July 5, 2016

The Health and Human Services Commission proposes, on behalf of the Department of Family and Protective Services (DFPS), a repeal of §§746.103, 746.105, 746.107, 746.109, 746.507, 746.615, 746.617, 746.619, 746.621, 746.703, 746.903, 746.905, 746.1019, 746.1031, 746.1033, 746.1035, 746.1041, 746.1043, 746.1101, 746.1103, 746.1113, 746.1115, 746.1301, 746.1325, 746.1401, 746.1403, 746.2411, 746.2801, 746.2809, 746.2813, 746.3005, 746.3409, 746.3411, 746.4607, and 746.5009; new §§746.111, 746.113, 746.121, 746.123, 746.615, 746.1031, 746.1301, 746.1401, 746.2411, 746.2426, 746.3420, 746.3606, and 746.4607; and amendments to §§746.201, 746.301, 746.303, 746.405, 746.501, 746.503, 746.505, 746.603, 746.613, 746.623, 746.631, 746.705, 746.801, 746.803, 746.909, 746.1015, 746.1017, 746.1021, 746.1029, 746.1037, 746.1039, 746.1057, 746.1105, 746.1107, 746.1109, 746.1203, 746.1315, 746.1316, 746.1317, 746.1319, 746.1323, 746.2205, 746.2401, 746.2403, 746.2405, 746.2407, 746.2409, 746.2413, 746.2415, 746.2417, 746.2419, 746.2421, 746.2425, 746.2427, 746.2428, 746.2431, 746.2501, 746.2505, 746.2507, 746.2509, 746.2607, 746.2707, 746.2803, 746.2805, 746.2905, 746.2911, 746.3117, 746.3119, 746.3123, 746.3201, 746.3203, 746.3309, 746.3313, 746.3401, 746.3405, 746.3415, 746.3419, 746.3421, 746.3501, 746.3503, 746.3601, 746.3607, 746.3701, 746.3703, 746.3707, 746.3709, 746.3801, 746.3901, 746.4207, 746.4213, 746.4501, 746.4503, 746.4507, 746.4601, 746.4609, 746.4907, 746.4971, 746.5015, 746.5105, 746.5305, 746.5607, and 746.5621, in Chapter 746, concerning Minimum Standards for Child-Care Centers. The purpose of the repeals, new sections and amendments is to implement Texas Human Resources Code (HRC) §42.042(b) which requires Child Care Licensing (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 in Chapter 746.

During this review of standards, CCL's goal was to balance the concerns of child advocacy groups, child-care centers, children, and parents to formulate standards that ensure an appropriate balance between children's health and safety and affordability and availability of care.

In preparation for the review of minimum standards, CCL conducted a web-based survey open to permit holders, caregivers, advocates, parents, CCL staff, 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 31 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 more than 1,200 comments relating to Chapters 745 (Licensing), 744 (Minimum Standards for School-Age and Before- or After-School Programs), 746, and 747 (Minimum Standards for Child-Care Homes) 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 was comprised of approximately 15 participants, including providers from child-care centers, a provider from a school-age and before- and after-school program, a parent, representatives from Licensing, and a representative from the Texas Workforce Commission. The workgroup had an introductory meeting on March 22, 2016, and subsequently met twice on April 5,2016 and May 16,2016 to review and provide comments regarding the recommended changes to Chapter 746 (and Chapters 744 and 747, which will be proposed at a later date).

DFPS received comments related to ratios and group sizes in the surveys and in the forums. After reviewing these comments and the related current minimum standards, and weighing the impact to providers and families, DFPS is currently maintaining the subchapter on ratios and group sizes as they are currently written. In response to the other comments received, DFPS is recommending changes to over one hundred and thirty-five minimum standards in Chapter 746. In addition to responding to the comments, three other primary goals of this comprehensive review were to (1) make the language of the standards consistent throughout the chapter, (2) delete minimum standards or portions of minimum standards that are duplicative or redundant, and (3) combine minimum standards when appropriate. The last two goals resulted in the deletion of approximately 25 minimum standards. Below is a broad overview of some of the different areas and types of changes that DFPS is recommending:

(1) Repealing, adding, moving, and modifying definitions. One example is the repeal of §746.3409 and §746.3411 which defined "sanitizing" and "disinfecting solution" and combining, modifying, and updating these definitions into one definition for "sanitize" and adding it to New §746.123(40);

(2) Reorganizing Subchapter A by creating three new Divisions: Purpose, Scope, and Definitions. The focus of the reorganization is to provide better clarity and continuity;

(3) Updating or deleting outdated rules or language in the rules, including:

(A) Deleting outdated grandfather clauses (§746.1019 and §746.1113) and outdated wording ("coin operated pay phone" at §746.4507 and "message pagers" at §746.5621);

(B) Updating the immunization minimum standards to be consistent with the current Department of State Health Services rules (§§746.613, 746.615, 746.617, 746.619, 746.621 and 746.623); and

(C) Deleting the use of rectal thermometers and allowing the use of tympanic (ear) thermometers (§746.3601);

(4) Clarifying confusing concepts by:

(A) Adding a new §746.1401 to explain when substitutes, volunteers, and contractors must comply with the minimum standards that apply to employees and caregivers; and

(B) Adding a rule that a sick child may return to care when there is a doctor's statement that the child no longer has the excludable condition, or the child is free of symptoms for 24 hours (§746.3606);

(5) Strengthening the minimum standards when it is necessary for the safety of children, for example:

(A) Adding required operational policies for safe sleep for infants 12 months and younger (§746.501);

(B) Not allowing stacked cribs for children tall enough to hit their head on the stacked crib or ceiling (§746.2413); and

(C) Not allowing children to sleep in restrictive devices (§746.2426); and

(6) Allowing more discretion by providers while still ensuring the safety of children, for example:

(A) Allowing first aid (but not CPR) to be obtained through self-instructional training (§746.1315);

(B) Only requiring cribs for non-walking infants less than 12 months of age (§746.2405); and

(C) Allowing the use of hand sanitizers (§746.3420).

A summary of the changes are:

Subchapter A is being renamed "Purpose, Scope, and Definitions" for clarity and better continuity.

New Division 1, of Subchapter A, is named Purpose and contains the current §746.101.

Section 746.103 regarding pronouns is repealed and its content is being incorporated into new §746.121.

Section 746.105 regarding definitions is repealed and its content is being incorporated into new §746.123. There are many substantive changes made to rule, including the deletion, addition, and modification of many definitions.

Section 746.107 regarding types of operations and scope is repealed and its content is being incorporated into new §746.111, however, the language in the rule regarding grandfather clauses has been removed because the former types of operations that were licensed by DFPS (group day care homes, kindergarten and nursery schools, and school: grades kindergarten and above) have been issued new licenses as child-care centers.

Section 746.109 regarding permit holders and scope is repealed and its content is being incorporated into new §746.113.

New Division 2 of Subchapter A is named Scope and is added for clarity and better continuity.

New §746.111 includes the content from repealed §746.107 with the following substantive changes: (1) the language in §746.107 regarding grandfather clauses has been removed because they are no longer relevant; and (2) language is added to clarify that the minimum standards in this chapter also apply to unlicensed centers that require a license under Chapter 42, HRC.

New §746.113 includes the content from repealed §746.109 with the addition of subsection (b) to clarify that the director, owner, operator, and certain controlling persons at an unlicensed center that is subject to Licensing's regulation, are also responsible for following the Chapter 746 minimum standards.

New Division 3 of Subchapter A is named Definitions and is added for clarity and better continuity.

New §746.121 includes the content from repealed §746.103.

New §746.123 Includes the content from repealed §746.105 with the following substantive changes: (1) several terms are being removed from this rule and are being incorporated in the only rule where the term is used, including baby bungee jumper, baby walker, caregiver-initiated activities, child-initiated activities, and single-use area; (2) several terms are being deleted, including child-care location, child passenger safety-seat system (already defined at §746.5607), creative activities, critical illness, group activities, pre-service training, and propped bottle; (3) several terms are being deleted from other rules and added to this definition rule, including CEUs, clock hours, instructor-led training, sanitize (with substantive changes), and self-instructional training; (4) several terms are being added, including child, employee, permit is no longer valid, premises, and restrictive devices; (5) the definitions to several terms have been modified, including administrative clerical duties, age-appropriate, caregiver (this definition is substantively changed), Certified Child-Care Professional Credential, child-care center, Child Development Associate Credential, frequent, inflatable, instructor-led training, janitorial duties, regular, self-instructional training, special care needs, and water activities.

The amendment to §746.201 clarifies that the permit holder is responsible for ensuring that children in care must never exceed the licensed capacity of the center, even when the children are away from the center (e.g. field trip).

The amendment to §746.301 clarifies this rule by: (1) adding the content of the "child-care location" definition, which is deleted; and (2) requiring Licensing to be notified before a center: (A) offers a get-well care program or nighttime care services; and (B) sells or transfers ownership of the center (which is being incorporated from current §746.303).

The amendment to §746.303 deletes paragraph (1) regarding the requirement to notify Licensing before a center sells or transfers ownership of the center, which is being incorporated into §746.301(10).

The amendment to §746.405 deletes the requirement to post the address of the nearest Licensing office, because the workers are now mobile workers and not at a particular office; and clarifies the wording of the rule for accuracy.

The amendment to §746.501: (1) adds requirements for new operational policies for the suspension and expulsion of children, safe sleep for infants 12 months and younger, and procedures for using insect repellant and sunscreen; (2) clarifies the language of the rule; and (3) moves two paragraphs into new subsection (b), which requires notification to parents instead of an operational policy.

The amendment to §746.503 clarifies that a parent(s) signature for the enrollment agreement and the operational policies may be a signature on one document or several documents (this came from §746.2809(c) which is being deleted).

The amendment to §746.505 clarifies that employees must be notified of any changes to the center's operational policies (this is currently required by repealed §746.2813 for changes to discipline and guidance policy); and clarifies the language of the rule.

Section 746.507 is being repealed because it is already clear that operational policies must be shared with employees at §746.901(6).

The amendment to §746.603 clarifies several paragraphs by stating: (1) admission information is information required in §746.605; (2) TB screening is only needed if required by DSHS or a local health authority; and (3) documentation from a health care professional that allows a deviation from minimum standards must be maintained in the child's record.

The amendment to §746.613: (1) that current immunization records must be kept, including records of any exemptions or exceptions; and (2) the situations where immunizations are not required by the date of admission, including exemptions, exceptions, and provisional enrollment for up to 30 days for homeless children or children in foster care.

Section 746.615 is being repealed and replaced by a proposed new rule that incorporates the repealed language and further explaining the immunization exemptions and exceptions that are allowed by the DSHS rules.

Section 746.617 is being repealed. Its contents will be added to a Helpful Information Box and expounded upon there.

Section 746.619 is being repealed. Its contents will be incorporated into §746.613, except the provisional delay for the alternate care program (a child's immunization may be obtained upon the child's second visit to the alternate care program) is being deleted, because this exception does not currently exist in law.

Section 746.621 is being repealed and its contents will be incorporated into §746.613(c)(2).

The amendment to §746.623 clarifies the documentation requirements that are acceptable for an immunization record, including: (1) what is acceptable as a signature for a health care professional; and (2) the signature of the health-care professional is not required for an official immunization record generated from a state or local health authority or a school.

The amendment to §746.631 clarifies the language of the rule for ease of understanding.

Section 746.703 is being repealed. Its content is being added to a Helpful Information Box after §746.701.

The amendment to §746.705 clarifies how the *Incident/Illness Report* form must be completed.

The amendment to §746.801 clarifies what records must be kept at the center, including: (1) requiring attendance records or time sheets listing all days and hours worked for each employee. This content came from §746.905, which is being deleting; (2) deletes several paragraphs because the items are already required to be posted at §746.401, such as group activity plans, daily menus, and the most recent licensing inspection report; (3) deleting the requirement of proof of background checks because it is already required at §746.901; and (4) deleting a child tracking system because it is already required at §746.631.

The amendment to §746.803 clarifies that posted records must also be kept for at least three months from the date the record was created.

Section 746.903 is being repealed because it is redundant. The Director's Certificate is already required at §746.1039 and as an employee a Director is already required to receive operational and personnel policies at §746.901(a)(6).

Section 746.905 is being repealed. Its content is being incorporated into §746.801(5).

The amendment to §746.909 clarifies that Licensing may photograph, copy, or scan a center's records.

The amendment to §746.1015 adds citations of the relevant rules regarding the renewal of a director's certificate (for a center licensed for 13 or more children).

The amendment to §746.1017 adds citations of the relevant rules regarding the renewal of a director's certificate (for a center licensed for 12 or fewer children).

Section 746.1019 is being repealed because the grandfather clauses in this rule are no longer necessary.

The amendment to §746.1021 substantially modifies the language of the rule for better readability without changing the substance of the rule.

The amendment to §746.1029 clarifies that the rule addresses "business" management.

Section 746.1031 is being repealed because "Clock hours" is being incorporated into the definitions rule at §746.123 with some modifications for clarity and accuracy.

New §746.1031 reorganizes the placement of repealed §746.1043 for better readability and flow of the rules.

Section 746.1033 is being repealed because it is not accurate. Section 746.1317 currently provides criteria for trainers.

Section 746.1035 is being repealed because "CEUs" is being incorporated into the definitions rule at §746.123.

The amendment to §746.1037 is incorporating the content from repealed §746.1041; and the wording of the question and the answer are also being modified for ease in understanding the rule.

The amendment to §746.1039 clarifies that a director must meet these additional qualifications in addition to the employee qualifications (and minimum qualification of a caregiver, if applicable).

Section 746.1041 is being repealed because the content of this rule is being incorporated into §746.1037(c).

Section 746.1043 is being repealed because the content of this rule is being incorporated into new §746.1031.

The amendment to §746.1057 clarifies the language of the rule for better readability.

Section 746.1101 is being repealed because the content of this rule is being incorporated into the new definition for "employee" and the revamped definition for "caregiver" at §746.123.

Section 746.1103 is being repealed because it is redundant. The information is already included at §746.1105 and §746.1107. However, the graphic with some modifications is being added to a Helpful Information Box after §746.1107.

The amendment to §746.1105 deletes an inaccurate introduction to this rule.

The amendment to §746.1107: incorporates the content from §746.1115 to clarify "high school equivalent" with non-substantive changes for better readability; and adds a "high school equivalent" for home schooling that adequately addresses basic competencies.

The amendment to §746.1109 clarifies that: (1) a person under the age of 18 who is hired must not be left alone with an individual child; (2) child-care-related career programs may also be approved by charter schools, the Texas Private School Accreditation Commission, or home schools that adequately addresses basic competencies; and (3) for a person under the age of 18 who attends a home-school that adequately addresses basic competencies and has not graduated, this person must also complete all 24 hours of pre-service training before assuming responsibility of a caregiver.

Section 746.1113 is being repealed because the grandfather clause is outdated and no longer necessary.

Section 746.1115 is being repealed because the content of this rule is being incorporated into §746.1107(2)(B)(i).

The amendment to §746.1203 clarifies the language of this rule by: (1) deleting "counted in the child/caregiver ratio" because this is the new definition of a caregiver and the language is no longer necessary; (2) changing "administrative and clerical functions" to "administrative and clerical duties, because "duties" is what is defined at §746.123; and

(3) deleting and incorporating the adjectives after "janitorial duties" into the definition for "janitorial duties" at §746.123.

Section 746.1301 is being repealed and replaced with a new rule to: (1) clarify the understanding of the rule; (2) delete the outdated requirements for caregivers hired before September 2011; and (3) delete the Director training Requirements which are already noted in §746.1311.

New §746.1301 takes the relevant information from repealed §746.1301 and creates an updated training chart to clarify the training requirements for employees and caregivers.

The amendment to §746.1315 clarifies that first aid training can now be obtained through self-instructional training.

The amendment to §746.1316 makes the use of "employee" consistent throughout the rule; and "owner" has been clarified in the definition of an "employee" at §746.123. An owner is an employee if the owner is ever on site at the center or transports children.

The amendment to §746.1317: (1) updates the title of the training registry; (2) clarifies that a Child Development Associate credential must be current; and (3) clarifies that subsection (d) applies to both instructor-led and self-instructional training, which came from repealed §746.1325(c).

The amendment to §746.1319 clarifies that while Licensing does not approve training resources, training must comply with the criteria specified in §746.1317, required training topics, and documentation requirements.

The amendment to §746.1323 deletes the requirement to adjust the annual training year for employees that obtain training from another center within the last two months before coming to work at the new center.

Section 746.1325 is repealed because the definitions for self-instructional and instructor-led training are being incorporated into the definitions rule at §746.123; and the content for subsection (c) is being incorporated into §746.1317(d).

Section 746.1401 is repealed and the content is being incorporated into new §746.1403.

Section 746.1403 is repealed and the content is being incorporated into new §746.1403.

New §746.1403: (1) incorporates the contents from repealed §746.1401 and §746.1403; (2) clarifies that volunteers who only supplement ratios for field trips and water activities do not have to comply with minimum standards for employees and caregivers, but they do have to comply with the minimum standards in Subchapter E regarding ratios; and (3) clarifies when employees and caregivers must complete orientation and pre-service training by.

The amendment to §746.2205 incorporates the definitions for "child-initiated activities" and "caregiver-initiated activities" which are being deleted from the current definitions rule because this is the only rule that discusses these two terms.

The amendment to §746.2401 clarifies the rule by replacing the term "child/ren" with "infant/s".

The amendment to §746.2403 clarifies the rule by replacing the term "children" with "infants"; and clarifies the wording of the rules for better readability and understanding.

The amendment to §746.2405 clarifies that cribs are to sleep in and are only required for non-walking infants younger than 12 months of age; and replaces the term "children" with "infants".

The amendment to §746.2407 deletes the term "rockers" from a list of equipment because it is already defined as a "bouncer seat", which is also included in the list of equipment; and replaces "child" with "infant".

The amendment to §746.2409: (1) incorporates information regarding "port-a-cribs" (which are "non-full-size" cribs as defined by CPSC) from repealed §746.2411 by clarifying that this rule applies to all full-size and non-full-size cribs and must meet the requirements of this rule; (2) requires that only mattresses designed specifically for use with the crib model type may be used; (3) clarifies that cribs must be labeled with the infant's name; and (4) replaces "child" with "infant".

Section 746.2411 is being repealed and: (1) portions of the rule regarding to "port-a-cribs are being incorporated into §746.2409; and (2) portions of the rule regarding "mesh cribs" are being incorporated into new §746.2411.

New §746.2411 clarifies the following (1) the term used for mesh or fabric sided cribs is "play yard"; (2) play yards must be used according to manufacturer's instructions, including the cleaning of the play yard; (3) play yards must have firm, flat mattresses that snugly fits the sides of the play yard, the mattress must be designed by the manufacturer specifically for the play yard model number that is being used, and mattresses must not be supplemented with additional foam material or pads; and (4) the additional play yard requirements.

The amendment to §746.2413 clarifies that stacking wall cribs are allowed if they are only used for infants that cannot stand or is able to stand without hitting the infant's head on either the top of the crib or the ceiling above the top crib; replaces "child" with "infant"; and modifies the wording of the rule for easier readability and understanding.

The amendment to §746.2415: (1) incorporates the content of the deleted definitions for "baby walkers" and "baby doorway jumpers" from the definition sections, since this is the only rule in which these two terms are used; (2) changes the term from "baby bungee jumper" to "baby doorway jumpers", which is the equipment that is prohibited; (3) modifies the wording of the rule for better readability and understanding; and (4) replaces "children" with "infants".

The amendment to §746.2417 clarifies that when an infant explores outside of the crib, the infant must also be free of restrictive devices; and deletes "confining equipment" because the term is subsumed by "restrictive device".

The amendment to §746.2419 clarifies that propped bottles are not allowed, and replaces "child/ren" with "infant/s".

The amendment to §746.2421 clarifies the question of the rule for better readability and understanding; and replaces the term "child/ren" with "infant/s".

The amendment to §746.2425 deletes the phrase "other confining equipment" to clarify that an infant must not be sleeping in confining equipment.

New §746.2426: (1) clarifies that infants are not allowed to sleep in restrictive devices. If the infant falls asleep in a restrictive device, then the infant must be removed from the device and placed in a crib as soon as possible.

The amendment to §746.2427: (1) clarifies that infants not yet able to turn over must be placed in a face-up sleeping position unless there is a written statement from a health-care professional stating a different sleeping position is medically necessary; (2) Clarifies that infants must sleep in their own cribs; and (3) replaces "child" with "infant".

The amendment to §746.2428 clarifies that swaddling is only allowed if there is a written statement from a health-care professional stating that swaddling a specific child for sleeping purposes is medically necessary.

The amendment to §746.2431 clarifies that the daily reports to parents of infants may be electronic; and replaces "child" with "infant".

The amendment to §746.2501 clarifies the rule by replacing the term "child" with "toddler".

The amendment to §746.2505: (1) clarifies that toddlers should never be allowed to sleep with or walk around with bottles or training cups; and (2) clarifies the language of the rule for better readability and understanding; and (3) replaces "child" with "toddler".

The amendment to §746.2507 deletes the required toddler activities of regular meal and snack times and supervised naptime because these activities are redundant as they are already required by §746.3301 and §746.2901, respectively.

The amendment to §746.2509 clarifies the rule by replacing the term "child" with "toddler".

The amendment to §746.2607 deletes requirements concerning required pre-kindergarten age activities of regular meal and snack times and supervised naptime because they are redundant, as they are already required by §746.3301 and §746.2901, respectively.

The amendment to §746.2707 deletes requirements concerning required school-age activities of regular meal and snack times and supervised naptime because they are redundant, as they are already required by §746.3301 and §746.2901, respectively.

Section 746.2801 is being repealed because the content of this rule is being incorporated into §746.2803.

The amendment to §746.2803 incorporates the content from repealed §746.2801.

The amendment to §746.2805 clarifies that prohibited discipline includes: (1) placing a child in a dark room, whether the door is closed or not; and (2) requiring a child to remain in a restrictive device.

Section 746.2809 is being repealed and: (1) incorporates subsection (a) into §746.501(7); (2) deletes subsections (b) and most of (c) because they are redundant as they are already required by §746.503 and §746.507; and (3) incorporates the portion of subsection (c) relating to separate documents into §746.503.

Section 746.2813 is being repealed because the requirement that parents be given a copy of any updated discipline and guidance policy is already required at §746.505.

The amendment to §746.2905 clarifies that children must not be confined in a restrictive device to make the child rest or sleep.

The amendment to §746.2911 clarifies that lowering the lighting in a room requires enough lighting that a person's eyes do not need to adjust for the person to be able to see upon entering the room.

Section 746.3005 is being repealed because this information only references the subchapter regarding ratios and group sizes. Since it provides no additional information, it is not necessary.

The amendment to §746.3117 relates to caregivers in a get-well care program and: (1) clarifies that these required trainings are in addition to other training requirements; (2) makes the language of paragraph (2) consistent with the language of §746.3119(4); and (3) updates the total annual training hours required from 20 to 29 hours. This requirement changed in September of 2011, but was never updated in this rule.

The amendment to §746.3119 update the total annual training hours required for a director of a get-well program from 30 to 40 hours. This requirement changed in September of 2011, but was never updated in this rule.

The amendment to §746.3123 clarifies that these get-well care program requirements are in addition to those that are required throughout the rest of the chapter.

The amendment to §746.3201 deletes the requirement to notify Licensing before offering nighttime care and incorporates it into §746.301(7).

The amendment to §746.3203 deletes the statement that a center needs a residential child-care license to exceed the nighttime care limits, because this chapter only relates to child-care centers - not residential licensing.

The amendment to §746.3309 deletes "meals" from subsection (d) because parents must not be providing meals for other children.

The amendment to §746.3313 deletes information relating to posting menus and keeping the menus because it is already required by §746.401(5) and §746.803,. However, because of the deletion of this information the question and the rule had to be modified to clarify for the remaining issues regarding substituting and rotating menus.

The amendment to §746.3401 makes the term local sanitation official consistent throughout the chapter.

The amendment to §746.3405 clarifies the language of the rule for better readability and understanding.

Section 746.3409 is being repealed, and the definition for "sanitizing" is being incorporated into the new definition for "sanitize" at §746.123.

Section 746.3411 is being repealed, and the definition for "disinfecting solution" is being incorporated into the new definition for "sanitizing" at §746.123.

The amendment to §746.3415 clarifies that employees must wash their hands after removing gloves.

The amendment to §746.3419 deletes the statement that pre-moistened towelettes, wipes, and waterless hand cleaners are not a substitute for running water. However, a statement will be added to a Helpful Information box that the use of hand sanitizers does not substitute for hand washing in the group care setting.

New §746.3420 clarifies that hand sanitizer may be used as a substitute for washing hands under certain conditions: (1) not used for visibly dirty hands; (2) only used on children 24 months and older; (3) stored out of the reach of children; (4) follow the labeling instructions; and (5) used only with adult supervision.

The amendment to §746.3421 clarifies the rule by replacing the term "child" with "infant".

The amendment to §746.3501 clarifies that powders may be used for diaper changing without obtaining a parent's written permission.

The amendment to §746.3503 clarifies that to prevent a child from falling from a diaper changing surface that is above the floor level the caregiver's hand must remain on the child "or the caregiver must be facing the child" at all times.

The amendment to §746.3505 deletes an outdated reference.

The amendment to §746.3601 updates the language of the rule by deleting the use of rectal temperatures and adding the use of tympanic (ear) temperatures; and also clarifies some of the language of the rule for easier readability.

New §746.3606 clarifies that an ill child may return to the child-care center when: (1) The child is free of illness symptoms for 24 hours; or (2) There is a health-care professional's statement that the child no longer has the excludable disease or condition.

The amendment to §746.3607 modifies the order of a caregiver's response to a critical illness or injury.

The amendment to §746.3701 requires televisions to be anchored, so they cannot tip over.

The amendment to §746.3703 bans the use of e-cigarettes and any type of vapors.

The amendment to §746.3707 adds commissioned security officers as persons who may carry a firearm on the premises of a child-care center; and changes the colloquial term of "law enforcement official" to "peace officer", which is defined at §2.12, Code of Criminal Procedure.

The amendment to §746.3709 clarifies the language of the rule for better readability and ease of understanding.

The amendment to §746.3801 clarifies that insect repellant is not a non-prescription medication.

The amendment to §746.3901 clarifies that the requirements for animals also applies to field trips.

The amendment to §746.4207 simplifies the exemptions to the indoor activity space requirements.

The amendment to §746.4213 incorporates the definition for "single-use areas", because it is not used in any other rule in this chapter.

The amendment to §746.4501 clarifies that manufacturer requirements for safety straps on chairs must be fastened whenever a child is using the chair.

The amendment to §746.4503: (1) clarifies that a center may require a parent to provide the cot or mat for the child; (2) deletes the individual crib requirement and naptime requirements because they are already required at §746.2405 and §746.2901 respectively; and (3) modifies the wording of the rule for better readability and ease of understanding.

The amendment to §746.4507 deletes an outdated reference to coin operated pay phones.

The amendment to §746.4601 clarifies that active play equipment must be used according to the manufacturer's instructions.

Section 746.4607 is being repealed and replaced with a new rule for better readability and ease of understanding.

New §746.4607 takes the relevant information from repealed §746.4607 and creates a chart to clarify the maximum height of the highest designated play surface for better readability and ease of understanding; and add a new option for the maximum height of the highest designated play surface to be consistent with the manufacturer's guidelines and the ASTM International Standards.

The amendment to §746.4609 deletes outdated grandfather clauses.

The amendment to §746.4907 deletes an outdated grandfather clause.

The amendment to §746.4971 clarifies that inflatables must be used according to manufacturer's instructions.

Section 746.5009 is being repealed because it is already clear at §746.1203(4) and §746.1205 that a fence does not relieve caregivers of supervision requirements.

The amendment to §746.5015 clarifies that: (1) children must not be left alone with sprinkler equipment; and (2) the splash pad/sprinkler play area must be maintained according to manufacturer's instructions.

The amendment to §746.5105 clarifies the language of the rule for better readability ease of understanding.

The amendment to §746.5305 clarifies that the manufacturer's instructions for mounting a fire extinguisher must be followed.

The amendment to §746.5607 clarifies the term "child passenger safety seat system"; and restructures the rule for better readability and ease of understanding.

The amendment to §746.5621 deletes an outdated reference to message pagers.

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 section.

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) there will be clarification of the Minimum Standards for Child-Care Centers resulting in more compliance; (2) DFPS will be in compliance with HRC §42.042(b); and (3) there will be reduced risk to children*.* Other than the cost to an owner of a child-care center as noted below, there is no anticipated economic cost to individual persons who are required to comply with the proposed sections.

The only anticipated adverse impact on small or micro businesses is as a result of the proposed rule change to §746.501. The proposed change will impact licensed child-care centers that meet the definition of a small and micro-business. According to the DFPS FY 2015 Annual Report and Data Book as of August 31, 2015 there were 7,888 licensed child-care centers in Texas.

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. Based on a 2010 survey conducted by CCL, of the 7,888 centers it is estimated that 55% (or 4,338) are for profit businesses. Of those 4,338 centers, it is estimated that 98% (or 4,251) have fewer than 100 employees. Of the 4,338 centers, it is estimated that 68% (or 2,950) have fewer than 20 employees. So it is estimated that 4,251 child-care centers are small business, and 2,950 child-care centers are micro-businesses.

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 the rule that is projected to have a fiscal impact.

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 §746.501:* This section adds three new operational policies that must be developed: suspension and expulsion of children; safe sleep for infants 12 months and younger; and procedures for providing and applying insect repellent and sunscreen. The fiscal impact to these centers results from staff time to develop policy regarding these three topics. It is anticipated, after discussing this issue with the temporary workgroup, that a Director, or curriculum developer that is similarly paid, will spend an average of two to four hours developing these three operational policies. Therefore, the approximate one-time cost for the development of these three operational policies is between $48.54 (2 hours X $24.27) and $97.08 (4 hours X $24.27).

The other recommended rule changes should not affect the cost of doing business; does not impose new requirements on any business; and does not require the purchase of any new equipment or any increased staff time in order to comply.

*Regulatory Flexible Analysis:*As previously noted, of the 7,888 child-care centers, it is estimated that 4,251 of them are small business, and 2,950 of them are micro-businesses. The projected fiscal impact on small and micro-businesses for §746.501 is addressed in the foregoing section. DFPS did consider not requiring each of the new operational policies, but ultimately decided that the one-time cost is appropriately small and merited the changes. These new operational policies will ensure the health and safety of children and prevent the inappropriate removal of children from child-care centers.

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

Questions about the content of the proposal may be directed to Gerry Williams at (512) 438-5559 in DFPS's Child Care Licensing Division. Electronic comments may be submitted to [CCLRules@DFPS.state.tx.us](mailto:CCLRules@DFPS.state.tx.us). Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-556, 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 A, Purpose**, Scope,** and Definitions

**Division 1, Purpose**

TAC Section Number(s) §§746.103, 746.105, 746.107, 746.109

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.103. What do certain pronouns mean as used in this chapter?

§746.105. What do certain words and terms mean when used in this chapter?

§746.107. What types of operations do these minimum standards apply to?

§746.109. Who is responsible for complying with these minimum standards?

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 A, Purpose**, Scope,** and Definitions

**Division 2, Scope**

TAC Section Number(s) §746.111, §746.113

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.

**§746.111. What types of operations do these minimum standards apply to?**

**The minimum standards in this chapter apply to:**

**(1) Licensed child-care centers; and**

**(2) Any unlicensed child-care center that is subject to Licensing's regulation and requires a license per Chapter 42 of the Human Resources Code.**

**§746.113. Who is responsible for complying with these minimum standards?**

**(a) For a licensed child-care center, the permit holder must ensure compliance with all minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of child-care programs or activities that the center does not offer. For example, if we license the center to offer only toddler and pre-kindergarten care programs, the center does not have to comply with minimum standards that apply only to infant care, school-age care, get-well care, or nighttime-care programs; however, the center must comply with all other minimum standards.**

**(b) For an unlicensed child-care center that is subject to Licensing's regulation, the center's director, owner, or operator or any other controlling person who has the ability to influence or direct the center's management, expenditures, or policies must ensure compliance with all minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of child-care programs or activities that the unlicensed center does not offer.**

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 A, Purpose**, Scope,** and Definitions

**Division 3, Definitions**

TAC Section Number(s) §746.121, §746.123

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.

**§746.121. What do certain pronouns mean when used in this chapter?**

**The following words have the following meanings when used in this chapter:**

**(1) I, my, you, and your--An applicant or permit holder, unless otherwise stated.**

**(2) We, us, our, and Licensing--The Licensing Division of the Texas Department of Family and Protective Services (DFPS).**

**§746.123. What do certain words and terms mean when used in this chapter?**

**The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or another subchapter or unless the context clearly indicates otherwise. In addition, the following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise:**

**(1) Activity space--An area or room used for children's activities, including areas separate from a group's classroom.**

**(2) Administrative and clerical duties--Duties that involve the operation of a child-care center, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.**

**(3) Admission--The process of enrolling a child in a child-care center. The date of admission is the first day the child is physically present in the center.**

**(4) Adult--A person 18 years old and older.**

**(5) Age-appropriate--Activities, equipment, materials, curriculum, and environment that are developmentally consistent with the chronological age of the child being served.**

**(6) Alternate care program--A program in which no child is in care for more than five consecutive days, and no child is in care for more than 15 days in one calendar month, regardless of the duration of each stay.**

**(7) Attendance--When referring to a child's attendance, the physical presence of a child at the child-care center's program on any given day or at any given time, as distinct from the child's enrollment in the child-care center.**

**(8) Bouncer seat--A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement, or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.**

**(9) Caregiver--A person who is counted in the child/caregiver ratio, whose duties include the supervision, guidance, and protection of a child. As used in this chapter, a caregiver must meet the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel). A caregiver is usually an employee, but may also be a substitute, volunteer, or contactor (also see Division 4 of Subchapter D (relating to Substitutes, Volunteers, and Contractors).**

**(10) Certified Child-Care Professional Credential--A credential given by the National Early Childhood Program Accreditation to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.**

**(11) Certified lifeguard--A person who has been trained in life saving and water safety by a qualified instructor, from a recognized organization which awards a certificate upon successful completion of the training. The certificate is not required to use the term "lifeguard," but the permit holder must be able to document that the certificate represents the type of training described.**

**(12) CEUs (continuing education units)--A standard unit of measure for adult education and training activities. One CEU equals ten clock hours of participation in an organized, continuing-education experience, under responsible, qualified direction and instruction. Although a person may obtain a CEU in many of the same settings as clock hours, the CEU provider must meet the criteria established by the International Association for Continuing Education and Training to be able to offer the CEU.**

**(13) Child-care center--A child-care facility that is licensed to care for seven or more children for less than 24 hours per day, at a location other than the permit holder's home. If you were licensed before September 1, 2003, the location of the center could be in the permit holder's home.**

**(14) Child-care program--The services and activities provided by a child-care center.**

**(15) Child Development Associate Credential--A credential given by the Council for Professional Recognition to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.**

**(16) Child --An infant, toddler, pre-kindergarten age child, or school-age child.**

**(17) Clock hours--An actual hour of documented:**

**(A) Attendance at instructor-led training, such as seminars, workshops, conferences, early childhood classes, and other planned learning opportunities, provided by an individual/s as specified in §746.1317(a) of this title (relating to Must the training for my caregivers and the director meet certain criteria?); or**

**(B) Self-instructional training that was created by an individual/s as specified in §746.1317(a) and (b).**

**(18) Corporal punishment--The infliction of physical pain on a child as a means of controlling behavior. This includes spanking, hitting, slapping, or thumping a child.**

**(19) Days--Calendar days, unless otherwise stated.**

**(20) Employee--a person a child-care center employs full-time or part-time to work for wages, salary, or other compensation. Employees are all of the child-care center staff, including caregivers, kitchen staff, office staff, maintenance staff, the assistant director, the director, and the owner, if the owner if is ever on site at the center or transports a child.**

**(21) Enrollment--The list of names or number of children who have been admitted to attend a child-care center for any given period of time; the number of children enrolled in a child-care center may vary from the number of children in attendance on any given day.**

**(22) Entrap--A component or group of components on equipment that forms angles or openings that could trap a child's head by being too small to allow the child's body to pass through, or large enough for the child's body to pass through but too small to allow the child's head to pass through.**

**(23) Field trips--Activities conducted away from the child-care center.**

**(24) Food service--The preparation or serving of meals or snacks.**

**(25) Frequent--More than two times in a 30-day period, unless the context clearly indicates otherwise. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).**

**(26) Garbage--Waste food or items that when deteriorating cause offensive odors and attract rodents, insects, and other pests.**

**(27) Health check--A visual or physical assessment of a child to identify potential concerns about a child's health, including signs or symptoms of illness and injury, in response to changes in the child's behavior since the last date of attendance.**

**(28) Health-care professional--A licensed physician, licensed registered nurse with appropriate advanced practice authorization from the Texas Board of Nurse Examiners, a licensed vocational nurse (LVN), licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of his license. This does not include medical doctors or medical personnel not licensed to practice in the United States.**

**(29) Individual activities--Opportunities for the child to work independently or to be away from the group, but supervised.**

**(30) Infant--A child from birth through 17 months.**

**(31) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use by children, as specified by the manufacturer, which may include bouncing, climbing, sliding, or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.**

**(32) Instructor-led training--Training characterized by the communication and interaction that takes place between the student and the instructor. The training must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must communicate with the student in a timely fashion, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include classroom training, web-based on-line facilitated learning, video-conferencing, or other group learning experiences.**

**(33) Janitorial duties--Those duties that involve the cleaning and maintenance of the child-care center building, rooms, furniture, etc. Cleaning and maintenance include such duties as cleansing carpets, washing cots, and sweeping, vacuuming, or mopping a restroom or a classroom. Sweeping up after an activity or mopping up spills in a classroom with children that are immediately necessary for the children's safety is not considered a janitorial duty.**

**(34) Local sanitation official--A sanitation official designated by the city or county government.**

**(35) Natural environment--Settings that are natural or normal for all children of an age group without regard to ability or disability. For example, the primary natural group setting for a toddler with a disability would be a play group or child-care center or whatever setting exists for toddlers without disabilities.**

**(36) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your center voluntarily closes or must close because of an enforcement action in Subchapter L of Chapter 745 (relating to Enforcement Actions).**

**(37) Premises--Includes the child-care center, any lots on which the center is located, any outside ground areas, any outside play areas, and the parking lot.**

**(38) Regular--On a recurring, scheduled basis, unless the context clearly indicates otherwise. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).**

**(39) Restrictive device--Equipment that places the body of a child in a position that may restrict airflow or cause strangulation; usually, the child is placed in a semi-seated position. Examples of restrictive devices are car seats, swings, bouncy seats, and high chairs.**

**(40) Safety belt--A lap belt and any shoulder straps included as original equipment on or added to a vehicle.**

**(41) Sanitize--The use of a product (usually a disinfecting solution) that is registered by the Environmental Protection Agency (EPA) which substantially reduces germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labeling instructions for sanitizing (paying particular attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children, such as toys and crib rails). For an EPA-registered sanitizing product or disinfecting solution that does not include labelling instructions for sanitizing (a bleach product, for example), you must follow these steps in order:**

**(A) Washing with water and soap;**

**(B) Rinsing with clear water;**

**(C) Soaking in or spraying on a disinfecting solution for at least two minutes. Rinsing with cool water only those items that children are likely to place in their mouths; and**

**(D) Allowing the surface or item to air-dry.**

**(42) School-age child--A child who is five years of age and older, and who will attend school at or away from the child-care center in August or September of that year.**

**(43) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete the lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. Examples of this type of training include self-paced web-based training, written materials, or a combination of video or web-based and written materials.**

**(44) Special care needs--A child with special care needs is a child who has a chronic physical, developmental, behavioral, or emotional condition and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including the movement of large and/or small muscles, learning, talking, communicating, self-help, social skills, emotional well-being, seeing, hearing, and breathing.**

**(45) State or local fire marshal--A fire official designated by the city, county, or state government.**

**(46) Toddler--A child from 18 months through 35 months.**

**(47) Universal precautions--An approach to infection control where all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.**

**(48) Water activities--Related to the use of swimming pools, splashing/wading pools, sprinkler play, or other bodies of water.**

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 B, Administration and Communication

Division 1, Permit Holder Responsibilities

TAC Section Number(s) §746.201

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.

§746.201. What are my responsibilities as the permit holder?

You are responsible for the following:

(1) - (8)(No change.)

(9)Complying with the child-care licensing law found in Chapter 42 of the Human Resources Code, the applicable minimum standards, and other applicable rules in the Texas Administrative Code; [and]

(10)Reporting any Department of Justice substantiated complaints related to Title III of the Americans with Disabilities Act, which applies to commercial public accommodations, to DFPS**; and** [.]

**(11) Ensuring the total number of children in care at the center or away from the center, such as during a field trip, never exceeds the licensed capacity of the center.**

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 B, Administration and Communication

Division 2, Required Notifications

TAC Section Number(s) §746.301, §746.303

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.

§746.301. What changes regarding my child-care center must I notify Licensing about before making the change?

You must notify us in writing before:

(1) Changing **the address or** location **of the child care center**;

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

(7) Offering new services, relating to minimum standards found in this chapter, such as **a** **get-well care program, nighttime care,** transportation**,** or field trips;

(8) Planned closure of five consecutive days or more, during designated hours of operation, when the operation is not caring for children, with the exception of nationally recognized holidays; [or]

(9) Going out of business**; or** [.]

**(10) Sale or transfer of the child-care center ownership, including the incorporation of an existing center.**

§746.303. Must I notify Licensing of changes I make regarding the governing body or director of my child-care center?

Yes. You must notify us in writing, no later than five days after a change is made, regarding:

(1) [(2)] The governing body designee; [Sale or transfer of the child-care center ownership (including but not limited to incorporation of an existing operation);]

**(2)** [(3)] The board chair for a corporate facility or other executive officer of the governing body;

**(3)** [(4)] The address of the governing body or its designee; and

**(4)** [(5)] The center director.

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 B, Administration and Communication

Division 3, Required Postings

TAC Section Number(s) §746.405

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.

§746.405. What telephone numbers must I post and where must I post them?

(a) You must post the following telephone numbers:

(1) 911 or, if 911 is not available in your area, you must post the **telephone** numbers for:

(A) - (C) (No change.)

(2) (No change.)

(3) **The Texas Abuse and Neglect Hotline (1-800-252-5400)**  [DFPS child abuse hotline] ;

(4) **The local** [Nearest] Licensing office telephone number [and address]; and

(5) The child-care center **telephone number,** name, **and** address[, and telephone number].

(b) (No change.)

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

Issued in Austin, Texas, on .

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

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter B, Administration and Communication

Division 4, Operational Policies

TAC Section Number(s) §§746.501, 746.503, 746.505

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.

§746.501. What written operational policies must I have?

**(a)** You must develop written **operational** policies **and procedures** that at a minimum address each of the following:

(1) Hours, days, and months of operation;

(2) Procedures for **the** release of children;

(3) Illness and exclusion criteria;

(4) Procedures for dispensing medications or a statement that medication is not **dispensed** [given];

(5) Procedures for handling medical emergencies;

(6) Procedures for parental notifications;

(7) Discipline and guidance **that is consistent with Subchapter L of this title (relating to Discipline and Guidance). A copy of Subchapter L may be used for your discipline and guidance policy** [practices];

**(8) Suspension and expulsion of children;**

**(9) Safe sleep for infants 12 months old or and younger that is consistent with the rules in Subchapter H of this chapter (relating to Basic Requirements for Infants) that relate to sleep requirements and restrictions, including sleep positioning, and crib requirements and restrictions, including mattresses, bedding, blankets, toys, and restrictive devices;**

**(10)** [(8)] Meals and food service practices;

**(11)** [(9)] Immunization requirements for children**, including tuberculosis screening and testing if required by your regional Texas Department of State Health Services or local health authority**;

[(10) Tuberculin testing requirements;]

**(12)** [(11)] Hearing and vision screening requirements;

**(13)** [(12)] Enrollment procedures, including how and when parents will be notified of policy changes;

**(14)** [(13)] Transportation, if applicable;

**(15)** [(14)] Water activities, if applicable;

**(16)** [(15)] Field trips, if applicable;

**(17)** [(16)] Animals, if applicable;

**(18)** **Procedures for providing and applying, as needed, insect repellant and sunscreen, including what types will be used, if applicable;**

**(19)** [(17)] The procedures for parents to review and discuss with the child-care center director any questions or concerns about the policies and procedures of the child-care center;

[(18) The procedures for parents to visit the child-care center at any time during the child-care center's hours of operation to observe their child, the child-care center's operation, and program activities, without having to secure prior approval;]

(**20)** [(19)] The procedures for parents to participate in the child-care center's operation and activities;

**(21)** [(20)] The procedures for parents to review a copy of [the minimum standards and] the child-care center's most recent Licensing inspection report **and how the parent may access the minimum standards online**;

**(22)** [(21)] Instructions on how a parent may contact the local Licensing office, **Texas Abuse and Neglect Hotline** [DFPS child abuse hotline], and DFPS website;

[(22) Your method of informing the parents that under the Texas Penal Code, any area within 1000 feet of a child-care center is a gang-free zone, where criminal offenses related to organized criminal activity are subject to harsher penalty. Your method may include:]

[(A) providing this information in the parent's handbook;]

[(B) distributing the information in writing to the required recipients; or]

[(C) informing parents verbally as part of the individual or group parent orientation;]

(23) Your emergency preparedness plan;

(24) Your provisions to provide a comfortable place with **an adult sized** [a] seat in your center or within a classroom that enables a mother to breastfeed her child. In addition, your policies must inform parents that they have the right to breastfeed or provide breast milk for their child while in care;

(25) Preventing and responding to abuse and neglect of children, including:

(A) Required annual training for employees;

(B) Methods for increasing employee and parent awareness of issues regarding child abuse and neglect, including warning signs that a child may be a victim of abuse or neglect **and factors indicating a child is at risk for abuse or neglect**;

(C) Methods for increasing employee and parent awareness of prevention techniques for child abuse and neglect;

(D) Strategies for coordination between the center and appropriate community organizations; and

(E) Actions that the parent of a child who is a victim of abuse or neglect should take to obtain assistance and intervention**, including procedures for reporting child abuse or neglect**;

(26) Procedures for conducting health checks, if applicable; and

(27) Vaccine-preventable diseases for employees, unless your center is in the home of the permit holder. The policy must address the requirements outlined in §746.3611 of this title (relating to What must a policy for protecting children from vaccine-preventable diseases include?).

**(b) You must also inform the parents that:**

**(1) They may visit the child-care center at any time during the child-care center's hours of operation to observe their child, the child-care center's operation, and program activities, without having to secure prior approval; and**

**(2) Under the Texas Penal Code any area within 1000 feet of a child-care center is a gang-free zone, where criminal offenses related to organized criminal activity are subject to a harsher penalty. You may inform the parents by:**

**(A) Providing this information in the operational policies;**

**(B) Distributing the information in writing to the parents; or**

**(C) Informing the parents verbally as part of an individual or group parent orientation.**

§746.503. Must I provide parents with a copy of my operational policies?

Yes. **On or before the date of admission, the parents** [Parents] must sign a child-care enrollment agreement or other similar **documents, which must include** [document that includes] at least the operational policies listed in this division [on or before the date of admission]. You must keep this signed document in the child's record or at least one for each family, if siblings are enrolled at the same time.

§746.505. What must I do when I change an operational policy or an item in the child-care enrollment agreement?

**When you change an operational policy or your child-care enrollment agreement, you** [You] must notify**:**

**(1) Your employees of any changes; and**

**(2) The** parents in writing of any changes [to your operational policies and enrollment agreement]. At least one copy of the updated operational policies **or child-care enrollment agreement** must be signed and dated for each family[.You must keep the updated information] **and kept** in the child's record.

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

Issued in Austin, Texas, on .

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

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter B, Administration and Communication

Division 4, Operational Policies

TAC Section Number(s) §746.507

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.

§746.507. Must I provide a copy of my operational policies to my employees?

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) §§746.603, 746.613, 746.615, 746.623, 746.631

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

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

The amendments and new section implement HRC §42.042.

§746.603. What records must I have for children in my care and how long must I keep them?

(a) You must maintain the following records for each child enrolled in your child-care center:

(1) Child-care enrollment agreement specified in §746.503 of this title (relating to Must I provide parents with a copy of my operational policies?);

(2) Admission information **specified in §746.605 of this title (relating to What admission information must I obtain for each child?)**;

(3) Statement of the child's health from a health-care professional;

(4) Immunization records;

(5) **Tuberculosis screening and** [Tuberculin] testing information, if **required by your regional Texas Department of State Health Services or local health authority** [applicable];

(6) Hearing and vision screening results, if applicable;

(7) Licensing *Incident/Illness Report* form**, if applicable**;

(8) Sign-in and sign-out logs;

(9) Medication administration records**, if applicable**; and

(10) A copy of any health-care professional recommendations or orders for providing specialized medical assistance to the child. **In some instances minimum standards allow for a deviation from a minimum standard with written documentation from a health care professional. You must also maintain this written documentation.**

(b) (No change.)

§746.613. What immunizations **must a child** [are children] in my care [required to] have?

(a) Each child enrolled or admitted to child-care centers must meet **and continue to meet** applicable immunization requirements specified by the Texas Department of State Health Services **(DSHS)** [in 25 TAC Chapter 97, Subchapter B (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education)]. This requirement applies to all children in care from birth through 14 years of age.

(b) **You must maintain current immunization records for each child in your care, including any immunization exemptions or exceptions.**

**(c)** **All** [Except as otherwise provided in this division, all] immunizations required for the child's age must be completed by the date of admission**, unless:**[.]

**(1) The child is exempt or excepted from an immunization, and the**

**exemption or exception is verified by the date of admission; or**

**(2) The child is homeless or a child in foster care and is**

**provisionally admitted for up to 30 days if evidence of immunization is not available. You should immediately refer the child to an appropriate health-care professional to obtain the required immunizations. The DSHS rule at 25 TAC §97.66 (relating to Provisional Enrollment for Students) establishes the guidelines for a provisional enrollment.**

**§746.615. What exemptions or exceptions are there concerning immunization requirements?**

**(a) A child may be exempt from immunization requirements for a medical reason or reason of conscience, including a religious belief. To claim an exemption, the person applying for the child's admission must meet criteria specified by the Department of State Health Services (DSHS) rule at 25 TAC §97.62 (relating to Exclusions from Compliance).**

**(b) For some diseases, a child who previously had a disease and is accordingly naturally immune from it may qualify for an exception to the immunization requirements for the disease. To claim this exception, the person applying for the child's admission must meet the criteria specified by the DSHS rule at 25 TAC §97.65 (relating to Exceptions to Immunization Requirements).**

§746.623. What documentation is acceptable for immunization records?

(a) Documentation may be the original immunization record or a photocopy. An official immunization record generated from a state or local health authority, such as a registry, or a record received from school officials including a record from another state, is also acceptable.

(b) The immunization record must include:

(1) The child's name and birth date;

(2) The **type of vaccine and the** number of doses [and vaccine type];

(3) The month, day, and year the child received each vaccination; and

(4) The **name, address, and** signature **of the** [or stamp of the physician or other] health **care** professional **that administered the vaccine** [validating the record]. **The following are acceptable as a signature:**

**(A) A rubber stamp signature or electronic signature; or**

**(B) Another health-care professional's documentation of the**

**immunization, as long as the name and address of the**

**health-care professional that administered the vaccine is documented.**

**(c) The signature of the health-care professional that administered the vaccine is not required for an official immunization record generated from a state or local health authority or a record received from school officials.**

§746.631. Must I have a system for signing children in and out of my care?

(a) Yes. You must have a **tracking** system for [tracking] each child coming and going from your child-care center throughout the day. This tracking system must include the name of each child**;**[,] the date, time of arrival**,** and time of departure**;**[,] and **the** employee or parent's initials or other unique **identifier** [identification] code.

(b) All caregivers must have access to the system to determine which children are in care during their work shift, changes in caregivers, and emergency evacuations.

(c) You must keep **the** tracking information for the previous three months and make it available to Licensing for review upon request.

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) §§746.615, 746.617, 746.619, 746.621

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.615. Are there exemptions for immunization requirements?

§746.617. Where can I find more information on immunizations?

§746.619. When must I have the child's immunization record on file?

§746.621. May I admit a child who is not current on immunizations?

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 2, Records of Accidents and Incidents

TAC Section Number(s) §746.705

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.

§746.705. Must someone from my child-care center sign the *Incident/Illness Report* form?

Yes. [The] **After the** **caregiver completes the form, the** director of the child-care center, or **if the director is not available,** the person in charge **of the center** must sign and date the completed report.

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 2, Records of Accidents and Incidents

TAC Section Number(s) §746.703

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.

§746.703. Where can I get a copy of Licensing's *Incident/Illness Report* form?

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 3, Records That Must be kept on File at the Child-Care Center

TAC Section Number(s) §746.801, §746.803

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.

§746.801. What records must I keep at my child-care center?

You must maintain and make the following records available for our review upon request, during hours of operation. Paragraphs **(14), (15), and (16) [**(18), (19), and (20)] are optional, but if provided, allow Licensing to avoid duplicating the evaluation of standards that have been evaluated by other state agencies within the past year:

(1) Children's records, as specified in Division 1 of this subchapter (relating to Records of Children);

(2) Infant feeding instructions, if applicable;

(3) Personnel and training records, unless on file at a central administrative location;

(4) Licensing *Child-Care Center Director's Certificate*;

(5) Attendance records **or time sheets listing all days and hours worked** for **each** **employee**[employees];

(6) [Children's program activity plans for each age group;]

[(7)] Verification of liability insurance or notice of unavailability, if applicable;

[(8) Proof of request for all background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks);]

[(9) Daily menus;]

**(7)** [(10)] Medication records**, if applicable**;

**(8)** [(11)] Playground maintenance checklists;

**(9)** [(12)] Pet vaccination records, if applicable;

**(10)** [(13)] **Safety** [Fire safety] documentation for emergency drills, fire extinguishers, and smoke detectors;

[(14) Most recent Licensing inspection report, letter, or notice requiring posting;]

**(11)** [(15)] Most recent fire inspection report**, including any written approval from the fire marshall to provide care above or below ground level, if applicable**;

**(12)** [(16)] Most recent sanitation inspection report;

**(13)** [(17)] Most recent gas inspection report, if applicable;

**(14)** [(18)] Most recent Department of State Health Services immunization compliance review form, if applicable;

**(15)** [(19)] Most recent Texas Department of Agriculture Child and Adult Care Food Program (CACFP) report, if applicable;

**(16)** [(20)] Most recent local workforce board Child-Care Services Contractor inspection report, if applicable;

**(17)** [(21)] Record of pest extermination, if applicable;

[(22) Written approval from the fire marshal to provide care above or below ground level, if applicable;]

**(18)** [(23)] Most recent DFPS form certifying that you have reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe children's products in use or accessible to children in the child-care center;

[(24) System to track when a child's care begins and ends daily;]

**(19)** [(25)] Documentation for cribs as specified in §746.2409**(a)(9)** of this title (relating to What specific safety requirements must my cribs meet?), if applicable; and

**(20)** [(26)] Documentation for vehicles specified in §746.5627 of this title (relating to What documentation must I keep at the child-care center for each vehicle used to transport children in care?), if applicable.

§746.803. How long must I keep [these] records at my child-care center?

(a) **Unless otherwise stated in this chapter, you** [You] must keep **each record that your child-care center is required to post and keep the** records at the [child-care] center for at least three months from the date the record was created[, unless otherwise stated in this chapter].

(b) You must keep training records for the current director and caregivers for at least the current and last full training year.

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) §746.903, §746.905

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.903. What additional personnel records must I maintain for my child-care center director?

§746.905. Must I maintain attendance records or time sheets on my employees?

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) §746.909

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.

§746.909. May Licensing access my personnel records?

Yes. Licensing staff must be given immediate access to all personnel records that document compliance with minimum standards. You must allow Licensing to **photograph, copy, or scan** [photocopy] these records if requested.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 1, Child-Care Center Director

TAC Section Number(s) §§746.1015, 746.1017, 746.1021, 746.1029, 746.1031, 746.1037, 746.1039, 746.1057

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.

§746.1015. What qualifications must the director of my child-care center licensed for 13 or more children meet?

(a) (No change.)

(b) Options (5) and (6) in subsection (a) of this section require periodic renewal **for the director** to remain qualified **as specified in §746.1053 of this title (relating to Will the director's certificate expire?) and §746.1055 of this title (relating to How often must an expiring certificate be renewed?)**.

§746.1017. What qualifications must the director of my child-care center licensed for 12 or fewer children meet?

(a) (No change.)

(b) Options (4) and (6) in subsection (a) of this section require periodic renewal **for the director to remain qualified as specified in §746.1053 of this title (relating to Will the director's certificate expire?) and §746.1055 of this title (relating to How often must an expiring certificate be renewed?)**.

§746.1021. What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?

(a) Only the following types of experience may be counted as experience in a licensed child-care center:

(1) Experience as a director, assistant director, or as a caregiver working directly with children[,obtained] in **a** [any] DFPS licensed **or certified** child-care center **(or similar type of day care center that was formerly licensed, certified, or accredited by DFPS)**[,whether paid or unpaid]; **and**

(2) [Experience as a director, assistant director, or caregiver working directly with children, whether paid or unpaid, in a DFPS licensed day-care center, group day-care home, kindergarten or nursery school, schools: grades kindergarten and above, drop-in care center, or in a DFPS alternatively accredited program; and]

[(3)] Experience as a director, assistant director, or caregiver working directly with children in a licensed or certified child-care center in another state or country.

(b) Only [the following types of] experience **as a primary caregiver or assistant caregiver working directly with children in a DFPS licensed or registered child-care home (or in a group day-care home that was formerly licensed by DFPS)** may be counted as experience in a licensed or registered child-care home**.**[:]

[(1) Experience as a primary caregiver or assistant caregiver working directly with children, whether paid or unpaid, in a DFPS licensed or registered child-care home;]

[(2) Experience as a director, assistant director, or caregiver working directly with children, whether paid or unpaid in a DFPS licensed group day-care home; or]

[(3) Experience as a primary caregiver of a DFPS registered family home.]

(c) You must have obtained all work experience in a full-time capacity or its equivalent in a part-time capacity. Full-time is defined as at least 30 hours per week. **The work experience may be paid or unpaid.**

§746.1029. What credit courses does Licensing recognize as **business** management?

Due to a large variation in credit course titles and content, it is impossible to list all courses that may be counted toward the **business** management requirement. **Business management** [Management] courses may include administration of a child-care facility, recreational leadership, accounting, goal and objective setting, performance planning and evaluation, management techniques, risk management and other administrative, management, or supervisory-related courses. Courses in office machines or computer training are not recognized as **business** management.

**§746.1031. What documentation must I provide to Licensing to show that my director has an acceptable child development and business management education?**

**If requested by Licensing, you must provide original transcripts, supporting documentation such as credit course catalog descriptions, or a course syllabus or outline to determine whether the course is recognized as child development or business management.**

§746.1037. May clock hours or **CEUs (**continuing education units**)** [(CEUs)] be substituted for **any of the** educational requirements [in any of the options specified] in this division?

**(a) Clock** [You may only substitute clock] hours or CEUs **may only be substituted** for **the** required credit hours in child development and business management.

**(b)** [You may substitute] 50 clock hours or five CEUs **may only be substituted** for **every** [each] three college credit hours required in child development and/or business management.

**(c) The documentation to verify the clock hours or CEUs must be as specified in §746.1329 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).**

§746.1039. What **additional** [kind of] documentation must I submit to Licensing to show my child-care center director is qualified and when must I submit it?

(a) **In addition to showing that your director meets the minimum qualifications for an employee (and minimum qualifications for a caregiver, if applicable), you** [You] must submit the following for each director at your child-care center:

(1) A completed Licensing *Personal History Statement* form specifying the education and experience of your designated director;

(2) [A completed Licensing *Request for Criminal History and Central Registry Check* form;]

[(3) A notarized Licensing *Affidavit for Applicants for Employment* form;]

[(4)] A completed Licensing *Governing Body*/*Director Designation* form; and

**(3)** [(5)] An original and current Licensing *Child-Care Center* *Director's Certificate* form; or an original college transcript or original training certificates which verify the educational requirements; and complete dates, names, addresses, and telephone numbers which support the required experience.

(b) You must submit the information to us:

(1) As part of a new application for a permit; **or** [and]

(2) Within **five** [ten] days of designating a new director.

§746.1057. What happens if **my director's credential expires** [I do not submit the documentation confirming the credential is current]?

We will give you a deadline **for your director** to submit the required documentation or **for you** to designate another qualified director. If your director allows the certificate to expire without submitting the required documentation**, then your center will** [and] no longer **meet the minimum standards** [meets requirements] for a child-care center director[, you violate minimum standards].

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 1, Child-Care Center Director

TAC Section Number(s) §§746.1019, 746.1031, 746.1033, 746.1035, 746.1041, 746.1043

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.1019. Are any directors exempt from the qualifications?

§746.1031. What are clock hours?

§746.1033. Must the trainer or provider of clock hours meet specific criteria?

§746.1035. What are CEUs?

§746.1041. What documentation must I have to prove that the person received the clock hours or CEUs?

§746.1043. What documentation must I provide to Licensing to show that my director has acceptable child development and business management education?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 2, Child-Care Center Employees and Caregivers

TAC Section Number(s) §§746.1101, 746.1103, 746.1113, 746.1115

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.1101. What is the difference between a child-care center employee and a child-care center caregiver?

§746.1103. Are there different personnel qualifications for employees and caregivers?

§746.1113. Do the caregiver qualifications specified in this division apply to a caregiver that was employed before May 1, 1985?

§746.1115. What does Licensing mean by the term "high school equivalent"?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 2, Child-Care Center Employees and Caregivers

TAC Section Number(s) §§746.1105, 746.1107, 746.1109

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.

§746.1105. What minimum qualifications must each of my child-care center employees meet?

Each child-care center employee [who is regularly or frequently present while children are in care] must:

(1) (No change.)

(2) Have a current record of a tuberculosis examination, showing **the employee is** [they are] free of contagious TB, if required by the regional Texas Department of State Health Services or local health authority;

(3) - (4) (No change.)

§746.1107. What additional minimum qualifications must each of my caregivers meet?

Except as otherwise provided in this division, each **caregiver** [employee counted in the child/caregiver ratio] must comply with minimum standards for employees and must:

(1) (No change.)

(2) Have a:

(A) High school diploma;

(B) High school equivalent**, including documentation:**

**(i) Of a program recognized by the Texas Education Agency (TEA) or other public educational entity in another state, which offers similar training on reading, writing, and math skills taught at the high school level, such as a General Educational Development (GED) certificate; or**

**(ii) That verifies home-schooling that adequately addresses**

**basic competencies that would be otherwise met by a high-school diploma or GED including basic reading, writing, and math skills**; or

(C) (No change.)

(3) Complete eight hours of **the required 24 hours of** pre-service training, as specified in Division 4 of this subchapter (relating to Professional Development) before being counted in the child/caregiver ratio.

§746.1109. Under what circumstances may I employ a person under the age of 18 or a person who does not have a high school diploma or equivalent as a caregiver?

(a) You may employ a 16 or 17 year old who has a high school diploma or its equivalent and count the person in the child/caregiver ratio, provided that:

(1) You don't leave the person alone with **sole responsibility for** or in charge of **an individual child, a group of children, or** the child-care center [or a group of children];

(2) (No change.)

[(3) The person has completed a child-care-related career program, which the

Texas Education Agency or another state or federal agency approves].

**(3) The person has completed a child-care-related career program, which the Texas Education Agency (including a charter school), the Texas Private School Accreditation Commission, or another similar state or federal agency approves.**

(b) You may employ a 16,17, or 18 year old who attends high school but has not graduated and count the person in the child/caregiver ratio, provided that:

(1) You don't leave the person alone with **sole responsibility** **for** or in charge of **an individual child,** a group of children**,** or the child-care center;

(2) (No change.)

[(3) The person is currently enrolled in or has completed a child-care-related career program, which the Texas Education Agency or another state or federal agency approves; and]

**(3)** **The person is currently enrolled in or has completed a child-care-related career program, which:**

**(A) The Texas Education Agency (including a charter school), the Texas**

**Private School Accreditation Commission, or another similar state or federal agency approves; or**

**(B) A home-school approves, and the student completes all 24 hours of**

**pre-service training before being placed in a room with children; and**

(4) The person is expected to obtain a high school diploma **or equivalent**.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 3, General Responsibilities for Child-Care Center Personnel

TAC Section Number(s) §746.1203

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.

§746.1203. What additional responsibilities do my caregivers [counted in the child/caregiver ratio] have?

In addition to the responsibilities for employees specified in this division, caregivers [counted in the child/caregiver ratio] must:

(1) - (5) (No Change.)

(6) Be free from activities not directly involving the teaching, care, and supervision of children, such as:

(A) Administrative and clerical **duties** [functions] that take the caregiver's attention away from the children;

(B) (No Change.)

(C) Janitorial duties[, such as mopping, vacuuming, and cleaning restrooms. Sweeping up after an activity or mopping up spills may be necessary for the children's safety and are not considered janitorial duties]; and

(D) Personal use of electronic devices, such as cell phones, MP3 players, **tablets,** and video games;

(7) Interact [routinely] with children in a positive manner;

(8) - (11) (No Change.)

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 4, Professional Development

TAC Section Number(s) §§746.1301, 746.1315, 746.1316, 746.1317, 746.1319, 746.1323

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

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

The amendments and new sections implement HRC §42.042.

**§746.1301. What training must I ensure that my employees and caregivers have?**

**You must make sure that employees and caregivers have the training required in the following chart**

|  |  |
| --- | --- |
| **Type of training:** | **Who is required to take the training?** |
| **(1) Orientation to your child care center within seven days of employment;** | **All employees.** |
| **(2) 24 clock hours of pre-service training:**  **(A) A caregiver must complete eight hours before the caregiver may be counted in the child/caregiver ratio; and**  **(B) A caregiver must complete the remaining 16 hours within 90 days of employment;** | **Only caregivers, although a caregiver may be exempt from pre-service training as specified in §746.1307 of this title (relating to Are any caregivers exempt from the pre-service training?).** |
| **(3) 24 clock hours of annual training;** | **Only caregivers.** |
| **(4) CPR and first-aid training; and** | **Employees and/or caregivers as specified in §746.1315 of this title (relating to Who must have first-aid and CPR training?).** |
| **(5) Transportation training.** | **Any employee or caregiver who transports a child whose chronological or developmental age is younger than nine years old, as specified in §746.1316 of this title (relating to What additional training must a person have in order to transport a child in care?).** |

§746.1315. Who must have first-aid and CPR training?

(a) - (c) (No Change.)

(d) CPR [and first-aid] training must not be obtained through self-instructional training.

§746.1316. What additional training must **an employee** [a person] have in order to transport a child in care?

(a) An employee [or owner] must complete two hours of annual training on transportation safety in order to transport a child whose chronological or **developmental** [development] age is younger than nine years old. This training is in addition to other required training hours.

(b) The **employee** [person] must obtain these two hours of transportation safety training prior to transporting children.

§746.1317. Must the training for my caregivers and the director meet certain criteria?

(a) Training may include clock hours or CEUs provided by:

(1) A training provider registered with the Texas Early **Childhood Professional** [Care and Education Career] Development **System Training** [System's Texas Trainer] Registry, maintained by the Texas Head Start State Collaboration Office;

(2) - (6) (No Change.)

(7) A person who has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) Has **a current** [been awarded a] Child Development Associate (CDA) credential; or

(B) (No Change.)

(b) (No Change.)

(c) Self-instructional training may not be used for CPR [or first-aid] certification.

(d)All training**, including instructor-led and self-instructional training,** must include:

(1) - (4) (No Change.)

§746.1319. Does Licensing approve training resources or trainers for training hours?

No. We do not approve or endorse training resources or trainers for training hours**; however you must** [. You should, however,] ensure you and your employees receive [relevant] training **that:**

**(1) Meets the criteria specified in §746.1317 of this title (relating to Must the training for my caregivers and the director meet certain criteria?);** [from reliable resources, in]

**(2) The** **relevant to the** topics specified in this division[,]**;** and

**(3) The** [that] participants receive original documentation of completion, as specified in this division.

§746.1323. If I hire a caregiver or a director that received training at another child day-care operation, may these hours count towards the annual training requirement at my center?

If the caregiver or director is able to provide documentation of training as specified in §746.1329 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?) obtained from another child day-care operation that we regulate, within two months before coming to work for your child-care center, this training may apply toward the annual training requirement. [If you apply this training to the annual training requirement, you must adjust the annual training year due dates for this person accordingly.]

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 4, Professional Development

TAC Section Number(s) §746.1301, §746.1325

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.1301. What training must I ensure that my employees have?

§746.1325. What is self-instructional and instructor-led 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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 5**, Substitutes,** Volunteers, and Contractors

TAC Section Number(s) §746.1401, §746.1403

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.1401. What minimum standards must substitutes comply with?

§746.1403. What minimum standards must volunteers or any person under contract with the center comply with?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter D, Personnel

Division 5, **Substitutes,** Volunteers, and Contractors

TAC Section Number(s) §746.1401

Proposed Action

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The new section 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 new section implements HRC §42.042.

**§746.1401. What minimum standards must substitutes, volunteers, or persons under contract with my center comply with?**

**(a) For purposes of this rule:**

**(1) Persons under contract with your center are "contractors"; and**

**(2) It does not matter if a substitute, volunteer, or contractor is paid or unpaid.**

**(b) Substitutes not counted in the child/caregiver ratio must comply with minimum standards that apply to employees, except as otherwise provided in this division.**

**(c) Volunteers and contractors who are regularly or frequently present at the child-care center but not counted in the child/caregiver ratio must comply with minimum standards that apply to employees.**

**(d) Substitutes, volunteers, and contractors who are counted in the child/caregiver ratio must comply with minimum standards that apply to employees and caregivers, except as otherwise noted in subsection (e) of this section.**

**(e) Volunteers, including parents, who only supplement the ratios for field trips and water activities do not have to comply with the minimum standards that apply to employees and caregivers, but they do have to comply with the relevant minimum standards in Subchapter E of this chapter (relating to Child/Caregiver Ratios and Group Sizes).**

**(f) Substitutes, volunteers, and contractors who do not meet caregiver qualifications must never be left alone with children.**

**(g) All substitutes, volunteers (except for those volunteers noted in subsection (e) of this section), and contractors must complete orientation before**

**beginning the relevant duties.**

**(h) For substitutes, volunteers, and contractors counted in the child/caregiver ratio, the remaining 16 hours of pre-service training (the first eight hours must be completed before being counted in the child/caregiver ratio) must be completed within 90 days of beginning the relevant caregiver duties. If the person completes the pre-service training after the 90 day period, the person must cease performing any caregiver duties at the center until the person completes the pre-service 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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter F, Developmental Activities and Activity Plan

TAC Section Number(s) §746.2205

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.

§746.2205. What **must** [should] the activity plan include?

(a) The written activity plan must include at least the following:

(1) - (6) (No Change.)

(7) Both**:**

**(A) Child-initiated** [child-initiated] **activities, which are those activities that the child chooses on the child's own initiative, and that foster the child's independence. Child initiated activities require equipment, materials, and supplies to be within the reach of a child;** and

**(B) Caregiver-initiated** [caregiver-initiated] activities**, which are those activities that are directed or chosen by the caregiver**;

(8) - (9) (No Change.)

(b) (No Change.)

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter H, Basic Care Requirements for Infants

TAC Section Number(s) §§746.2401, 746.2403, 746.2405, 746.2407, 746.2409, 746.2411, 746.2413, 746.2415, 746.2417, 746.2419, 746.2421, 746.2425, 746.2426, 746.2427, 746.2428, 746.2431

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The amendments and 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 amendments and new sections implement HRC §42.042.

§746.2401. What are the basic care requirements for infants?

Basic care for infants must include:

(1) (No Change.)

(2) Individual attention given to each **infant** [child] including playing, talking, cuddling, and holding;

(3) Holding and comforting **an infant** [a child] who is upset;

(4) (No Change.)

(5) Talking to **infants** [children] as they are fed, changed, and held, such as naming objects, singing, or saying rhymes;

(6) Ensuring the environment is free of objects that may cause choking in **infants or toddlers** [children younger than three years]; and

(7) (No Change.)

§746.2403. How must I arrange the infant care area?

The room arrangement of the infant care area must:

(1) Make it possible for caregivers to[ see and/or] hear all **infants** **and see all** **infants** [children] at a glance**,** and be able to intervene when necessary;

(2) - (6) (No Change.)

§746.2405. What furnishings and equipment must I have in the infant care area?

Furnishings and equipment for infants must include at least the following:

(1) An adult-sized rocker or chair;

(2) An individual crib **to sleep in** for each non-walking infant **younger than 12 months of age**;

(3) - (4) (No Change.)

(5) A sufficient number of toys to keep **the infants** [children] engaged in activities.

§746.2407. Must the equipment I use for infants be equipped with safety straps?

If you use high chairs, swings, strollers, infant carriers, [rockers and] bouncer seats, or similar types of equipment, they must be equipped with safety straps that must be fastened whenever **an infant** [a child] is using the equipment.

§746.2409. What specific safety requirements must my cribs meet?

(a) All **full-size and non-full-size** cribs must have:

(1) A firm, flat mattress that snugly fits the sides of the crib **and that is designed specifically for use with this crib model number**. The mattress must not be supplemented with additional foam material or pads.

(2) - (6) (No Change.)

(7) No cutout areas in the headboard or footboard that would entrap **an infant's** [a child's] head or body;

(8) Drop gates, if present, which fasten securely and cannot be opened by a child; [and]

(9) Documentation that each crib meets the applicable federal rules at Title 16, Code of Federal Regulations, Parts 1219 or 1220, concerning “Safety Standards for Full-Size Baby Cribs” and “Safety Standards for Non-Full-Size Baby Cribs,” respectively, or documentation that each crib is a medical device listed and registered with the U.S. Food and Drug Administration[.]**; and**

**(10) A label with the infant's name. As an alternative, you may label cribs with a number and have a number/infant assignment map available.**

(b) You must sanitize each crib before a different **infant** [child] uses it and when soiled.

(c) You must never leave **an infant** [children] in the crib with the drop gatedown.

**§746.2411. Are play yards allowed?**

**You may use a play yard, which is a mesh or fabric sided crib, if it meets the following safety requirements:**

**(1) The play yards must be used according to the manufacturer's instructions, including the cleaning of the play yards;**

**(2) Play yards must have:**

**(A) A firm, flat mattress that snugly fits the sides of the play yard and that is designed by the manufacturer specifically for this play yard model number. The mattress must not be supplemented with additional foam material or pads;**

**(B) Sheets that fit snugly and do not present an entanglement hazard;**

**(C) A mattress that is waterproof or washable;**

**(D) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;**

**(E) A minimum height of 22 inches from the top of the railing to the mattress support at its lowest level;**

**(F) Folded sides that securely latch in place when raised;**

**(G) For play yards that have mesh sides, mesh openings that are 1/4 inch or less;**

**(H) Mesh or fabric that is securely attached to the top rail, side rail, and floor plate; and**

**(I) A label with the infant's name. As an alternative, you may label play yards with a number and have a number/infant assignment map available; and**

**(3) You must never leave an infant in a play yard with a side folded down.**

§746.2413. Are stacking wall cribs allowed?

**You may use a stacking [**Yes. Stacking] wall **crib that meets the** [cribs must meet the] requirements in §746.2409 of this title (relating to What specific safety requirements must my cribs meet?)**,** and **you**:

(1) **Do not stack more than** [Are limited to] two[stacked] cribs;

(2) **Only use a stacked crib for an infant who cannot stand or is able to stand without hitting the infant's head on either the top crib or the ceiling above the top crib;**

**(3)** **Use the crib** [Must be used] according to manufacturer's directions; and

**(4)** [(3)] **Securely latch the crib's doors/gates** [Doors/gates must be securely latched] anytime **an infant** [a child] is in the crib.

§746.2415. **What** [Are] specific types of equipment **am I** prohibited **from using** [for use] with infants?

**You may not use the** [Yes. The] following [list of] equipment **for infants**, **which has been** identified as unsafe for infants by the Consumer Product Safety Commission and the American Academy of Pediatrics[, must not be used in the child-care center]:

(1) Baby walkers**, which are devices that allow an infant to sit inside a walker equipped with rollers or wheels and move across the floor**;

(2) Baby **doorway** [bungee] jumpers**, which are devices that allow an infant to bounce while supported in a seat by an elastic "bungee cord" suspended from a doorway**;

(3) - (5) (No Change.)

(6) Soft or loosebedding such as blankets, sleep positioning devices,stuffed toys, quilts, pillows, bumper pads, and comforters must not be used in cribs for **infants** [children] youngerthan 12 months of age.

§746.2417. What activities must I provide for infants?

Activities for infants must include at least the following:

(1) (No change.)

(2) **Multiple opportunities** [Opportunities] to explore **each day that are** outside **of** the crib or **any restrictive device** [other confining equipment multiple times each day];

(3) - (8) (No change.)

§746.2419. Are there specific requirements for feeding infants?

Yes. You must:

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

(3) Never prop **or support** bottles **with some object**. The **infant** [child] or an adult must hold the bottle;

(4) (No change.)

(5) Ensure **infants** [children] no longer being held for feeding are fed in a safe manner;

(6) Label bottles and training cups with the **infant's** [child's] first name and initial of last name;

(7) Never allow **infants** [children] to walk around with or sleep with a bottle or training cup;

(8) - (9) (No change.)

§746.2421. **What** [Must I obtain] written feeding instructions **must I obtain** for **an infant** [children] not ready for table food?

(a) [Yes.] For **an infant** **who is** [children] not yet ready for table food, you must obtain and follow written feeding instructions that are signed and dated by the **infant's** [child's] parent or physician.

(b) You must review and update the feeding instructions with the parent every 30 days until the **infant** [child] is able to eat table food.

§746.2425. How long are infants allowed to remain in their cribs after awakening?

An infant may remain in the crib [or other confining equipment] for up to 30 minutes after awakening, as long as the infant is content and responsive.

**§746.2426. May I allow infants to sleep in a restrictive device?**

**No. You may not allow an infant to sleep in a restrictive device. If an infant falls asleep in a restrictive device, the infant must be removed from the device and placed in a crib as soon as possible.**

§746.2427. Are infants required to sleep on their backs?

Infants not yet able to turn over on their own must be placed in a face-up sleeping position **in the infant's own crib**, unless **you have a written statement** [the child's parent presents written documentation] from a health-care professional stating that a different sleeping position is **medically necessary** [allowed or will not harm the infant].

§746.2428. May I swaddle an infant to help the infant sleep?

No. You may not lay a swaddled infant down to sleep or rest on any surface at any time **unless you have a written statement from a health-care professional stating that swaddling a specific child for sleeping purposes is medically necessary**.

§746.2431. Must I share a daily report with parents for each infant in my care?

You must provide a daily written **or electronic** report to the **infant's** [child's] parent when **or by** the **time the infant** [child] is picked up from the child-care center. The report must contain:

(1) Times the **infant** [child] slept;

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

(4) **Infant's** [Child's] general mood for the day; and

(5) A brief summary of the activities in which the **infant** [child] participated.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter H, Basic Care Requirements for Infants

TAC Section Number(s) §746.2411

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.

§746.2411. Are mesh cribs or port-a-cribs allowed?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter H, Basic Care Requirements for Toddlers

TAC Section Number(s) §§746.2501, 746.2505, 746.2507, 746.2509

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.

§746.2501. What are the basic care requirements for toddlers?

Basic care for toddlers must include:

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

(3) Individual attention given to each **toddler** [child] including playing, talking, and cuddling;

(4) Holding and comforting a **toddler** [child] who is upset; and

(5) Ensuring the environment is free of objects that may cause choking in **infants or toddlers** [children younger than three years of age].

§746.2505. What furnishings and equipment must I provide for toddlers?

Furnishings and equipment for toddlers must include at least the following:

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

(3) Containers or low shelving **that are accessible to toddlers,** so **toddlers** [items children] can safely **obtain the items** [use] without **adult intervention** [direct supervision are accessible to children]; and

(4) **Bottles and training** [Training] cups, if used, **must be** [that are]:

(A) Labeled with the **toddler's** [child's] first name and initial of last name or otherwise individually assigned to each **toddler** [child; and/or];

(B) Cleaned and sanitized between each use**; and**

**(C) Used for drinking and feeding, and never allow toddlers to sleep with or walk around with a bottle or training cup.**

§746.2507. What activities must I provide for toddlers?

Activities for toddlers must include at least the following:

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

(7) Opportunities for social/emotional development. Examples of age-appropriate equipment or activities include dress-up clothes and accessories, housekeeping equipment, unbreakable mirrors, washable dolls with accessories, items for practicing buttoning, zipping, lacing**,** and snapping, and baskets, tubs, and tote bags (not plastic bags) for carrying and toting; **and**

(8) Opportunities to develop self-help skills such as toileting, hand washing, and feeding**.**[;]

[(9) Regular meal and snack times; and]

[(10) Supervised naptimes.]

§746.2509. Must I share a daily report with parents for each toddler in my care?

No, however you must have a plan for personal contact with parents that provides for an exchange of information regarding observations, comments, and concerns regarding their **toddler** [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.

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter J, Basic Care Requirements for Pre-Kindergarten Age Children

TAC Section Number(s) §746.2607

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.

§746.2607. What activities must I provide for pre-kindergarten age children?

Activities for pre-kindergarten age children must include at least the following:

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

(7) Opportunities for social/emotional development. Examples of age-appropriate equipment or activities include dress-up clothes and accessories, mirrors, dolls, simple props for different themes, puppets, transportation toys, play animals, and table games; **and**

(8) Opportunities to develop self-help skills such as toileting, hand washing, returning equipment to storage areas or containers, and serving and feeding**.**[;]

[(9) Regular meal and snack times; and]

[(10) Supervised naptimes.]

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter K, Basic Care Requirements for **School-Age** [School-age] Children

TAC Section Number(s) §746.2707

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.

§746.2707. What activities must I provide for school-age children?

Activities for school-age children must include at least the following:

(1) - (5) (No change.)

(6) Opportunities for active play both indoors and outdoors. Examples of age-appropriate equipment or activities include active games such as tag and Simon says, dancing and creative movement to music and singing, simple games and dramatic or imaginary play that encourages running, stretching, climbing, and walking; **and**

(7) Opportunities for social/emotional development. Examples of age-appropriate equipment or activities include dolls with detailed, realistic accessories; role-play materials, including real equipment for library, hospital, post office, costumes, makeup and disguise materials; puppets and puppet show equipment; transportation toys, such as small vehicles or models; play and art materials; nature materials; and human and animal figurines**.**[;]

[(8) Regular meal and snack times; and]

[(9) Naptimes, or a period of rest for those children too old to nap, during which children should be supervised according to §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).]

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter L, Discipline and Guidance

TAC Section Number(s) §§746.2801, 746.2809, 746.2813

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.2801. To what extent may caregivers discipline the children in their care?

§746.2809. Must I have a written discipline and guidance policy?

§746.2813. How often must I update my written discipline and guidance policy?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter L, Discipline and Guidance

TAC Section Number(s) §746.2803, §746.2805

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.

§746.2803. What methods of discipline and guidance may a caregiver use?

**Discipline must be:**

**(1) Individualized and consistent for each child;**

**(2) Appropriate to the child's level of understanding;**

**(3) Directed toward teaching the child acceptable behavior and self-control; and**

**(4)** A [caregiver may only use] positive **method** [methods] of discipline and guidance that encourage self-esteem, self-control, and self-direction, which include at least the following:

**(A)** [(1)] Using praise and encouragement of good behavior instead of focusing only upon unacceptable behavior;

**(B)** [(2)] Reminding a child of behavior expectations daily by using clear, positive statements;

**(C)** [(3)] Redirecting behavior using positive statements; and

**(D)** [(4)] Using brief supervised separation or time out from the group, when appropriate for the child's age and development, which is limited to no more than one minute per year of the child's age.

§746.2805. What types of discipline and guidance or punishment are prohibited?

There must be no harsh, cruel, or unusual treatment of any child. The following types of discipline and guidance are prohibited:

(1) -(7) (No change.)

(8) Placing a child in a locked or dark room, bathroom, or closet [with the door closed]; and

(9) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age**, including requiring a child to remain in a restrictive device**.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter M, Naptime

TAC Section Number(s) §746.2905, §746.2911

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.

§746.2905. Are children required to sleep during this time?

No. You must not**:**

**(1) Force** [force] a child to sleep or put anything in or on a child's head or body to force the child to rest or sleep**; or**

**(2) Confine a child in a restrictive device to make the child rest or sleep**.

§746.2911. May I **lower the lighting in** [darken] the room while children are sleeping?

Yes. You may lower the lighting, provided there is adequate lighting to allow visual supervision of all children in the group at all times**. Lighting in a room is adequate if a person's eyes do not need to adjust for the person to be able to see upon entering the room.**

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter N, Field Trips

TAC Section Number(s) §746.3005

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.

§746.3005. Must I have additional caregivers present to take children on a 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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter O, Get-Well Care Program

TAC Section Number(s) §§746.3117, 746.3119, 746.3123

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.

§746.3117. Do caregivers in my get-well care program require special training [or qualifications]?

Yes, in addition to the **orientation, pre-service training, and annual training required of caregivers in this chapter** [regular caregiver qualifications], **all** get-well care program caregivers must:

(1) Have current certification in CPR and first aid, including rescue breathing and choking**, notwithstanding the training specified in §746.1315 of this title (relating to Who must have first-aid and CPR training?)**; and

(2) Have five additional hours of annual training in **prevention and control of communicable diseases and care of ill children** [general infection control procedures, recognition and care of children with mild childhood illnesses, and child development activities for children who are ill] for a total of **29** [20] hours per year.

§746.3119. May the director of my well child-care program also direct my get-well care program?

Yes, although the director of your get-well care program must:

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

(4) Have ten additional hours of annual training in prevention and control of communicable diseases[,] and care of ill children[,] for a total of **40** [30] hours per year.

§746.3123. Must my get-well care program follow any special handling procedures?

Yes. **In addition to following the minimum standards noted in this Chapter, including Subchapter R (relating to Health Practices), you** [You] must follow these [handling] procedures when providing get-well care:

(1) - (5) (No change.)

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter P, Nighttime Care

TAC Section Number(s) §746.3201, §746.3203

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.

§746.3201. What is nighttime care?

(a) (No change.)

(b) Nighttime care does not include the occasional sleep-over program offered at infrequent intervals. [Notify us before offering either program.]

§746.3203. May I provide nighttime care to children at my child-care center?

(a)  **You** [Yes, you] may care for children both during the day and night if we approve it. Even then, a child may only be in care for:

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

(b) You cannot exceed these limits**.** [without getting a license for a residential child-care operation].

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter Q, Nutrition and Food Service

TAC Section Number(s) §746.3309, §746.3313

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.

§746.3309. May parents provide meals and/or snacks for their children instead of my child-care center providing these?

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

(d) You must ensure [meals and] snacks provided by a parent and shared with other children meet the needs of children who require special diets.

§746.3313. **Can I make substitutions and/or rotate the** [Must I post and maintain] daily menus?

Yes[. You must]:

(1) **Substitutions** [Post daily menus showing all meals and snacks prepared and served by the child-care center where parents and others can see them. Substitutions must be] of comparable food value **may be made to the daily menu, but you must keep**[. Keep] a record of any substitutions made; **and**

[(2) Date menus and keep copies for review for three months; and]

**(2)**[(3)] **You may** [If you] rotate menus, **but you must** keep a record of which menu was used for each date.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter R, Health Practices

Division 1, Environmental Health

TAC Section Number(s) §§746.3401, 746.3405, 746.3415, 746.3419, 746.3420, 746.3421

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

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

The amendments and new section implement HRC §42.042.

§746.3401. Must my child-care center have an annual sanitation inspection?

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

(c) If an inspection is not available from a local sanitation official, you must:

(1) Obtain documentation from a [state or] local sanitation official or county judge stating that an inspection is not available; and

(2) (No change.)

§746.3405. Do I have to make corrections called for in the report?

**Yes** [If required], you must comply with corrections, restrictions, or conditions specified by the inspector in the sanitation report, letter, or checklist.

§746.3415. When must employees wash their hands?

Employees must wash their hands:

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

(11) After eating, drinking, or smoking; [and]

(12) After using any cleaners or toxic chemicals**; and**

**(13) After removing gloves**.

§746.3419. How must children and employees wash their hands?

Children 18 months of age and older and employees must wash their hands with soap and running water. [Pre-moistened towelettes or wipes and waterless hand cleaners are not a substitute for soap and water.]

**§746.3420. May I use hand sanitizer as a substitute for washing hands?**

**You may use hand sanitizers as a substitute for washing hands under the following conditions:**

**(1) You do not use hand sanitizers to wash hands that are visibly dirty or greasy or have chemicals on them, unless you are away from the classroom and soap and water are not available for hand washing;**

**(2) You only used hand sanitizers on children 24 months and older;**

**(3) You store hand sanitizers out of the reach of when not in use;**

**(4) You follow the labeling instructions for the appropriate amount to be used and for how long the hand sanitizer needs to remain on the skin surface to be effective; and**

**(5) Children have adult supervision when using hand sanitizers.**

§746.3421. How must I wash an infant's hands?

(a) (No change.)

(b) Use soap and running water as specified in this division when infants are old enough to be raised to the faucet and reach for the water and any other time that the caregiver has reason to believe the **infant** [child] has come in contact with substances that could be harmful to the **infant** [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.

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter R, Health Practices

Division 1, Environmental Health

TAC Section Number(s) §746.3409, §746.3411

Proposed Action

X Repeal

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

The repeals 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 repeals implement HRC §42.042.

§746.3409. What does Licensing mean when it refers to "sanitizing"?

§746.3411. What is a disinfecting solution?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter R, Health Practices

Division 2, Diaper Changing

TAC Section Number(s) §746.3501, §746.3503

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.

§746.3501. What steps must caregivers follow for diaper changing?

Caregivers must:

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

(4) **Only** [Not] apply [powders,] creams, ointments, or lotions **with** [without] the parent's written permission. If the parent supplies these items, permission is implicit and you do not need to obtain permission for each use;

(5) Label [powders,] creams, ointments, or lotions with the individual child's name; and

(6) Keep all diaper-changing supplies out of **the reach of children** [children's reach].

§746.3503. What equipment must I have for diaper changing?

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

(c) To prevent a child from falling, a diaper-changing surface that is above the floor level:

(1) Must have a safety mechanism (such as [safety straps or] raised sides) that is used at all times when the child is on the surface; or

(2) The caregiver's hand must remain on the child **or the caregiver must be facing the child** at all times when the child is on the surface.

(d) (No change.)

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter R, Health Practices

Division 3, Illness and Injury

TAC Section Number(s) §§746.3601, 746.3606, 746.3607

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

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

The amendments and new section implement HRC §42.042.

§746.3601. What type of illness would prohibit a child from **attending the child-care center** [being admitted for care]?

Unless you are licensed to provide get-well care, you must not **allow an ill child to attend your child-care center** [admit an ill child for care] if one or more of the following exists:

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

(3) The child has one of the following[,] **(**unless **a** medical evaluation by a health-care professional indicates that you can include the child in the child-care center's activities**)**:

(A) **An oral** [Oral] temperature above 101 degrees **that is** [and] accompanied by behavior changes or other signs or symptoms of illness;

(B**) A tympanic (ear) temperature above 100 degrees that is accompanied by behavior changes or other signs of symptoms of illness. Tympanic thermometers are not recommended for children under six months old** [Rectal temperature above 102 degrees and accompanied by behavior changes or other signs or symptoms of illness];

(C) **An axillary (armpit)** [Armpit] temperature above 100 degrees **that is** [and] accompanied by behavior changes or other signs or symptoms of illness; or

(D) (No change.)

(4) (No change.)

**§746.3606. When may an ill child return to my child-care center?**

**An ill child may return to your child-care center when:**

**(1) The child is free of symptoms of illness for 24 hours; or**

**(2) You have obtained a health-care professional's statement that the child no longer has an excludable disease or condition.**

§746.3607. How should caregivers respond to critical illness or injury?

**For a** [If] critical illness or injury **that** requires immediate attention of a **health-care professional** [physician], you must:

(1) Contact emergency medical services **(**or take the child to the nearest emergency room **after you have ensured the supervision of other children in the group)**;

(2) (No change.)

[(3) Contact the physician identified in the child's record;]

**(3) Contact the child's parent;**

[(4) Contact the child's parent; and]

**(4) Contact the physician identified in the child's record; and**

(5) (No change.)

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter S, Safety Practices

Division 1, Safety Precautions

TAC Section Number(s) §§746.3701, 746.3703 746.3707, 746.3709

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.

§746.3701. What safety precautions must I take to protect children in my child-care center?

All areas accessible to a child must be free from hazards including, but not limited to, the following:

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

(7) All storage chests, boxes, trunks, or similar items with hinged lids must be equipped with a lid support designed to hold the lid open in any position, be equipped with ventilation holes, and must not have a latch that might close and trap a child inside; [and]

(8) All bodies of water such as pools, hot tubs, ponds, creeks, birdbaths, fountains, buckets, and rain barrels must be inaccessible to all children**; and**

**(9) All televisions must be anchored, so they cannot tip over. A television may be anchored to a rolling cart, as long as it is anchored in a way that the cart will not tip over**.

§746.3703. How can I ensure the safety of the children from other persons?

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

(d) People must not smoke or use tobacco products**, e-cigarettes, or any type of vaporizers** at **your** [the] child-care center, on the premises, on the playground, in transportation vehicles, or during field trips.

§746.3707. Are firearms or other weapons allowed at my child-care center?

(a) **Peace officers as listed in §2.12 of the Code of Criminal Procedure and security officers commissioned by the Texas Private Security Board** [Law enforcement officials] who are trained and certified to carry a firearm on duty may have firearms **and** [or] ammunition on the premises of **your** [the] child-care center.

(b) - (d) (No change.)

§746.3709. May I have other toys or **other types of** equipment that **explode** [explodes] or **shoot** [shoots] things?

No. Toys that explode or that shoot things, such as caps, BB guns, darts, or fireworks, are prohibited as toys **at the child-care center and on field trips** [for children in both residential and non-residential locations]. Toys that explode or shoot things kept on the premises of a child-care center located in your home must remain in a locked cabinet inaccessible to any child during all hours of operation.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter S, Safety Practices

Division 2, Medications and Medical Assistance

TAC Section Number(s) §746.3801

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.

§746.3801. What does "medication" refer to in this division?

In this division, medication means:

(1) (No change.)

(2) A non-prescription medication, excluding topical ointments such as diaper ointment, **insect repellant**, or sunscreen **that has been provided by the parent**.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter S, Safety Practices

Division 3, Animals at the Child-Care Center

TAC Section Number(s) §746.3901

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.

§746.3901. What steps must I take to have animals at my child-care center **and/or on field trips**?

If you choose to have animals on the premises **of your child-care center and/or on field trips**, you must:

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

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter T, Physical Facilities

Division 1, Indoor Space Requirements

TAC Section Number(s) §746.4207, §746.4213

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 amendment implements HRC §42.042.

§746.4207. Do these indoor activity space requirements apply to my child-care center if it was licensed before September 1, 2003?

(a) **Yes, the only exemption is for** **child-care** [Indoor activity space requirements for child-care centers licensed before September 1, 2003, vary based on the following:]

[(1) Child-care centers licensed as a day-care center before August 31, 1997, must have at least 30 square feet of indoor activity space, for each child you are licensed to serve. Children under 18 months of age must be cared for in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center.]

[(2) Child-care centers licensed as a day-care center between August 31, 1997, and September 1, 2003, must have at least 30 square feet of indoor activity space. Each child under 18 months of age must have 30 square feet of indoor activity space in the area in which you provide care. You must care for children under 18 months of age in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center.]

[(3) Child-care] centers licensed as kindergarten and nursery schools, or schools: grades kindergarten and above, before September 1, 2003**. These centers**[,] must have at least 20 square feet of indoor activity space for each child **the center is** [you are] licensed to serve.

[(4) Child-care centers licensed as a drop-in child-care center or group day-care home before September 1, 2003, must have at least 30 square feet of indoor activity space for each child you are licensed to serve.]

(b) The **exemption** [exemptions] specified in subsection (a) of this section **remains** [remain] in effect until a permit issued prior to September 1, 2003, is no longer valid.

§746.4213. How does Licensing determine the indoor activity space?

(a) We determine indoor activity space by:

(1) (No change.)

(2) Rounding all measurements **up** to the nearest inch; and

(3) Excluding single-use areas**, which are areas not routinely used for children's activities, such as a bathroom, hallway, storage room, cooking area of a kitchen, swimming pool, and storage building**. [See §746.105(43) of this title (relating to What do certain words and terms mean when used in this chapter?) for more information on single-use areas]; and

(4) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter T, Physical Facilities

Division 4, Furniture and Equipment

TAC Section Number(s) §§746.4501, 746.4503, 746.4507

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.

§746.4501. What type of tables and chairs must I use for [the] children?

**(a)** Tables and chairs that you use for the children must be safe, easy to clean, and of a height and size appropriate for each age group in care.

**(b) If the manufacturer requires safety straps on a chair, then the safety straps must be fastened whenever a child is using the chair.**

§746.4503. Must I provide a cot or mat for each child to sleep or rest on?

(a) Yes. You must provide **or have the parent provide an** [the following]:

[(1) An individual crib meeting requirements specified in Subchapter H of this chapter (relating to Basic Care Requirements for Infants) for each non-walking child younger than 18 months to sleep or rest in;]

[(2) An] individual cot, bed, or mat that is waterproof or washable for each walking child through four years to sleep or rest on**.**[; and]

[(3) Individual arrangements for sleep or rest for children five years and older who are in care for more than five hours per day, or whose individual care needs require a nap or rest time.]

(b) Cots, beds, or mats must be labeled with the child's name. **As an alternative, you may label** [Labeling] cots, beds or mats with a number **and have a number/child** [related to a number] assignment map **available** [may be used] as an alternative.

(c) (No change.)

§746.4507. Must I have a telephone at my child-care center?

[(a)] Yes. You must have:

(1) A telephone at your child-care center with a listed telephone number; or

(2) Access to a telephone located in the same building for use in an emergency and where a person is available to:

(A) Receive incoming calls to the child-care center;

(B) Immediately transmit messages regarding children in care to child-care center caregivers; and

(C) Make outgoing calls for the child-care center as necessary.

[(b) The telephone must not be a coin-operated pay phone.]

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter U, Indoor and Outdoor Active Play Space and Equipment

Division 1, Minimum Safety Requirements

TAC Section Number(s) §§746.4601, 746.4607, 746.4609

Proposed Action

X Amendment

X New

Proposed Date of Adoption:

X Other (Specify)

30 Days After Publication

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

The amendments and new section implement HRC §42.042.

§746.4601. What minimum safety requirements must my active play equipment meet?

Indoor and outdoor active play equipment used both at and away from the child-care center must be safe for the children as follows:

(1) (No change.)

(2) The design, scale, and location of the equipment must be **used according to the manufacturer's instructions** [appropriate for the body size and ability of the children using the equipment];

(3) - (11) (No change.)

**§746.4607. What is the maximum height of the highest designated play surface allowed?**

**(a) The maximum height allowed for the highest designated play surface on active play equipment is as follows:**

**(1) The height that is consistent with the manufacturer's guidelines and the ASTM International standards; or**

**(2) For equipment designed to be used by children:**

|  |  |
| --- | --- |
| **Age of child that the equipment is designed to be used for:** | **Maximum height of play surface:** |
| **(A) Under the age of two,** | **32 inches.** |
| **(B) Age two through four years of age (younger than age five),** | **Five feet.** |
| **(C) Age five and above,** | **Seven feet.** |

§746.4609. Do the height requirements apply to my child-care center if it was licensed before December 1, 2010?

(a) If you were licensed [after September 1, 2003, and] before December 1, 2010, [and unless you meet one of the conditions specified in subsection (b) of this section] the maximum height of active play equipment allowed is:

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

(b) **If your** [A child-care center licensed before December 1, 2010, must comply with the equipment height requirements specified in this division if the] center re-designs the existing playground or adds new playground equipment**, then you**[. The permit holder] must meet equipment height requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter U, Indoor and Outdoor Active Play Space and Equipment

Division 1, Minimum Safety Requirements

TAC Section Number(s) §746.4607

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.

§746.4607. What is the maximum height of the highest designated play surface allowed?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter U, Indoor and Outdoor Active Play Space and Equipment

Division 5, Surfacing

TAC Section Number(s) §746.4907

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.

§746.4907. How should outdoor loose-fill surfacing materials be installed?

(a) **You** [Subject to the requirements in subsection (f) of this section, you] must install and maintain loose-fillsurfacing materials to a depth of:

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

(b) - (e) (No change.)

[(f) If you were licensed before December 1, 2010, you only have to maintain at least six inches of loose-fill surfacing materials until December 1, 2015, after which date you must comply with subsection (a)(2) of this section when the height of the highest designated play surface is greater than five feet.]

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter U, Indoor and Outdoor Active Play Space and Equipment

Division 7, Inflatables

TAC Section Number(s) §746.4971

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.

§746.4971. May I use inflatable active play equipment?

**You** [Yes, you] may use inflatable equipment both at and away from your child-care center **if you follow these guidelines** [as long as it meets the following]:

(1) **You use enclosed** [Enclosed] inflatables (such as bounce houses or moon bounces) **according to the manufacturer's instructions** [are used by one child at a time];

(2) **You use open** [Open] inflatables (such as obstacle courses, slides, games) [are used] according to the manufacturer's **label and** instructions **for the user**; and

(3) Inflatables that include water activity also comply with all applicable requirements in Subchapter V of this chapter (relating to Swimming Pools**,** [and] Wading/Splashing Pools**, and Sprinkler Play**).

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter V, Swimming Pools**,** [and] Wading/Splashing Pools**, and Sprinkler Play**

TAC Section Number(s) §746.5009

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.

§746.5009. Does having a fence relieve me of the duty to supervise children's access to the pool?

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter V, Swimming Pools**,** [and] Wading/Splashing Pools**, and Sprinkler Play**

TAC Section Number(s) §746.5015

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.

§746.5015. Are there specific safety requirements for sprinkler play?

**(a)** You must ensure that no child uses sprinkler equipment on or near a hard, slippery surface, such as a **concrete** driveway, sidewalk, or patio.

**(b)** **You must not leave a child alone with the sprinkler equipment.**

**(c)** You must store sprinkler equipment and water hoses out of **the reach of children** [children's reach] when not in use.

**(d) You must maintain your splash pad/sprinkler play area according to manufacturer's instructions.**

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter W, Fire Safety and Emergency Practices

Division 1, Fire Inspection

TAC Section Number(s) §746.5105

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.

§746.5105. Must I make all corrections specified in the fire-inspection report?

Yes, [if required,] you must comply with all corrections, restrictions, or conditions specified by the inspector in the fire inspection report, letter, or checklist.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter W, Fire Safety and Emergency Practices

Division 3, Fire Extinguishing and Smoke Detection Systems

TAC Section Number(s) §746.5305

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.

§746.5305. Where must I mount fire extinguishers?

You must mount the fire extinguisher on the wall by a hanger or bracket. The top of the extinguisher must be no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If the state or local fire marshal **or the manufacturer's instructions** has different mounting instructions, you **must** [may] follow those instructions. The fire extinguisher must be readily available for immediate use by employees and caregivers.

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 .

Chapter 746, Minimum Standards for Child-Care Centers

Subchapter X, Transportation

TAC Section Number(s) §746.5607, §746.5621

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.

§746.5607. What child **passenger** safety **seat** [restraint] system must I use when I transport children?

(a) **You must use a child passenger safety seat system to restrain a child when transporting the child. The restraint system must meet the federal standards for crash-tested systems as set by the National Highway Traffic Safety Administration and must be properly secured in the vehicle according to manufacturer's instructions.**

**(b)** You must secure each child in an infant **only rear-facing child** safety seat, rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the child's age, height, and weight according to manufacturer's instructions for all vehicles specified in subsection (d) of this section, unless otherwise noted in this subchapter.

[(b) All child passenger safety restraint systems must meet federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration, and must be properly secured in the vehicle according to manufacturer's instructions.]

(c) - (d) (No change.)

§746.5621. Must I have a communications device in the vehicle?

You must have one of the following:

(1) A communications device such as a cellular phone[, message pager,] or two-way radio; or

(2) (No change.)

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

Issued in Austin, Texas, on .