March 24, 2016

 The Health and Human Services Commission proposes, on behalf of the Department of Family and Protective Services (DFPS), amendments to §§746.401, 746.403, 746.605, 746.901, 746.1303, 746.1305, 746.1307, 746.1309, 746.1311, 746.3001, 746.3301, 746.3407, 746.3425, 746.3505, 746.5201, 746.5202, 746.5205, 746.5207; new 746.3817, 746.3819; and repeal of 746.5203, in Chapter 746, concerning Minimum Standards for Child-Care Centers. The purpose of the amendments, new and repeal is to implement needed changes to comply with the Child Care and Development Block Grant Act of 2014.

 The Child Care and Development Block Grant (CCDBG) Act of 2014 (the "Act") is the first comprehensive revision of the Child Care and Development Fund (CCDF) program since 1998. (The CCDF is codified in 42 USC §9857 et seq.) The Texas Workforce Commission (TWC) administers the CCDF, which is the primary federal funding source devoted to providing low-income families with access to child care. The Act makes significant reforms to the CCDF programs to raise the health, safety, and quality of child care. The Act does this by mandating that states comply with a multitude of additional requirements in order to continue receiving CCDF funding. Although TWC is the lead agency for determining eligibility and distributing the subsidy monies, DFPS is the agency responsible for licensing child care operations, establishing health and safety regulations, and monitoring eligible operations for compliance. Many of the Act's additional requirements relate to the responsibilities of DFPS. The provisions of the Act that have a significant impact on Child Care Licensing (CCL) and this chapter relate to the following topics: health and safety requirements and training on those requirements.

 The changes related to training will impact Licensed Child Care Centers. The new health and safety training requirements mandated by the Act include the following topics for pre-service training and annual training: (1) food allergies; (2) handling, storing, and disposing of hazardous materials; (3) more robust emergency preparedness plans; (4) administering medication; and (5) building and physical premises safety.

 There is also one topic required by the Act that is already required in annual training, but is not currently required in the pre-service training for Licensed Child-Care Centers. The additional health and safety training requirement that has been added to the pre-service training is training on precautions in transporting children if the operation transports a child whose chronological or developmental age is younger than nine years old.

In addition to the training requirements the Act increases health and safety requirements for Licensed Child-Care Centers. The health and safety requirements correlate to some of the training topics. The changes to the minimum standards support the health and safety requirements, including requiring operations to (1) obtain food allergy emergency plans for children with known food allergies, post a list of food allergies at the operation, and carry the child's emergency plan on field trips; and (2) use, store, and dispose of hazardous materials as recommended by the manufacturer.

 The summary of the changes are:

 The amendments to §746.401: (1) adds a list of each child's food allergies (with a parent's permission) to a licensed child-care center's posting requirements; (2) updates the name of the *Parent Notification Poster*, and (3) makes other wording changes for consistency.

 The amendment to §746.403: (1) clarifies that the list of each child's food allergies must be posted (with a parent's permission) where food is prepared and in each room where the child may spend time; and (2) deletes the posting information about an emergency evacuation and relocation plan because it is duplicative.

 The amendment to §746.605 adds a requirement for centers to obtain a completed food allergy emergency plan before admitting a child into care, if applicable; and if a parent wants the information posted, permission from the parent to post the information.

 The amendment to §746.901 updates a cite and makes the language consistent. The amendments to §746.1303: (1) clarifies the wording to be consistent with the current wording of the operational policies rule; (2) adds components that must be addressed in the overview of prevention, recognition, and reporting of child abuse and neglect; and (3) requires centers to share the emergency preparedness plan with all employees.

 The amendment to §746.1305 adds six topics that must be covered in the pre-service training of caregivers hired after September 1, 2016; and updates the existing language for a current training topic.

 The amendment to §746.1307 clarifies when a caregiver is exempt from pre-service training.

 The amendments to §746.1309: (1) adds six topics that must be covered in the annual training of caregivers; (2) deletes a redundant paragraph about transportation safety training; and (3) increases from 50% to 80% the amount of annual training hours that may be obtained through self-instructional training.

 The amendments to §746.1311: (1) adds six topics that must be covered in the annual training for child-care center directors; (2) deletes a redundant paragraph about transportation safety training; and (3) increases from 50% to 80% the amount of annual training hours that may be obtained through self-instructional training.

 The amendment to §746.3001 adds the requirement that caregivers must have a copy of a child's food allergy emergency plan and medications, if applicable, when going on field trips.

 The amendments to §746.3301: (1) adds that children must not be served foods identified on their food allergy emergency plan; and (2) deletes the requirement "you must not use food as . . . punishment", because this requirement is already noted in §746.2805.

 The amendment to §746.3407 requires a child-care center to use, store, and dispose of hazardous materials as recommended by the manufacturer.

 The amendment to §746.3425 clarifies that caregivers must follow universal precautions as outlined by the CDC when handling bodily fluids that may contain blood, including placing gloves contaminated with blood in a sealed plastic bag and discarding them immediately.

 The amendment to §746.3505 clarifies that a child's soiled clothing must be placed in a sealed plastic bag and be sent home with the child.

 New §746.3817 defines a food allergy emergency plan, including a list of foods a child is allergic to, possible symptoms, and what steps to take if there is an allergic reaction.

 New §746.3819 requires: (1) a food allergy emergency plan for each child with a known food allergy; and (2) the plan to be signed by the child's health care professional and a parent, posted if the parent consents, and taken on field trips.

 The amendment to §746.5201 clarifies in more detail what an emergency preparedness plan is by distinguishing between an evacuation, relocation, and sheltering.

 The amendments to §746.5202 adds to the requirements for an emergency preparedness plan to also include: (1) the staff responsibility in a sheltering emergency for the orderly movement of children to a designated location within the center where children should gather; (2) how staff will continue to care for children until each child has been released; and (3) how children will be reunified with their parents at evacuation, relocation, or when sheltering is lifted.

 The repeal of §746.5203 is because all of the information is already included in §746.1303(4) and §746.507.

 The amendment to §746.5205 adds the "sheltering" language for clarification.

 The amendment to §746.5207 clarifies the wording of an emergency evacuation and relocation diagram and where the diagram should be posted.

 Lisa Subia, Chief Financial Officer of DFPS, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

 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 sections will be that: (1) DFPS will be in compliance with the Child Care and Development Block Grant Act of 2014; (2) there will be clarification regarding the health and safety requirements and training on those requirements; and (3) there will be a reduced risk to children.

 There is an anticipated economic cost for persons required to comply with some of the proposed rule changes. The proposed changes are anticipated to have an adverse impact on businesses, including small and micro-businesses. The proposed changes will impact Licensed Child-Care Centers. According to the FY 2015 DFPS Annual Report and Data Book as of August 31, 2015 there were 7,888 Licensed Child-Care Centers.

 Chapter 2006 of the Government Code defines a small business as one that is for-profit, independently owned, and has fewer than 100 employees or less than six million dollars in annual gross receipts. A small business that has no more than 20 employees is also defined as a micro-business. A 2010 survey conducted by CCL indicated that approximately 55% of Licensed Child Care Centers are for profit businesses, 70% are independently owned, 98% have fewer than 100 employees, and 68% have fewer than 20 employees.

 The fiscal impact to these centers primarily results from additional staff time to develop or modify 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 below, as these underlie the individual impact calculations for each rule that are projected to have a fiscal impact on at least some centers.

 For Licensed Child-Care Centers, the staff time required to comply with the standards will impact Directors. For use in this impact analysis, DFPS will use the following mean wages that were obtained from the Texas Workforce Commission's website for Occupational Wages based on 2014 estimates: For all Directors, DFPS is using a $24.27 per hour mean wage from the Occupational Title of Education Administrator, Preschool and Childcare Center.

 Fiscal Impact for Proposed §746.1305(c).This section adds six additional topics that must be covered in the pre-service training for caregivers hired on or after September 1, 2016. One of the six topics is precautions in transporting children and is only required for centers that transport children whose chronological or developmental age is younger than nine years old. There is no increase in the number of pre-service training hours required; there is only a change in the content of the required training. Any costs associated with the rule change depends on whether a center pays for outside training, utilizes free training in the community, or provides in-house training to the caregivers. For centers that:

 (1) Pay for outside training to obtain pre-service training for caregivers, there are no additional costs associated with this change in training content;

 (2) Utilize free training in the community (for example AgriLife training modules) to obtain pre-service training for caregivers, the only additional costs with this change in training content relates to the new topic regarding precautions in transporting children. For example, the relevant AgriLife training modules that could be used to comply with five of the six additional topics are free. However, the AgriLife training module relating to transporting children has a $14.00 cost. Therefore, it is anticipated that each center that transports children whose chronological or developmental age is younger that nine years old will need to pay the $14.00 costs for the transportation module for each caregiver; and

 (3) Provide in-house pre-service training to caregivers, there are costs associated with modifying their current pre-service curriculum for these six topics. However, the time to modify the curriculum is not anticipated to be extensive, because the center will have already developed new curriculum for annual training on these six topics, see "Fiscal Impact for Proposed §746.1309(f)". It is anticipated that a director, or curriculum developer that is similarly paid, will spend approximately 20 hours to modify the pre-service training curriculum. Therefore, the approximate one-time cost to modify the pre-service training curriculum is $485.40 (20 X $24.27).

 Fiscal Impact for Proposed §746.1309(f).This section adds six additional topics that must be covered in the annual training for caregivers. There is no increase in the number of annual training hours required; there is only a change in the content of the required training. Any costs associated with the rule change depends on whether a center pays for outside training, utilizes free training in the community, or provides in-house training to the caregivers. For centers that:

 (1) Pay for outside training or utilize free training in the community to obtain annual training for caregivers, there are no additional costs associated with this change in training content; and

 (2) Provide annual in-house training to caregivers, there are costs associated with centers developing new curriculum for these six topics. This section does not mandate a time frame for training on these six topics. However, for purposes of estimating a cost for developing training on these topics, it is assumed that training on these six topics will be two to three hours. A common industry standard is 40 hours to develop one hour of curriculum for face-to-face training. It is anticipated that a director, or curriculum developer that is similarly paid, will spend an average of 80 to 120 hours to develop the two to three hour curriculum on these six topics. Therefore, the approximate one-time cost for the development of the annual curriculum is between $1,941.60 (80 X $24.27) and $2,912.40 (120 X $24.27).

 Fiscal Impact for Proposed §746.1311(f).This section adds six additional topics that must be covered in the annual training for a child-care center director. There is no increase in the number of annual training hours required; there is only a change in the content of the required training. For centers that pay for outside training or utilize free training in the community to obtain annual training for a director, there are no additional costs associated with this change in training content. For centers that provide annual in-house training to directors, there are costs associated with centers developing new curriculum for these six topics. However, the center will have already developed the same curriculum for caregivers in response to §746.1309, see "Fiscal Impact for Proposed §746.1309(f)". Therefore, CCL assumes there will be no additional costs associated with this rule change.

 Regulatory Flexibility Analysis:A regulatory flexibility analysis is not required for the proposed rules with fiscal implications because the proposed rules are specifically required by federal law (The Child Care and Development Block Grant of 2014). Therefore, the proposed rules are consistent with the health and safety of children, whom the law was intended to protect.

 Ms. Subia has determined that the proposed 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. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-310, 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 746, Minimum Standards for Child-Care Centers

Subchapter B, Administration and Communication

Division 3, Required Postings

TAC Section Number(s) §746.401, and §746.403

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 The amendments 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 amendments implement HRC §§42.042 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.401. What items must I post at my child-care center at all times?

You must post the following items:

 (1) - (3) (No change.)

 (4) **Your emergency** [Emergency and] evacuation **and** relocation **diagram as specified in §746.5207 of this title (relating to Must I have an emergency evacuation and relocation diagram?)** [plans];

 (5) - (6) (No change.)

 (7) **The** Licensing ***Parent Notification Poster;*** [*Notice of Availability for Review* of]:

 [(A) The most recent fire inspection report;]

 [(B) The most recent sanitation inspection report;]

 [(C) The most recent gas inspection report, if applicable; and]

 [(D) The Licensing minimum standards applicable for child-care centers;]

 (8) (No change.)

 (9) A list entitled "Current Employees." The list must be at least 8 1/2 inches by 11 inches in size, printed legibly, and must include each employee's first and last name; [and]

 **(10) A list of each child's food allergies, with a parent's permission as specified in §746.605(16) of this title (relating to What admission information must I obtain for each child?); and**

**(11)[**(10)]Any other Licensing notices with specific instructions to post the notice.

§746.403. When and where must these items be posted?

 (a) (No change.)

 (b) **With the permission of the child's parent, you must post a list of each child's food allergies where you prepare or serve food and in each room where the child may spend time. The posting must be in a place where employees may easily view it**. [Emergency and evacuation relocation plans must be posted in each room used by 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.

 Issued in Austin, Texas, on .

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

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter C, Record Keeping

Division 1, Records of Children

TAC Section Number(s) §746.605

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 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 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.605. What admission information must I obtain for each child?

You must obtain at least the following information before admitting a child to care:

 (1) - (13) (No change.)

 (14) The name and telephone number of the school that a school-age child attends, unless the operation is located at the child's school; [and]

 (15) Permission for a school-age child to ride a bus**,** [or] walk to or from school or home, or to be released to the care of a sibling under 18 years old, if applicable**;** **and** [.]

 **(16) A completed food allergy emergency plan for the child, if applicable, and if a parent wants the information posted, permission from a parent to post the child's allergy information.**

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 746, Minimum Standards for Child-Care Centers

Subchapter C, Record Keeping

Division 4, Personnel Records

TAC Section Number(s) §746.901

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 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 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.901. What information must I maintain in my personnel records?

You must have the following records at the child-care center and available for review during hours of operation for each employee, caregiver, substitute, and volunteer as specified in this chapter:

 (1) - (9) (No change.)

 (10) A statement signed and dated by the employee verifying the date the employee attended training during orientation that includes an overview of your policy on [preventing and responding to] **the prevention, recognition, and reporting of child** abuse and neglect [of children as] outlined in §746.1303 of this title (relating to What **must** [should] orientation [to] **for employees at** my child-care center include?).

 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 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 4, Professional Development

TAC Section Number(s) §§746.1303, 746.1305, 746.1307, 746.1309, 746.1311

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 The amendments 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 amendments implement HRC §§42.042 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.1303. What **must** [should] orientation [to] **for employees at** my child-care center include?

Your orientation for employees must include at least the following:

 (1) (No change.)

 (2) **An overview of your** [Your center's] operational policies**,** including discipline[,] **and** guidance **practices**[,] and **procedures for** the release of children;

 (3) An overview of your policy on **the prevention, recognition, and** **reporting of child** [preventing and responding to] abuse and neglect**, including:** [of children;]

 **(A) Factors indicating a child is at risk of abuse or neglect;**

 **(B) Warning signs indicating a child may be a victim of abuse or neglect;**

 **(C) Internal procedures for reporting child abuse or neglect; and**

 **(D) Community organizations that have training programs available to child-care center staff members, children, and parents;**

(4) **An overview of the** [The] procedures to follow in handling emergencies**, which includes sharing the emergency preparedness plan with all employees**. Emergencies may include, but are not limited to, fire, explosion, tornado, toxic fumes, volatile persons, and severe injury or illness of a child or adult; and

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

§746.1305. What must be covered in pre-service training for caregivers?

 (a) Pre-servicetraining for caregivers must coverthe following areas:

 (1) - (6) (No change.)

 (7) Preventing and controlling the spread of communicable diseases**, including immunizations**.

 (b) If a caregiver provides care for children younger than 24 months of age, one hour of that caregiver's pre-service training must cover the following topics:

 (1) Recognizing and preventing shaken baby syndrome **and abusive head trauma**;

 (2) **Understanding and using safe sleep practices and preventing** [Preventing] sudden infant death syndrome **(SIDS)**; and

 (3) (No change.)

 **(c) Pre-service training for caregivers you hire on or after September 1, 2016, must also cover the following areas:**

 **(1) The emergency preparedness plan for your center;**

 **(2) Administering medication, if applicable, including compliance with §746.3803 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);**

 **(3) Preventing and responding to emergencies due to food or an allergic reaction;**

 **(4) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electric hazards, bodies of water, and vehicular traffic;**

 **(5) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?); and**

 **(6) Precautions in transporting children if your center transports a child whose chronological or developmental age is younger than nine years old.**

§746.1307. Are any caregivers exempt from the pre-service training?

Yes. A caregiver is exempt from the pre-service training requirements if **the caregiver** [he] has:

(1) (No change.)

 (2) Documentation of at least 24 clock hours of training **in the areas specified in §746.1305 of this title (relating to What must be covered in pre-service training for caregivers?)** at another regulated child-care center.

§746.1309. How many clock hours of annual training must be obtained by caregivers? (a) Each caregiver must obtain at least 24 clock hours of training each year relevant to the age of the children for whom the caregiver provides care.

 **(b)** The 24clock hours of annual training are exclusive of **any requirements for** orientation, pre-service training [requirements], CPR and first aid **training**, transportation safety training, and high school child-care work-study classes.

 **(c)**[(b)] At least six clock hours of **the** annual training **hours** must be in one or more of the following topics:

 (1) Child growth and development;

 (2) Guidance and discipline;

 (3) Age-appropriate curriculum; and

 (4) Teacher-child interaction.

 **(d)**[(c)] At least one clock hour of **the** annual training **hours** must focus on prevention, recognition, and reporting of child abuse and neglect, including:

 (1) Factors indicating a child is at risk for abuse or neglect;

 (2) Warning signs indicating a child may be a victim of abuse or neglect;

 (3) Internal procedures for reporting child abuse or neglect; and

 (4) Community organizations that have training programs available to child-care center staff members, children, and parents.

 **(e) If a caregiver provides care for children younger than 24 months of age, one clock hour of the annual training hours must cover the following topics: (1) Recognizing and preventing shaken baby syndrome and abusive head trauma;**

 **(2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and**

 **(3) Understanding early childhood brain development.**

 **(f) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:**

 **(1) Emergency preparedness;**

 **(2) Preventing the spread of communicable diseases, including immunizations;**

 **(3) Administering medication, if applicable, including compliance with §746.3803 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);**

 **(4) Preventing and controlling and responding to emergencies due to food or an allergic reaction;**

 **(5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electric hazards, bodies of water, and vehicular traffic; and**

 **(6) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).**

 **(g)**[(d)]The remaining [clock hours of] annual training **hours** must be in one or more of the following topics:

 (1) Care of children with special needs;

 (2) Child health (for example, nutrition and activity);

 (3) Safety;

 (4) Risk management;

 (5) Identification and care of ill children;

 (6) Cultural diversity for children and families;

 (7) Professional development (for example, effective communication with families[,] **and** time and stress management);

 [(8) Preventing the spread of communicable diseases;]

 **(8)**[(9)] Topics relevant to the particular age group the caregiver is assigned (for example, caregivers assigned to an infant or toddler group should receive training on biting and toilet training);

 **(9)**[(10)] Planning developmentally appropriate learning activities;

 **(10)**[(11)] Observation and assessment;

 **(11)**[(12)] Attachment and responsive care giving; and

 **(12)**[(13)] Minimum standards and how they apply to the caregiver.

 [(e)If a caregiver provides care for children younger than 24 months of age, one hour of that caregiver's annual training must cover the following topics:]

 [(1) Recognizing and preventing shaken baby syndrome;]

 [(2) Preventing sudden infant death syndrome; and]

 [(3) Understanding early childhood brain development.]

 [(f)A caregiver who transports a child whose chronological or developmental age is younger than nine years old must meet additional training requirements, as outlined in §746.1316 of this title (relating to What additional training must a person have in order to transport a child in care?).]

 **(h)**[(g)] **No** [A caregiver may obtain no] more than **80%** [50%] of **the** annual training **hours** **may be obtained** through self-instructional training.

§746.1311. How many clock hours of training must my child-care center director obtain each year?

 (a) The child-care center director must obtain at least 30clock hours of training each year relevant to the age of the children for whom the child-care center provides care.

 **(b)** The 30clock hours of annual training are exclusive of **any requirements for** [CPR and first aid,] orientation, pre-service training [requirements], **CPR and first aid training,** and transportation safety **training**.

 **(c)**[(b)] At least six clock hours of the annual training **hours** must be in one or more of the following topics:

 (1) Child growth and development;

 (2) Guidance and discipline;

 (3) Age-appropriate curriculum;

 (4) Teacher-child interaction; and

 (5) Serving children with special care needs.

 **(d)**[(c)] At least one clock hour of **the** annual training **hours** must focus on prevention, recognition, and reporting of child abuse and neglect, including:

 (1) Factors indicating a child is at risk for abuse or neglect;

 (2) Warning signs indicating a child may be a victim of abuse or neglect;

 (3) Internal procedures for reporting child abuse or neglect; and

 (4) Community organizations that have training programs available to child-care center staff members, children, and parents.

 **(e) If the center provides care for children younger than 24 months of age, one hour of the annual training hours must cover the following topics:**

 **(1) Recognizing and preventing shaken baby syndrome and abusive head trauma;**

 **(2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and**

 **(3) Understanding early childhood brain development.**

 **(f) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:**

 **(1) Emergency preparedness;**

 **(2) Preventing and controlling the spread of communicable diseases, including immunizations;**

 **(3) Administering medication, if applicable, including compliance with §746.3803 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);**

 **(4) Preventing and responding to emergencies due to food or an allergic reaction;**

 **(5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electric hazards, bodies of water, and vehicular traffic; and**

 **(6) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).**

 **(g)**[(d)] A director with**:**

 **(1) Five** [five] or fewer years of experience as a designated director of a child-care center must [also] complete at least six clock hours of the annual training **hours** in management techniques, leadership, or staff supervision**;**[.] **or**

 **(2)**[(e)] **More** [A director with more] than five years of experience as a designated director of a child-care center must complete at least three clock hours of the annual training **hours** in management techniques, leadership, or staff supervision.

 [(f)If the center provides care for children younger than 24 months of age, one hour of the annual training must cover the following topics:]

 [(1) Recognizing and preventing shaken baby syndrome;]

 [(2) Preventing sudden infant death syndrome; and]

 [(3) Understanding early childhood brain development.]

 **(h)**[(g)]The remainder of the 30clock hours of annual training must be selected from the training topics specified in [§746.1309(d)] **§746.1309(g)** of this title (relating to How many clock hours of annual training must be obtained by caregivers?).

 [(h)If the center transports a child younger than nine years old, the director must complete two hours of annual training on transportation safety in addition to the other training requirements.]

 (i)The director may obtain clock hours or CEUs from the same sources as caregivers[, with the following exceptions:]**.**

 (j)Training hours may not be earned for presenting training to others[, with the exception of up to two hours of training on transportation safety].

 (k) No more than **80%** [50%] of **the** annual training **hours** may be obtained through self-instructional training.

 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 746, Minimum Standards for Child-Care Centers

Subchapter N, Field Trips

TAC Section Number(s) §746.3001

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 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 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.3001. May I take children away from my child-care center for field trips?

Yes. You must ensure the safety of all children on field trips or excursions and during any transportation provided by the child-care center. Anytime you take a child [away from the child-care center for] **on** a field trip, you must comply with each of the following requirements:

 (1) - (4) (No change.)

 **(5) Caregivers must have a copy of a child's food allergy emergency plan and allergy medications, if applicable;**

 **(6)**[(5)] Each child must wear a shirt, nametag, or other identification listing the name of the child-care center and the child-care center's telephone number;

 **(7)**[(6)] Each caregiver must be easily identifiable by all children on the field trip by wearing a hat, child-care center tee-shirt, brightly-colored clothes, or other easily spotted identification;

 **(8)**[(7)] Each caregiver supervising a field trip must have transportation available, [or] a communication device such as a cellular phone, message pager, or two-way radio available, or an alternate plan for transportation at the field-trip location in case of emergency; and

 **(9)**[(8)] Caregivers with training in CPR and first aid with rescue breathing and choking must be present on the field trip.

 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 746, Minimum Standards for Child-Care Centers

Subchapter Q, Nutrition and Food Service

TAC Section Number(s) §746.3301

Proposed Action

X Amendment

Proposed Date of Adoption:

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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 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.3301. What are the basic requirements for snack and mealtimes?

 (a) You must serve all children ready for table food regular meals and morning and afternoon snacks as specified in this subchapter.

 **(b)**[(1)] If breakfast is served, a morning snack is not required.

 **(c)**[(2)] A child must not go more than three hours without a meal or snack being offered, unless the child is sleeping.

 **(d)**[(3)] If your child-care center is participating in the Child and Adult Care Food Program (CACFP) administered by the Texas Department of Agriculture, you may elect to meet those requirements rather than those specified in this [subsection] **section**.

 **(e)**[(b)] You must ensure a supply of drinking water is always available to each child and is served at every snack, mealtime, and after active play in a safe and sanitary manner.

 **(f)**[(c)] You must not serve beverages with added sugars, such as carbonated beverages, fruit punch, or sweetened milk except for a special occasion such as a holiday or birthday celebration.

 **(g)**[(d)] You must not use food as a reward [or punishment].

 **(h) You must not serve a child a food identified on the child's food allergy emergency plan as specified in §746.3817 of this title (relating to What is a food allergy emergency plan?).**

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 746, Minimum Standards for Child-Care Centers

Subchapter R, Health Practices

Division 1, Environmental Health

TAC Section Number(s) §746.3407, §746.3425

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

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 The amendments 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 implements HRC §§42.042 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.3407. What steps must I take to ensure a healthy environment for children at my child-care center?

You must clean, repair, and maintain the building, grounds, and equipment to protect the health of the children. This includes, but is not limited to:

 (1) - (10) (No change.)

 (11) Sanitizing table tops, furniture, and other similar equipment used by children when soiled or contaminated with matter such as food, body secretions, or excrement; [and]

 (12) Clearly marking cleaning supplies and other toxic materials and keeping them separate from food and inaccessible to children**; and**

 **(13) Using, storing, and disposing of hazardous materials as recommended by the manufacturer**.

§746.3425. Must caregivers wear gloves when handling **blood or** bodily fluids **containing blood**?

Yes. Caregivers must **follow universal precautions outlined by the Centers for Disease Control (CDC) when handling blood, vomit, or other bodily fluids that may contain blood including**:

 (1) **Using** [Use] disposable, nonporous gloves [when handling blood, vomit, or other bodily fluids that may contain blood];

 **(2) Placing gloves contaminated with blood in a sealed plastic bag and discarding them immediately;**

 **(3)**[(2)] **Discarding all other** [Discard the] gloves immediately after one use; and

 **(4)**[(3)] **Washing** [Wash] hands after using and disposing of the gloves.

 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 746, Minimum Standards for Child-Care Centers

Subchapter R, Health Practices

Division 2, Diaper Changing

TAC Section Number(s) §746.3505

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 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 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.3505. What must I do to prevent the spread of germs when diapering children?

 (a) You must wash your hands **as specified in** [. Refer to] §746.3419 of this title (relating to How must children and employees wash their hands?).

 (b) You must wash the infant's hands or see that the child's hands are washed after each diaper change **as** **specified in** [. See] §746.3421 of this title (relating to How must I wash an infant's hands?).

 (c) - (f) (No change.)

 **(g) You must place soiled clothing in a sealed plastic bag to be sent home with the child.**

 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 746, Minimum Standards for Child-Care Centers

Subchapter S, Safety Practices

Division 2, Medications and Medical Assistance

TAC Section Number(s) §746.3817, §746.3819

Proposed Action

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

 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 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

**§746.3817. What is a food allergy emergency plan?**

**A food allergy emergency plan is an individualized plan prepared by the child's health care professional that includes:**

1. **a list of each food the child is allergic to;**
2. **possible symptoms if exposed to a food on the list; and**
3. **the steps to take if the child has an allergic reaction.**

**§746.3819. When must I have a food allergy emergency plan for a child?**

**You must have a food allergy emergency plan for each child with a known food allergy. The child's heath care professional and parent must sign and date the plan. You must keep a copy of the plan in the child's file, post it as specified in §746.403(b) of this title (relating to When and where must these items be posted?), and take it on any field trip that the child is on.**

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 746, Minimum Standards for Child-Care Centers

Subchapter W, Fire Safety and Emergency Practices

Division 2, Emergency Evacuation and Relocation

TAC Section Number(s) §§746.5201, 746.5202, 746.5205, 746.5207

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 The amendments 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 amendments implement HRC §§42.042 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.5201. What is an emergency preparedness plan?

An emergency preparedness plan is designed to ensure the safety of children during an emergency by addressing staff responsibility and facility readiness with respect to **emergency evacuation, relocation, and sheltering. The plan addresses the types of responses to emergencies most likely to occur in your area, including:**

 **(1) An evacuation of the children and caregivers to a designated safe area in an emergency such as a fire or gas leak;**

 **(2) A relocation of the children and caregivers to a designated, alternate shelter in an emergency such as a flood, a hurricane, medical emergency, or communicable disease outbreak; and**

 **(3) The sheltering of children and caregivers within the center to temporarily shelter them from situations such as a tornado, volatile person on the premises, or an endangering person in the area.** [emergency evacuation and relocation. The plan addresses the types of emergencies most likely to occur in your area including but not limited to natural events such as tornadoes, floods or hurricanes, health events such as medical emergencies, communicable disease outbreak, and human-caused events such as intruder with weapon, explosion, or chemical spill.]

§746.5202. What must my emergency preparedness plan include?

Your emergency preparedness plan must include written procedures for:

 (1) Evacuation, **relocation, and sheltering of children** including:

 (A) **The** [That in an emergency, the] first responsibility of staff **in an emergency evacuation or relocation** is to move the children to a designated safe area or alternate shelter known to all employees, caregivers, **parents,** and volunteers;

 (B) How children will be **evacuated or** relocated to the designated safe area or alternate shelter, including specific procedures for evacuating **and relocating** children who are under 24 months of age, who have limited mobility, or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairments;

 **(C) The staff responsibility in a sheltering emergency for the orderly movement of children to a designated location within in center where children should gather;**

 **(D)**[(C)] An emergency evacuation and relocation diagram as outlined in §746.5207 of this title (relating to Must I have an emergency evacuation and relocation diagram?);

 **(E)**[(D)] Name and address of the alternate shelter away from the center you will use as needed; and

 **(F)**[(E)] How children in attendance at the time of the emergency will be accounted for at the designated safe area or alternate shelter.

 (2) Communication, including:

 (A) The emergency telephone number that is on file with us; **and**

(B) (No change.)

 (3) How your staff will evacuate **and relocate** with the essential documentation including:

 (A) - (B) (No change.)

 (C) The child tracking system information for children in care**;**[.]

 **(4) How your staff will continue to care for the children until each child has been released; and**

 **(5) How you will reunify the children with their parents at evacuation, relocation, or when sheltering is lifted.**

§746.5205. Must I practice my emergency preparedness **plan** [plans]?

Yes, the following components of your center's emergency preparedness **plan** [plans] must be practiced as specified below:

 (1) (No change.)

 (2) You must practice a severe weather **or sheltering** drill at least once every three months; and

 (3) You must document these drills, including the date of the drill, time of the drill, and length of the time for the evacuation**,** [or] relocation**, or sheltering** to take place.

§746.5207. Must I have an emergency evacuation and relocation diagram?

 (a) (No change.)

 (b) You must post an emergency evacuation and relocation [plan] **diagram** in each room the children use. You must post the **diagram** [plan in a prominent place] near the entrance and/or exit of the room **and where children and employees may easily view the diagram**.

 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 746, Minimum Standards for Child-Care Centers

Subchapter W, Fire Safety and Emergency Practices

Division 2, Emergency Evacuation and Relocation

TAC Section Number(s) §746.5203

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

 The repeal 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 repeal implements HRC §§42.042 and 42.0421 and portions of the Child Care and Development Block Grant Act of 2014, which is codified in 42 USC §9857 et seq.

§746.5203. With whom must I share this plan?

 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 .