the middle "children in the group" column, because the swimming ratio and supervising the number of children in the group were the same; and
* Clarifies that subsection (b) only applies to four year olds and older and always requires at least two adults to supervise four or more children if all four children are actually in the water.
 |
| §748.3765 | Amend | This amendment:* Deletes a statement regarding prudent judgment around bodies of water, because the supervision requirement is already required by the supervision rule at §748.685 and prudent judgment requirement is already required by the new normalcy rules; and
* Clarifies that these requirements apply to swimming activities that are sponsored by the operation.
 |
| §748.3801 | Amend | Clarifies the wording of the rule for better readability and understanding. |
| §748.3891 | Amend | Makes the use of a trampoline at an operation more consistent with the use of a trampoline in a foster home. The rule does require the GRO to follow the manufacturer's instructions and other certain requirements, and supervision based on the age of the child. |
| §748.3931 | Amend | Clarifies that a qualified adult must hold a generally recognized credential or possess documented knowledge and/or experience in the type of weapon, firearm, explosive material, projectile, or toy that explodes or shoots that is to be used by the child.  |
| §748.4041 | Repeal and New | The old rule was repealed because it was outdated. The new rule provides a more general approach; however, a Best Practices Box will include the national recommendations for transporting children published by the Department of Public Safety.  |
| §§748.4043 and 748.4045 | Amend | Clarifies terminology for a child passenger safety seat system to make it consistent throughout the chapter. |
| §748.4047 | Repeal | This rule is unnecessary because it is already clarified in New §748.4041. |
| §748.4213 | Amend | Clarifies the wording of the rule by using "preliminary discharge plans" throughout the rule.  |
| §748.4261 | Amend | Updates a cite to a rule and the relevant language regarding the cite. |
| §748.4265 | Amend | Adds to the information that a respite care provider must obtain regarding a child before providing respite care. |
| §748.4301 | Amend | Deletes the wording of "residential treatment centers" where it is duplicative and not necessary. |
| §748.4403 | Amend | Updates treatment services terminology. |
| §748.4471 | Amend | Updates the terminology for a primitive camping excursion; clarifies the wording of the rule for better readability and understanding; and deletes a masculine pronoun. |
| §748.4473 | Amend | Updates the terminology for a primitive camping excursion; and clarifies the wording of the rule for better readability and understanding. |

## STATUTORY AUTHORITY AND STATUTES AFFECTED

The modification is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provides 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 Department of 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 modifications implement HRC §42.042.

## FISCAL IMPLICATIONS

(a) Fiscal Impact. For each of the first five years that the rules will be in effect there will not be costs or revenues to state or local government as a result of enforcing or administering this section.

(b) Public Costs and Benefits. For each of the first five years that the proposed sections will be in effect, the public benefit anticipated as a result of the rule change will be that: (1) There will be clarification of the Minimum Standards for General Residential Operations (GROs); (2) DFPS will be in compliance with HRC §42.042(b); and (3) There will be a reduced risk to children*.* There is no anticipated economic cost to individual persons who are required to comply with the proposed sections.

(c) Impact on Business. There is no anticipated adverse impact on small or micro businesses as a result of the proposed rule changes. The recommended rule changes should not affect the cost of doing business; do not require the purchase of any new equipment or any increased staff time in order to comply; and while there are new requirements, these requirements should not require additional costs to comply.

(d) Local Employment Impact and Takings Statements. No local employment impact statement was required for this rule. The agency is not required to complete a takings impact assessment regarding the proposed section(s).

(e) Technology Impact. There is no anticipated impact on technology as a result of the proposed rule change.

## STAKEHOLDER INPUT

As noted in more detail in the Background and Purpose, the comprehensive review has included:

* A web-based survey that was available for submission of comments from August - December 2014;
* A series of 13 forums to solicit additional input were held between September and November 2015; and
* Temporary workgroups comprised of GRO and CPA providers, Child Protective Services (CPS), CPS Contracts, and Licensing met on December 16, 2015 and February 2, 2016.

## RECOMMENDATION

It is recommended that the Council consider the proposed rule action, as discussed in this memorandum, and that the Council recommend proposal, with or without changes to the rules as they are attached to this memo.

## ATTACHMENTS

Attached is a copy of the proposed change to the rule section as staff recommended for submittal to the *Texas Register*.