July 1, 2016

 The Health and Human Services Commission proposes, on behalf of the Department of Family and Protective Services (DFPS), amendments to §§748.3, 748.43, 748.61, 748.65, 748.191, 748.301, 748.303, 748.309, 748.313, 748.315, 748.361, 748.363, 748.393, 748.395, 748.505, 748.533, 748.535, 748.539, 748.563, 748.571, 748.575, 748.605, 748.681, 748.721, 748.725, 748.729, 748.801, 748.861, 748.867, 748.869, 748.883, 748.885, 748.935, 748.937, 748.939, 748.941, 748.943, 748.945, 748.985, 748.987, 748.1009, 748.1013, 748.1021, 748.1103, 748.1109, 748.1117, 748.1119, 748.1205, 748.1207, 748.1209, 748.1211, 748.1213, 748.1215, 748.1217, 748.1219, 748.1223, 748.1225, 748.1263, 748.1269, 748.1303, 748.1331, 748.1335, 748.1337, 748.1339, 748.1341, 748.1345, 748.1349, 748.1351, 748.1381, 748.1385, 748.1389, 748.1433, 748.1435, 748.1437, 748.1501, 748.1531, 748.1539, 748.1541, 748.1543, 748.1549, 748.1551, 748.1581, 748.1661, 748.1695, 748.1697, 748.1741, 748.1743, 748.1751, 748.1757, 748.1759, 748.1761, 748.1763, 748.1791, 748.7193, 748.2003, 748.2009, 748.2053, 748.2101, 748.2151, 748.2231, 748.2233, 748.2307, 748.2309, 748.2401, 748.3015, 748.3017, 748.3351, 748.3353, 748.3357, 748.3365, 748.3601, 748.3603, 748.3701, 748.3705, 748.3751, 748.3753, 748.3757, 748.3765, 748.3801, 748.3891, 748.3931, 748.4043, 748.4045, 748.4213, 748.4261, 748.4265, 748.4301, 748.4403, 748.4471, and 748.4473; the repeal of §§748.101, 748.103, 748.105, 748.107, 748.109, 748.111, 748.131, 748.133, 748.161, 748.163, 748.231, 748.233, 748.235, 748.237, 748.239, 748.241, 748.307, 748.341, 748.435, 748.501, 748.727, 748.731, 748.1101, 748.1105, 748.1753, 748.1765, 748.3481, 748.3535, 748.3567, 748.4041, and 748.4047; and new §§748.101, 748.103, 748.105, 748.107, 748.109, 748.111, 748.113, 748.115, 748.117, 748.119, 748.121, 748.123, 748.125, 748.127, 748.129, 748.151, 748.153, 748.155, 748.157, 748.161, 748.341, 748.343, 748.345, 748.347, 748.724, 748.731, 748.1101, 748.1340, 748.1386, 748.1753, 748.1765, and 748.4041 in Chapter 748, concerning Minimum Standards for Residential Operations. The purpose of the amendments, repeals, and new section is to implement Texas Human Resources Code (HRC) §42.042(b) requires CCL to conduct a comprehensive review of all rules and minimum standards every six years. The proposed changes are a result of the comprehensive review of all minimum standards located in Chapter 748.

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

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

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

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

This comprehensive review includes changes to approximately two hundred minimum standards. Some of the changes are minimal (e.g. changing a cite to a rule, or deleting a masculine pronoun); other changes are small but have more of an impact (e.g. changing the treatment service terminology of "mental retardation" to "intellectual disability"); and still other changes are more complex and will have a wider impact. Below is a broad overview of some of the different areas and types of changes that DFPS is recommending: (1) updating definitions and treatment service types; (2) a rewrite and reorganization of the Divisions 1, 2, and 5 of Subchapter C, Organization and Responsibilities, relating to Permit Holder Responsibilities; Governing Body; and Policies and Procedures. The focus of the rewrite and the reorganization is to clarify: (A) the plans, policies, and procedures that are required during the application process; and (B) a GRO's operational responsibilities, including responsibilities for notifications to Licensing. The rewrite is also intended to clarify confusion over a "permit holder's" and "governing body's" responsibilities; (3) clarifying training requirements, for example: (A) only permitting 10 hours of non-required pre-service training to be carried over to use as annual training during the upcoming year (§748.937(b)(4)); and (2) increasing the number of annual training hours that may come from self- instructional training from 1/3 to 1/2 (§748.937(d)); (4) continuing to modify the rules to improve normalcy for children, for example: (A) changing the Children's Rights rule to make the rights easier to understand and find by modifying the language of some of the rights and listing the rights under seven different categories (e.g. Safety and Care, Living a Normal Life, Discipline, etc.) (§748.1101); (B) requiring a child 14 and older to review and sign the child's service plan (§748.1349); and (C) allowing more discretion in the use of trampolines, especially for older children (§748.3891); (5) while much of trauma informed care is being integrated into the GRO minimum standards through the "Normalcy" rule packet with changes to the training requirements, the changes in this packet also continue to integrate trauma informed care as follows: (A) defines trauma informed care at §748.43; (B) integrates it into the discipline policies at §748.115(2); and (C) integrates it into the service planning process at §748.1337; (6) clarify service planning requirements, for example: (A) increasing the time to complete a service plan from 40 days to 45 days (§748.1335); (B) permitting multiple meetings to complete the service planning meeting requirements (§748.1340); (C) permitting parent notifications for a service planning meeting to come from other parties (§748.1341); and (D) permitting a single service plan to continue throughout the time a child is in residential care as long as the GRO completes a preliminary service plan at admittance and continues to review and update the plan (§748.1386); (7) strengthening the minimum standards when it is necessary for the safety of children, for example: (A) requiring older runaway children to be reported missing within two hours (this is already the requirement for younger children) (§748.303(a)(9)); (B) restricting the use of e-cigarettes or any kind of vapors (§748.1661); and (C) restricting infants from sleeping in restrictive devices (§748.1765); and (8) allowing more discretion by providers while still ensuring the safety of children, for example: (A) clarifying that electronic and digital signatures, including e-mail and electronic approvals, are appropriate §748.347; (B) shortening the experience requirements for professional level service providers §748.563; and (C) clarifying that an emergency admission includes when a GRO has 72 hours to place a child (§748.1263).

 A summary of the changes are:

 The amendment to §748.3: (1) clarifies that administrators, owners, and operators and any other controlling person who has the ability to influence or direct the operation's management, expenditures, or policies are responsible for following these minimum standards; and (2) updates terminology.

 The amendment to §748.43 clarifies the definitions by: (1) updating definitions; (2) moving definitions from other Subchapters that are used throughout the Chapter (e.g. chemical restraint, corrective or adverse action, emergency medication, etc.); (3) adding and clarifying definitions regarding "normalcy" issues (e.g. childhood activities and unsupervised childhood activities); and (4) adding definitions to clarify "permit holder" and "governing body" (e.g. corporation or other type of business entity, owner, and partnership).

 The amendment to §748.61 updates the names and description of the types of treatment services to be consistent with the DSM-5.

 The amendment to §748.65 deletes the 16-year old supervision requirement and incorporates it into subsection (b) to §748.1021(a).

 Subchapter C, Division 1, Permit Holder Responsibilities is repealed and is replaced by new Division 1, Plans and Policies Required During the Application Process. The new Subchapter C rewrites and reorganizes Divisions 1, 2, and 5. New Division 1 includes former Divisions 1 and 5 and clarifies the plans, policies, and procedures that are required during the application process.

 Section 748.101 is repealed because: (1) portions of the rule are unnecessary; and (2) the other requirements are incorporated into §745.243(6)(J), new §748.103(a), and new §748.139.

 Section 748.103 is repealed because: (1) portions of the rule are unnecessary or duplicative; and (2) the other requirements are incorporated into new §748.151 and new §748.153.

 Section 748.109 is repealed and the content is incorporated into new §748.155.

 Section 748.111 is repealed and the content is incorporated into new §748.157.

 New §748.101 clarifies the plans that are required for the application process by: (1) incorporating portions of repealed §748.161(1) - (3) and repealed paragraph 748.3351(1); (2) adding a requirement that the operation plan must include the location and telephone numbers of all offices, the hours of operation of the offices, and a list of persons or officers and their titles that comprise the governing body, if applicable; and (3) adding the Division 6 requirements from Subchapter O of an emergency evacuation and relocation plan.

 New §748.103 clarifies the policies that are required for the application process by accumulating a complete list and referencing the relevant minimum standard.

 Section 748.105 is repealed and proposed new §748.105 and includes the content of the repealed version of this rule with non-substantive modifications; and the written staffing plan requirements from repealed §748.501 and §748.1009(b).

 Section 748.107 is repealed and proposed new §748.107 and includes the content of the repealed version of this rule with non-substantive modifications; and conflict of interest policies from repealed §748.131(a)(5).

 New §748.109 includes the admission policies content from repealed §748.233 with updated but non-substantive modifications to the rule.

 New §748.111 includes the child-care policies content from repealed §748.235 with non-substantive modifications to the rule.

 New §748.113 includes the emergency behavior intervention policies content from repealed §748.237 with non-substantive modifications to the rule.

 New §748.115 includes the discipline policies content from repealed §748.235(7) with non-substantive modifications to the rule for clarity to clarify that the discipline policy must be consistent with Subchapter M.

 New §748.117 includes a new requirement for a transitional living policy, which more than likely already exists if an operation is currently operating a transitional living program. It is also consistent with the CPA requirement in §749.125 that was previously required in repealed §749.351.

 New §748.119 includes the volunteer policies content from repealed §748.239 with non-substantive modifications to the rule.

 New §748.121 includes a new requirement for abuse and neglect policies. It is also consistent with the new CPA policy requirement at §749.135.

 New §748.123 includes the employee vaccine-preventable disease policy content from repealed §748.241.

 New §748.125 includes the operational policies content from repealed §748.231(a) and (d).

 New §748.127 includes the content from repealed §748.231(b) with significant clarifications to explain how a GRO's plans, policies, and procedures must be adopted by a sole proprietor, partnership, or corporation.

 New §748.129 clarifies that Licensing may cite standards in Division 1 for deficiencies after the application process is granted.

 Subchapter C, Division 2, Governing Body, is repealed and replaced with new Division 2, Operational Responsibilities and Notifications. New Division 2 primarily includes former Division 2 and clarifies a GRO's operational responsibilities, including responsibilities for notifications to Licensing. The rewrite is also intended to clarify confusion over a "permit holder's" and "governing body's" responsibilities.

 Section 748.131 is repealed because: (1) a grandfather clause is outdated and is no longer needed; (2) portions of the rule are unnecessary or duplicative; and (3) the other requirements will be incorporated into new §748.107, new §748.127, new §748.151, and §748.161.

 Section 748.133 is repealed and the content will be incorporated into new §748.153.

 New §748.151 includes portions of the content from repealed §748.103 with significant modifications, including the combining of some paragraphs and the deletion of some paragraphs because they were unnecessary and/or duplicative.

 New §748.153 includes: (1) portions of the content from repealed §§748.103(a)(13), 748.133, 748.307(2) and (3), and 748.3351(1); (2) additions of items consistent with new §748.101 and new §748.103; and (3) modifications to the timeframes for notification to Licensing for consistency.

 New §748.155 includes the content from repealed §748.103(b) and §748.109.

 New §748.157 includes the content from repealed §748.111.

 Section 748.161 is repealed and the contents is incorporated into new §748.101 and new §748.161.

 New §748.161 creates a new rule by adding portions of the content from repealed §748.161 and §748.163.

 Section 748.163 is repealed and the content is incorporated into new §748.161.

 The amendment to §748.191 clarifies that cottage homes do not have to post the operations permit in the cottage home, as long as the operation posts the permit at the main office location.

 Subchapter C, Division 8, Policies and Procedures, is repealed and is primarily incorporated into new Division 1, Plans and Policies Required During the Application Process.

 Section 748.231 is repealed and the content is incorporated into five new rules: §§748.103(a), 748.125, 748.127, 748.153, and 748.529.

 Section 748.233 is repealed and the content is incorporated into new §748.109.

 Section 748.235 is repealed and the content is incorporated into new §748.111 and new §748.115.

 Section 748.237 is repealed and the content is incorporated into new §748.113.

 Section 748.239 is repealed and the content is incorporated into new §748.119.

 Section 748.241 is repealed and the content is incorporated into new §748.123.

 The amendment to §748.301 clarifies incidents are those incidents noted in §748.303.

 The amendment to §748.303 clarifies several issues, including: (1) requiring a child death to be reported to law enforcement within one hour after the child's death, and reported to Licensing and the parents within two hours after the child's death; (2) making the language for "substantial physical injury" consistent with the new definition for that term; (3) requiring child-on-child physical abuse and sexual abuse to be reported when a GRO becomes aware of it; (4) clarifying that a serious incident includes when law enforcement responds to an alleged incident at the operation; (5) requiring an operation to report the absence of a 13 year old or older who cannot be located to Licensing, the parents, and law enforcement no later than two hours from the when the absence is discovered (Note: This is already the requirement for children younger than 13.); (6) adding a subsection from repealed §748.307(1) stating medical incidents that don't rise to the level of a serious incident don't have to be reported to Licensing, but they must be documented; (7) adding language requiring a report to the Hotline if there is reason to believe an adult resident has been abused, neglected, or exploited; and (8)

making the language in these sections consistent with the rest of the Chapter.

 Section 748.307 is repealed and incorporates the content in to two new rules: §748.153 and §748.303(b).

 The amendment to §748.309 deletes the requirement for reporting to licensing in writing, because those issues will now be included in New §748.153; and updates the name of the Hotline.

 The amendment to §748.313 clarifies the language of the rule for consistency throughout the chapter.

 The amendment to §748.315 clarifies that incident reports must be easily accessible to Licensing; and deletes a subsection because it is already required by §748.399(a).

 Section 748.341 is repealed and incorporates the content in to two new rules: §748.343 and §748.345.

 New §748.341 includes the content from portions of repealed §748.231.

 New §748.343 includes the content from portions of repealed §748.341 and §748.435 with non-substantive modifications.

 New §748.345 includes part of the content of repealed §748.341 with non-substantive modifications, and adds further requirements for protecting electronic records.

 New §748.347 clarifies that electronic and digital signatures, approvals by e-mail, and electronic approvals are allowed.

 The amendment to §748.361 deletes a cite to a rule regarding electronic records because it is unnecessary. In addition, the master list of active and archived personnel records must be kept at the main office and must include a notation of the location of those records.

 The amendment to §748.363 clarifies: (1) that employees must sign a statement documenting that the employee has read the operational policies required by §748.103; (2) what must go into personnel record regarding training; (3) deletes a signed statement requirement regarding the employee's training on abuse and neglect, because it has been clarified what must go into a personnel record regarding training; and (4) the name of the Hotline.

 The amendment to §748.393 deletes the requirement that active child records must include the "date of each data entry and the name of the employee who makes the data entry", and deletes an unnecessary cite.

 The amendment to §748.395 deletes the timeline for written summaries, because written summaries are not required.

 Section 748.435 is repealed and the content moved to new §748.341.

 Section 748.501 is repealed and the content incorporated into new §748.105(3).

 The amendment to §748.505 clarifies that all employees must meet the minimum qualifications, so deletes the erroneous caveat that the minimum qualifications only apply to employees that are "regularly or frequently present while children are in care".

The amendment to §748.533 updates a reference for a cite to a rule.

The amendment to §748.535 clarifies the wording of the question to improve readability and understanding; and deletes and unnecessary phrase.

 The amendment to §748.539 clarifies the wording of the rule to improve readability and understanding.

 The amendment to §748.563 clarifies the qualification chart for professional level service providers by: (1) reducing the professional qualifications (years of experience) for: (A) prior option 2 from two years to one year; and (B) prior option 4 from three years to two years; (2) combining: (A) prior options 1 and 2 to create a new option 1, while removing the nine credit hours in graduate level course on family and individual function and interaction; and (B) prior options 3 and 4 to create new option 2, while removing any requirement that the degree be in a social work or other human service field; and (3) deleting an outdated grandfather clause.

 The amendment to §748.571 deletes in rule the requirement for a nurse to comply with specific nurse delegation requirements, because nurses already have to comply with these requirements which are enforced by the Texas Board of Nurse Examiners.

 The amendment to §748.575 deletes in rule the requirement for a nurse to comply with specific nurse delegation requirements, because nurses already have to comply with these requirements which are enforced by the Texas Board of Nurse Examiners.

 The amendment to §748.605 updates treatment services terminology.

 The amendment to §748.681 adds to caregiver minimum qualifications that: (1) a high school diploma or high school equivalency (GED) can come from a private school accreditation; or (2) there can be documentation to verify high school equivalency from home schooling.

 The amendment to §748.721 deletes a subsection regarding requirements for volunteers that provide short-term services through an organization and incorporates it into new §748.724; deletes a masculine pronoun; and updates the name of the Hotline.

 New §748.724: (1) incorporates a portion of the content from deleted subsection §748.721(c); (2) adds "contractors" to the rule; and (3) clarifies that a GRO must determine that a contractor's/volunteer's entity that they work for has programs, policies, and procedures that are adequate to protect the health and safety of children.

 The amendment to §748.725 combines repealed §748.727 with this rule and clarifies that a volunteer or sponsoring family that takes a child for an overnight visit is a volunteer activity. While the volunteer does not have to comply with the employee or caregiver requirements, the volunteer must meet the relevant background check requirements.

 Section 748.727 is repealed and moves the content to §748.725, but clarifies that a sponsoring family must meet the relevant background checks.

 The amendment to §748.729: (1) clarifies that the volunteer that takes a child for an overnight visit must be given the same information that a respite care provider would receive; (2) deletes the redundant requirement that taking a child for more than 48 hours requires approval from the parent, which is already required by §748.725(b)(2); and (3) deletes the information about another child inviting a child for an overnight visit, because this is a background check issue and does not apply to this question.

 Section 748.731 is repealed and proposed new §748.731, which takes a different approach by clarifying that a person may not perform community service hours at an operation.

 The amendment to §748.801 incorporates the description of the acronym CEU into §748.937(a), which is the only place it is used; and clarifies the definition of "instructor-led training".

 The amendment to §748.861 clarifies the language of the rule for better readability and understanding.

 The amendment to §748.867 clarifies the language of the rule and deletes masculine pronouns.

 The amendment to §748.869 reorders the subsections, and clarifies that a qualified instructor for pre-service training must hold a generally recognized credential or possess documented knowledge and/or experience relevant to the training the instructor will provide.

 The amendment to §748.883 clarifies the rule question and answer for better readability and understanding.

 The amendment to §748.885 clarifies the rule question and answer for better readability and understanding.

 The amendment to §748.935 changes the "within 12-months from date of employment" to 'within 12-months from when you hire the person"' for when an employee's or caregiver's annual training must be completed.

 The amendment to §748.937 clarifies certain aspects of the rule by: (1) spelling out the acronym CEU; (2) limiting to 10 hours the amount of non-required pre-service training hours that may be carried over and counted for annual training hours; (3) stating that the "required" pre-service training hours may not be counted for annual training hours; and (4) increasing from one-third to one-half the number of annual training hours that may come from self-instructional hours; and clarifying that no more than three of those self-instructional hours may come from reading materials.

 The amendment to §748.939 clarifies that while Licensing does not approve or endorse training resources, the requirements for a GRO to ensure reliable training relevant to the population of children served applies to both instructor-led training and self-instructional training.

 The amendment to §748.941 clarifies that transportation safety training must be instructor-led.

 The amendment to §748.943 adds water safety and administration of medication as training topics appropriate for annual training.

 The amendment to §748.945 clarifies the psychotropic medication training must be met; deletes masculine pronouns; and updates a cite to a rule.

 The amendment to §748.985 clarifies that first-aid training may be obtained through self-instructional training.

 The amendment to §748.987 deletes "first-aid" from this rule, because first-aid training no longer needs to be instructor-led.

 The amendment to §748.1009 moves subsection (b) regarding a professional staffing plan for treatment services to new §748.105(3)(D).

 The amendment to §748.1013 deletes masculine pronouns.

 The amendment to §748.1021 adds the requirement that a child must be 16 years old to be in a transitional living program and not require supervision, which came from the repealed §748.65(b).

 Section 748.1101 is repealed and proposed new to §748.1101 modifying the language of the repealed rule by: (1) dividing the childrens rights into seven categories (e.g. Safety and Care, Living a Normal Life, Discipline, etc.) to make the rights easier to understand and find; and (2) improving the readability of the rule overall.

 The amendment to §748.1103 clarifies that a timely signed copy of the "CPS Rights of Children and Youth in Foster Care" will meet the Licensing requirements in this rule.

 Section 748.1105 is repealed the child's personal care information is incorporated into the child's rights in new §748.1101.

 The amendment to §748.1109 requires a re-evaluation by child placement management staff when restrictions are imposed on a child's contact with siblings for more than 60 days (it is currently 90 days). The wording of this rule was also modified to be consistent with other re-evaluations in this Chapter.

 The amendment to §748.1117 updates terminology.

 The amendment to §748.1119 clarifies that the list of the techniques that may not be used on a child is not an exhaustive list.

 The amendment to §748.1205 deletes the requirement to document: (1) the child's birthplace; and (2) court orders establishing the managing conservator of the child.

 The amendment to §748.1207 adds the Texas Family Code §32.203 requirement that in certain instances a child 16 years or older may sign a placement agreement for a transitional living program without the consent of the child's parent.

 The amendment to §748.1209 clarifies that during orientation a child must be provided information on how to make complaints to outside agencies and how to contact outside parties to a child's case.

 The amendment to §748.1211 amends this rule by: (1) deleting the requirement that parents must be able to determine whether a program is appropriate for a child and can meet the child needs, however, adding a new requirement to provide parents with required policies, including policies on fees, emergency behavior intervention, and discipline; and (2) adding the policies and explanations that must be provided to a child that signs a placement agreement as specified in §748.1207.

 The amendment to §748.1213 clarifies that one of the special needs that must be shared with caregivers is supervision needs; and the sharing of all special needs must be documented.

 The amendment to §748.1215 clarifies that the admission assessment must be completed prior to admission.

 The amendment to §748.1217 amends the language of the rule to: (1) delete redundant phrases that are already clarified by a definition; and (2) clarify that an assessment must establish how the needs of the child can be met, which also allows for the deletion of the requirement for a rationale for the appropriateness of the admission.

 The amendment to §748.1219 amends the language of the rule to: (1) allow any health care professional to evaluate a GRO can appropriately care for the child; (2) delete a supervision requirement, because the is already required to be reviewed for all children; and (3) update the treatment services terminology, delete a masculine pronoun, and correct a cite to a rule.

 The amendment to §748.1223 deletes a masculine pronoun and changes an acronym.

 The amendment to §748.1225 changes "physician" to "health-care professional; deletes a masculine pronoun; and changes an acronym.

 The amendment to §748.1263 adds to the list of situations that constitute an emergency admission to include, "if you must place a child within 72 hours"; clarifies the wording of the rule; and deletes a masculine pronoun.

 The amendment to §748.1269 makes the terminology for psychiatric evaluation, psychological evaluation, and psychosocial assessment consistent throughout the chapter.

 The amendment to §748.1303 that parents (not GROs) are required to request and attend IEPs, so this requirement is being deleted for GROs. However, the changes clarify that a GRO should notify a parent if the caregivers believe an IEP should be requested, and GROs should attend an IEP if requested to do so.

 The amendment to §748.1331 clarifies that the preliminary service plan addressing the immediate needs of the child must be completed within 72 hours; and an example of an immediate need is supervision requirements.

 The amendment to §748.1335 clarifies that the initial service plan must be completed within 45 days (currently 40 days).

 The amendment to §748.1337: (1) integrates "trauma informed care" into the service planning process; (2) adds some additional normalcy requirements to the service planning process; and (3) updates the items that are needed for an initial service plan, including: (A) updating the psychiatric evaluation, psychological evaluation, and psychosocial assessment language; (B) deleting redundant phrases that are already included in the definitions; (C) moving subsection (c) to (b)(2); and (D) clarifying references and other language for consistency.

 The amendment to §748.1339 clarifies: (1) The service planning team meetings can be face-to-face, by video conference, or teleconference; and (2) The parent and the child must be invited and have the opportunity to participate and provide input into the development of the service plan.

 New §748.1340 clarifies that the service planning team may meet in one meeting, two or more meetings, or in separate meetings to discuss and develop a child's service plan, provided that each service planning team member is informed of the discussion and comments regarding the child's service plan that were made in each meeting.

 The amendment to §748.1341 clarifies that the child's parents must have at least two weeks' notice of the initial service planning meeting. The rule also requires documentation of the notice, but it does not specify who has to provide the notice.

 The amendment to §748.1345 updates treatment services terminology.

 The amendment to §748.1349 requires all children 14 years and older to review and sign the initial service plan, unless there is justification for not providing the plan. If the child disagrees with the plan or refuses to sign it, this information must be documented.

 The amendment to §748.1351 clarifies that the service plan must be implemented within 15 days (currently 10days) after the date of the scheduled service planning meeting involving the parents and the child.

 The amendment to §748.1381 updates treatment services terminology.

 The amendment to §748.1385 removes the requirement to determine for children receiving treatment services whether the placement should continue, change the child's treatment service designation, transfer the child to a least restrictive setting, or refer the child to an inpatient hospital. This is being deleted because permanency goals should be considered for all children and are broader than this list.

 New §748.1386 clarifies that a single service plan that continues throughout the time a child is in residential care is allowed as long as the GRO completes a preliminary service plan at admittance and complies with the review and update rules in this Division.

 The amendment to §748.1389 updates treatment services terminology.

 The amendment to §748.1433 deletes masculine pronouns.

 The amendment to §748.1435 deletes masculine pronouns.

 The amendment to §748.1437 deletes masculine pronouns.

 The amendment to §748.1501 clarifies what has to be included in a child's record regarding a dental exam. The requirements for the "date of examination" and "procedures completed" are being deleted because these requirements will be in the results of the dental examination.

 The amendment to §748.1531 clarifies what has to be included in a child's record regarding a medical exam. The requirements for the "date of examination" and "procedures completed" are being deleted because these requirements will be in the results of the medical examination. There is also clarification regarding documenting the date and time of an injury or illness resulting in a medical exam.

 The amendment to §748.1539: (1) clarifies that the immunization requirements of DSHS must be met, instead of referencing the HRC; (2) clarifies that records for immunization exemptions and exceptions must be kept just like immunization records; and (3) deletes a duplicative statement regarding a child's health passport meeting Licensing documentation standards, which is already noted at §748.1543(b)(4).

 The amendment to §748.1541 clarifies the exemptions and exceptions to the immunization requirements.

 The amendment to §748.1543 clarifies the documentation requirements that are acceptable for an immunization record, including documentation of the name and address of the health-care professional (previously it only said RN) that administered the vaccine. Except the signature of a health-care professional is not required for official records from schools or state or local health authorities.

 The amendment to §748.1549 deletes the term "physician" because the definition is already included in the term "health-care professional".

The amendment to §748.1551 corrects a cite to the rule.

 The amendment to §748.1581 clarifies the language of this rule.

 The amendment to §748.1661 clarifies that e-cigarettes and vaporizers, like tobacco products, are also prohibited.

 The amendment to §748.1695 replaces "physician" with "health-care professional; and deletes a masculine pronoun.

 The amendment to §748.1697 updates treatment services terminology.

 The amendment to §748.1741 adds a definition for "restrictive devices", and changes the term "baby bungee jumper" to "baby doorway jumper".

 The amendment to §748.1743 clarifies that infant care items necessary for diaper changing must be kept out of the reach of children, but do not need to be in locked storage.

 The amendment to §748.1751: (1) clarifies that this rule applies to all full-size and non-full-size cribs; (2) requires that only mattresses designed for the crib may be used; and (3) clarifies the rule by replacing "child' with "infant".

 Section §748.1753 is repealed and new §748.1753 updates the rule to: (1) move the information regarding "port-a-cribs" (which are non-full-size cribs as defined by CPSC) to §748.1751, because these non-full-size cribs must meet all of the crib requirements in §748.1751; (2) clarify the term "play yard", which are mesh or fabric sided cribs; (3) clarify the requirements that a play yard must meet, including a firm, flat mattress that is designed for the crib, fitted sheets, a waterproof or washable mattress, and secure mattress supports and proper hardware; and (4) Clarify that following the manufacturer's instructions also applies to the cleaning of the crib.

 The amendment to §748.1757 clarifies the prohibited equipment for use with an infant to be consistent with the Day Care requirements.

 The amendment to §748.1759 clarifies that when infants are exploring, it should not be in restrictive devices.

 The amendment to §748.1761 clarifies that since infants should not be sleeping in restrictive devices, language is deleted that allows a child to remain in confining equipment for 30 minutes after the infant awakes.

 The amendment to §748.1763: (1) clarifies that a health-care professional's sleeping orders for an infant must be kept in the child's record; and (2) adds the content from deleted §748.1765.

 Section §48.1765 is repealed and its contents is moved to §748.1763.

 New §748.1765 clarifies that infants may not sleep in restrictive devices; and if a child falls asleep in a restrictive device, the child must be placed in a crib as soon as possible.

 The amendment to §748.1791 clarifies the rule by replacing "child' with "toddler".

 The amendment to §748.1793 clarifies the wording of the rule for better readability and understanding.

 The amendment to §748.2003 clarifies that these requirements only apply to the administration of prescription medication.

 The amendment to §748.2009 adds a requirement to inform a child's physician of any non-prescription medication or supplement to make sure there are no contraindications with other medications.

 The amendment to §748.2053 clarifies that for a child that is on a self-medication program the GRO must ensure there is a system for reviewing the child's medication each day.

 The amendment to §748.2101 removes the requirement to store medications "for external use only" separately from other medications.

 The amendment to §748.2151: (1) replaces "vitamin" with "supplement", which has been defined in §748.43 as "vitamins, herbs, and any supplement labeled dietary supplement"; (2) clarifies that a medication record does not have to be updated immediately but "within 2 hours of administering medication", or "within 24 hours of administering medication if you operate a cottage home model; (3) requires the documentation of a non-prescription medication or supplement that is given to a child and how often the child receives the medication or supplement (no cumulative record is required); and (4) requires documentation in the medical record of any prohibited supplements.

 The amendment to §748.2231 clarifies the meaning of an "adverse reaction" to a medication; and adds a requirement to immediately report the reaction to the child's parent.

 The amendment to §748.2233 clarifies the meaning of a medication "side effect"; and adds a requirement to immediately report serious side effects to the child's parent.

 The amendment to §748.2307 clarifies the language for prohibited discipline techniques to include not screaming at a child.

 The amendment to §748.2309: (1) deletes "schools and chores" as activities that can't be restricted, because it is confusing. School can't be restricted because a child has to attend as a matter of law, and chores are not a restriction but something assigned to a child to do; and (2) changes the time from seven days to 14 days that a GRO may restrict a child's activities without a review by the treatment director, service planning team, or professional level service provider. This will be consistent with the requirement in foster homes if the proposal to change that time frame from 30 days to 14 days is adopted.

 The amendment to §748.2401 removes most of the definitions from this section and incorporates them into §748.43, because the terms that are being incorporated are used in more than this one Subchapter.

 The amendment to §748.3015: (1) adds that gloves contaminated with blood must be placed in a tied, sealed, or otherwise closed plastic bag and discarded immediately; and (2) clarifies the wording of the rule for better readability and understanding.

 The amendment to §748.3017 deletes the requirement that ferrets must be vaccinated, because this is not required by the Health and Safety Code.

 The amendment to §748.3351 regarding the requirement for a sketch of the operation's floor plan showing the dimensions for all rooms and where children will sleep was moved to New §748.101(3). The requirement to notify Licensing of changes to the floor plan was moved to New §748.153(a)(2)(B).

 The amendment to §748.3353 deletes masculine pronouns.

 The amendment to §748.3357 does not change the intent of the current rule, but the changes to the grandfather clauses are made for better readability and understanding.

 The amendment to §748.3365 clarifies that mattresses must not be on the floor.

 Sections 748.3481, 748.3535, and 748.3567 are repealed because they relate to outdated grandfather clauses.

 The amendment to §748.3601: (1) moves two requirements for pools to §748.3603, which includes additional requirements for a pool located at the operation; and (2) clarifies that the visibility of the pool applies to when the pool is in use.

 The amendment to §748.3603: (1) adds two requirements for a pool located at the operation. The requirements were moved from §748.3601; and (2) deletes an outdated grandfather clause.

 The amendment to §748.3701 updates treatment services terminology.

 The amendment to §748.3705 clarifies the swimming activities terminology.

 The amendment to §748.3751 clarifies that this rule applies to swimming activities that are sponsored by the operation.

 The amendment to §748.3753 modifies the question and the answer of this rule because the certification of a lifeguard is common practice as long as the certification is from a recognized organization.

 The amendment to §748.3757: (1) clarifies the chart by deleting the middle "children in the group" column, because the swimming ratio and supervising the number of children in the group were the same; and (2) clarifies that subsection (b) always requires at least two adults to supervise four or more children if all four children are actually in the water.

 The amendment to §748.3765: (1) deletes a statement regarding prudent judgment around bodies of water, because the supervision requirement is already required by the supervision rule at §748.685 and prudent judgment requirement is already required by the new normalcy rules; and (2) clarifies that these requirements apply to swimming activities that are sponsored by the operation.

 The amendment to §748.3801 clarifies the wording of the rule for better readability and understanding.

 The amendment to §748.3891 makes the use of a trampoline at an operation more consistent with the use of a trampoline in a foster home. The rule does require the GRO to follow the manufacturer's instructions and other certain requirements, and supervision based on the age of the child.

 The amendment to §748.3931 clarifies that a qualified adult must hold a generally recognized credential or possess documented knowledge and/or experience in the type of weapon, firearm, explosive material, projectile, or toy that explodes or shoots that is to be used by the child.

 Section 748.3041 is repealed because it was outdated.

 New §748.4041 provides a more general approach, however, a Best Practices Box will include the national recommendations for transporting children published by the Department of Public Safety.

 The amendment to §748.4043 clarifies terminology for a child passenger safety seat system to make it consistent throughout the chapter.

 The amendment to §748.4045 clarifies terminology for a child passenger safety seat system to make it consistent throughout the chapter.

 Section 748.4047 is repealed because it is unnecessary and the contents is clarified in new §748.3041.

 The amendment to §748.4213 clarifies the wording of the rule by using "preliminary discharge plans" throughout the rule.

 The amendment to §748.4261 updates a cite to a rule and the relevant language regarding the cite.

 The amendment to §748.4265 adds to the information that a respite care provider must obtain regarding a child before providing respite care.

The amendment to §748.4301 deletes the wording of "residential treatment centers" where it is duplicative and not necessary.

The amendment to §748.4403 updates treatment services terminology.

 The amendment to §748.4471 updates the terminology for a primitive camping excursion, and deletes a masculine pronoun.

 The amendment to §748.4473 updates the terminology for a primitive camping excursion; and clarifies the wording of the rule for better readability and understanding.

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

 Ms. Subia also has determined that for each year of the first five years the sections is 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 General Residential Operations (GROs); (2) DFPS will be in compliance with HRC §42.042(b); and (3) there will be a reduced risk to children.

 There will be no effect on large, small, or micro-businesses because the proposed change 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. There is no anticipated economic cost to persons who are required to comply with the proposed section. There is no anticipated impact on technology as a result of the proposed rule change.

 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 Licensing Division. Electronic comments may be submitted to CCLRules@dfps.state.tx.us. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-558, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

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

Chapter 748, General Residential Operations

Subchapter A, Purpose and Scope

TAC Section Number(s) §748.3

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.

§748.3. Who is responsible for complying with **these minimum standards** [the rules of this chapter]?

 **(a) For a licensed general residential operation, the** [The] permit holder must ensure compliance with the **minimum standards** [rules] in this chapter at all times, with the exception of those rules identified for specific types of services that your operation does not offer. For example, if we **license your operation** [grant you a permit] to offer emergency care services only, you do not have to comply with **the** **minimum standards** [rules] that apply to treatment services for a child with an emotional disorder, treatment services for a child with **an intellectual disability** [mental retardation], or a transitional living program; however, you must comply with all other applicable **minimum standards** [rules] of this chapter.

**(b) For an unlicensed general residential operation that is subject to Licensing's regulation but has not obtained a license, the operation's administrator, owner, or operator or any other controlling person who has the ability to influence or direct the operation's management, expenditures, or policies must ensure compliance with the minimum standards in the chapter at all times, with the exception of those minimum standards identified for specific types of services that the unlicensed operation 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 748, General Residential Operations

Subchapter B, Definitions and Services

Division 1, Definitions

TAC Section Number(s) §748.43

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.

§748.43. What do certain words and terms mean 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 unless the context clearly indicates otherwise. The following words and terms have the following meanings unless the context clearly indicates otherwise:

 (1) Accredited college or university--An institution of higher education accredited by one of the following **regional accrediting entities**:

 (A) **The** Southern Association of Colleges and Schools, Commission on Colleges**, a subdivision of the Southern Association of Colleges and Schools**;

 (B) **The** Middle States [Association of Colleges and Schools,] Commission on Higher Education**, a component of the Middle States Association of Colleges and Schools**;

 (C) **The** [New England Association of Schools and Colleges,] Commission on Institutions of Higher Education**, a subdivision of the New England Association of Schools and Colleges**;

 (D) [North Central Association of Colleges and Schools,] The Higher Learning Commission **(formerly part of the North Central Association of Colleges and Schools)**;

 (E) **The** Northwest Commission on Colleges and Universities;

 (F) **The** [Western Association of Schools and Colleges,] Accrediting Commission for Senior Colleges and Universities**, a subdivision of the Western Association of Schools and Colleges**; or

 (G) **The** [Western Association of Schools and Colleges,] Accrediting Commission for Community and Junior Colleges**, a subdivision of the Western Association of Schools and Colleges**.

 (2) Activity space--An area or room used for child activities.

 (3) - (6) (No change.)

 **(7)** **Chemical restraint--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to immobilize or sedate a child as a mechanism of control. The use of a medication is not a chemical restraint under this chapter if the medication:**

**(A) Is prescribed by a treating health-care professional;**

**(B) Is administered solely for medical or dental reasons; and**

 **(C) Has a secondary effect of immobilizing or sedating a child.**

 **(8)** [7] Child/caregiver ratio--The maximum number of children for whom one caregiver can be responsible.

 **(9) Childhood activities--Activities that are generally accepted as suitable for children of the same chronological age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard as specified in §748.705 of this title (relating to What is the "reasonable and prudent parent standard"?). Examples of childhood activities include extracurricular activities, in-school and out-of-school activities, enrichment activities, cultural activities, and employment opportunities. Childhood activities include unsupervised childhood activities.**

 **(10)** [(8)] Child in care--A child who is currently admitted as a resident of a general residential operation, regardless of whether the child is temporarily away from the operation, as in the case of a child at school or at work. Unless a child has been discharged from the operation, **the child** [he] is considered a child in care.

 **(11)** [(9)] Child passenger safety seat system--An infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

**(12) Corporation or other type of business entity-- May include an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, limited liability company, political subdivision, or state agency. For purposes of this chapter, this definition does not include any type of "partnership", which is defined separately.**

 **(13)** [(10)] Cottage **or cottage** home--A living arrangement for children who are not receiving treatment services in which:

 (A) Each group of children has separate living quarters;

 (B) 12 or fewer children are in each group;

 (C) Primary caregivers live in the children's living quarters, 24 hours per day for at least four days a week or 15 days a month; and

 (D) Other caregivers are used only to meet the child-to-caregiver ratio in an emergency or to supplement care provided by the primary caregivers.

 **(14)** [(11)] Counseling--A procedure used by professionals from various disciplines in guiding individuals, families, groups, and communities by such activities as delineating alternatives, helping to articulate goals, processing feelings and options, and providing needed information. This definition does not include career counseling.

 **(15)** [(12)] Days--Calendar days, unless otherwise stated.

 **(16)** [(13)] De-escalation--Strategies used to defuse a volatile situation, to assist a child to regain behavioral control, and to avoid a physical restraint or other behavioral intervention.

 **(17)** [(14)] Department--The Department of Family and Protective Services (DFPS).

 **(18)** [(15)] Discipline--**A form of guidance** [Guidance] that is constructive or educational in nature and appropriate to the child's age, development, situation, and severity of the behavior.

 [(16) Disinfecting solution--A disinfecting solution may be:]

 [(A) A self-made solution, prepared as follows:]

 [(i) One tablespoon of regular strength liquid household bleach to each gallon of water used for disinfecting such items as toys, eating utensils, and nonporous surfaces (such as tile, metal, and hard plastics); or]

 [(ii) One-fourth cup of regular strength liquid household bleach to each gallon of water used for disinfecting surfaces such as bathrooms, crib rails, diaper-changing tables, and porous surfaces, such as wood, rubber or soft plastics; or]

 [(B) A commercial product that is registered with the Environmental Protection Agency (EPA) as an antimicrobial product and includes directions for use in a hospital as a disinfectant. You must use the product according to label directions. Commercial products must not be toxic on surfaces likely to be mouthed by children like crib rails and toys.]
 **(19)** [(17)] Emergency Behavior Intervention **(EBI)**--Interventions used in an emergency situation, including personal restraints, mechanical restraints, emergency medication, and seclusion.

**(20) Emergency medication--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to modify a child's behavior. The use of a medication is not an emergency medication under this chapter if the medication:**

**(A) Is prescribed by a treating health-care professional;**

**(B) Is administered solely for a medical or dental reason (e.g. Benadryl for an allergic reaction or medication to control seizures); and**

**(C) Has a secondary effect of modifying a child's behavior.**

**(21) Emergency situation--A situation in which attempted preventative de-escalatory or redirection techniques have not effectively reduced the potential for injury, so that intervention is immediately necessary to prevent:**

**(A) Imminent probable death or substantial bodily harm to the child because the child attempts or continually threatens to commit suicide or substantial bodily harm; or**

 **(B) Imminent physical harm to another because of the child's overt acts, including attempting to harm others. These situations may include aggressive acts by the child, including serious incidents of shoving or grabbing others over their objections. These situations do not include verbal threats or verbal attacks.**

 **(22)** [(18)] Family members--An individual related to another individual within the third degree of consanguinity or affinity. For the definitions of consanguinity and affinity, see Chapter 745 of this title (relating to Licensing). The degree of the relationship is computed as described in Government Code, §573.023 (relating to Computation of Degree of Consanguinity) and §573.025 (relating to Computation of Degree of Affinity).

 **(23)** [(19)] Field trip--A group activity conducted away from the operation.

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

 **(25)** [(21)] Full-time--At least 30 hours per week.

 **(26)** [(22)] Garbage--Food or items that when deteriorating cause offensive odors and/or attract rodents, insects, and other pests.

 **(27)** [(23)] General Residential Operation--A residential child-care operation that provides child care for 13 or more children or young adults. The care may include treatment services and/or programmatic services. These operations include formerly titled emergency shelters, operations providing basic child care, **residential treatment centers,** [operations serving children with mental retardation,] and halfway houses.

 **(28) Governing body--A group of persons or officers of the corporation or other type of business entity having ultimate authority and responsibility for the operation.**

 **(29)** [(24)] Group of children--Children assigned to a specific caregiver or caregivers. Generally, the group stays with the assigned caregiver(s) throughout the day and may move to different areas throughout the operation, indoors and out. For example, children who are assigned to specific caregivers occupying a unit or cottage are considered a group.

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

 **(31)** [(26)] High-risk behavior--Behavior of a child that creates an immediate safety risk to self or others. Examples of high-risk behavior include suicide attempt, self-abuse, **physical** aggression causing bodily injury, chronic running away, **substance abuse** [drug addiction], fire-setting, and sexual **aggression or** perpetration.

 **(32)** [(27)] Human services field--A field of study that contains coursework in the social sciences of psychology and social work including some counseling classes focusing on normal and abnormal human development and interpersonal relationship skills from an accredited college or university. Coursework in guidance counseling does not apply.

 **(33)** [(28)] Immediate danger--A situation where a prudent person would conclude that bodily harm would occur if there were no immediate interventions. Immediate danger includes a serious risk of suicide, serious physical injury **to self or others**, or the probability of bodily harm resulting from a child running away if **less than** [under] 10 years old chronologically or developmentally. Immediate danger does not include:

 (A) Harm that might occur over time or at a later time; or

 (B) Verbal threats or verbal attacks.

 **(34)** [(29)] Infant--A child from birth through 17 months.

 **(35)** [(30)] Livestock--An animal raised for human consumption or an equine animal.

 **(36)** [(31)] Living quarters--A structure or part of a structure where a group of children reside, such as a building, house, cottage, or unit.

 **(37) Mechanical restraint--A type of emergency behavior intervention that uses the application of a device to restrict the free movement of all or part of a child's body in order to control physical activity.**

 **(38)** [(32)] Mental health professional--Refers to:

 (A) A psychiatrist licensed by the Texas Medical Board;

 (B) A psychologist licensed by the Texas State Board of Examiners of Psychologists;

 (C) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;

 (D) A professional counselor licensed by the Texas State Board of Examiners of Professional Counselors;

 (E) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists; and

 (F) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health.

 **(39)** [(33)]Non-ambulatory--A child that is only able to move from place to place with assistance, such as a walker, crutches, a wheelchair, or prosthetic leg.

 **(40)** [(34)]Non-mobile--A child that is not able to move from place to place, even with assistance.

 **(41)** [(35)]Operation--General residential operations**, including** [and] residential treatment centers.

 **(42) Owner--The sole proprietor, partnership, or corporation or other type of business entity who owns the operation.**

 **(43)** [(36)]Parent--A person **who** [that] has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

**(44) Partnership--A partnership may be a general partnership, (general) limited liability partnership, limited partnership, or limited partnership as limited liability partnership.**

**(45) Permit holder--The owner of the operation that is granted the permit.**

**(46) 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 operation voluntarily closes or is required to close through and enforcement action in Subchapter L of Chapter 745 (relating to Enforcement Actions).**

 **(47)** [(37)]Person legally authorized to give consent--The person legally authorized to give consent by the Texas Family Code or a person authorized by the court.

 **(48) Personal restraint--A type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.**

 **(49)** [(38)]Physical force--Pressure applied to a child's body that reduces or eliminates the child's ability to move freely.

 **(50)** [(39)]PRN--A standing order or prescription that applies "pro re nata" or "as needed according to circumstances."

 **(51) Prone restraint--A restraint in which the child is placed in a chest-down hold.**

 **(52)** [(40)] Psychosocial assessment--An evaluation by a mental health professional of a child's mental health that includes a:

 (A) Clinical interview of the child;

 (B) Diagnosis from the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5), or statement that rules out a DSM-5 diagnosis;

 (C) Treatment plan for the child, including whether further evaluation of the child is needed (for example: is a psychiatric evaluation needed to determine if the child would benefit from psychotropic medication or hospitalization; or is a psychological evaluation with psychometric testing needed to determine if the child has **a** learning **disability** [disabilities] or **an** intellectual **disability** [disabilities]); and

 (D) Written summary of the assessment.

 **(53) Re-evaluate--Re-assessing all factors required for the initial evaluation for the purpose of determining if any substantive changes have occurred. If substantive changes have occurred, these areas must be fully evaluated.**

 **(54)** [(41)]Regularly--On a recurring, scheduled basis.Note: For the definition for "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?).

 **(55)** [(42)]Residential Treatment Center (RTC)--A general residential operation for 13 or more children or young adults that exclusively provides treatment services for children with emotional disorders.

 **(56)** [(43)]Sanitize----**The use of a product (usually a disinfecting solution) registered by the Environmental Protection Agency (EPA) that 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 labelling 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 the following order:** [A four-step process that must be followed in the subsequent 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 a child is likely to place in his mouth; and

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

 **(57)** [(44)]School-age child--A child five years old or older who will attend school in August or September of that year.

 **(58)** [(45)] Seat belt--A lap belt and any shoulder strap included as original equipment on or added to a motor vehicle.

 **(59) Seclusion--A type of emergency behavior intervention that involves the involuntary separation of a child from other residents and the placement of the child alone in an area from which the resident is prevented from leaving by a physical barrier, force, or threat of force.**

 **(60)** [(46)]Service plan--A plan that identifies a child's basic and specific needs and how those needs will be met.

 **(61) Short personal restraint--A personal restraint that does not last longer than one minute before the child is released.**

 **(62)** [(47)]State or local fire inspector--A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government.

 **(63)** [(48)]State or local sanitation official--A sanitation official who is authorized to conduct environmental sanitation inspections on behalf of the city, county, or state government.

 **(64)** [(49)]Substantial **physical injury** [bodily harm]--Physical injury serious enough that a **reasonable** [prudent] person would conclude that the injury **needs treatment by a medical professional, including dislocated, fractured, or broken bones; concussions; lacerations requiring stitches; second and third degree burns; and damages to internal organs** [required professional medical attention]. **Evidence that physical injury is substantial includes the location and/or severity of the bodily harm and/or age of the child. Substantial physical injury** [It] does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

**(65) Supplements--Includes vitamins, herbs, and any supplement labeled dietary supplement.**

**(66) Supine restraint--Placing a child in a chest up restraint hold.**

**(67) Swimming activities--Activities related to the use of swimming pools, wading/splashing pools, hot tubs, or other bodies of water.**

**(68)** [(50)]Toddler--A child from 18 months through 35 months.

**(69) Trafficking victim--A child who has been recruited, harbored, transported, provided or obtained for the purpose of forced labor or commercial sexual activity, including any child subjected to an act or practice as specified in Penal Code §20A.02 or §20A.03.**

**(70) Trauma informed care (TIC)--Care for children that is child-centered and considers the unique culture, experiences, and beliefs of the child. TIC takes into consideration:**

**(A) The impact that traumatic experiences have on the lives of children;**

**(B) The symptoms of childhood trauma;**

**(C) An understanding of a child's personal trauma history;**

**(D) The recognition of a child's trauma triggers; and**

 **(E) Methods of responding that improve a child's ability to trust, to feel safe, and to adapt to changes in the child's environment.**

 **(71)** [(51)]Treatment director--The person responsible for the overall treatment program providing treatment services. A treatment director may have other responsibilities and may designate treatment director responsibilities to other qualified persons.

 **(72)** [(52)]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.

 **(73) Unsupervised childhood activities--Childhood activities that a child in care participates in away from the operation and the caregivers. Childhood activities that an operation sponsors, conducts, or supervises are not unsupervised childhood activities. Unsupervised childhood activities may include playing sports, going on field trips, spending the night with a friend, going to the mall, or dating. Unsupervised childhood activities may last one or more days.**

 **(74)** [(53)]Vaccine-preventable disease--A disease that is included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

 **(75)** [(54)]Volunteer--A person who provides:

 (A) Child-care services, treatment services, or programmatic services under the auspices of the operation without monetary compensation, including a "sponsoring family;" or

 (B) Any type of services under the auspices of the operation without monetary compensation when the person has unsupervised access to a child in care.

 [(55)Water activities--Activities related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.]

 **(76)** (56)Young adult--An adult whose chronological age is between 18 and 22 years, who is currently in a residential child-care operation, and who continues to need child-care services.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter B, Definitions and Services

Division 2, Services

TAC Section Number(s) §748.61, §748.65

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.

§748.61. What types of services does Licensing regulate?

We regulate the following types of services:

 (1) (No change.)

 (2) Treatment Services--In addition to child-care services, a specialized type of child-care services designed to treat and/or support children:

 (A) WithEmotional Disorders **who have a current DSM-5 diagnosis**, such as mood disorders, psychotic disorders, or dissociative disorders, and [who] demonstrate **two** [three] or more of the following:

 [(i) A Global Assessment Functioning of 50 or below;]

 [(ii) A current DSM diagnosis;]

 **(i)** [(iii)] Major self-injurious actions, including **a**  [recent] suicide **attempt within the last 12 months** [attempts];

 **(ii)** [(iv)] Difficulties that present a significant risk of harm to others, including frequent or unpredictable physical aggression; or

 **(iii)** [(v)] **An additional DSM-5** [A primary] diagnosis of **substance-related and/or addictive disorder** [substance abuse or dependency and] **with** severe impairment [because of the substance abuse];

 (B) With **a DSM-5 diagnosis of** Intellectual **Disability** [Disabilities, who have an intellectual functioning of 70 or below and are] **that is** characterized by prominent, **severe** [significant] deficits and pervasive impairment in one or more of the following areas:

 (i) Conceptual, social, and practical adaptive skills to include daily living and **self-care** [self care];

 (ii) - (v) (No change.)

 (C) With **a DSM-5 diagnosis of Autism Spectrum Disorder that is** [Pervasive Developmental Disorder, which is a category of disorders (e.g. Autistic Disorder or Rett's Disorder)] **that is** characterized by prominent, severe deficits and pervasive impairment in one or more of the following areas of development:

 (i) Conceptual, social, and practical adaptive skills to include daily living and **self-care** [self care];

 (ii) - (v) (No change.)

 (D) - (E) (No change.)

 (3) (No change.)

§748.65. What children are eligible to participate in a transitional living program?

 [(a)] For a child to be eligible to participate in a transitional living program, the child must:

 (1) Be 14 years old or older; and

 (2) Not be receiving therapeutic camp services.

 [(b) For a child to be eligible to receive the level of caregiver supervision described in §748.1019 of this title (relating to What are the supervision requirements for a transitional living program?) or §748.1021 of this title (relating to When does a child who is in a transitional living program not need supervision?), the child must be 16 years old or older.]

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 1, Permit Holder Responsibilities

TAC Section Number(s) §§748.101, 748.103, 748.105, 748.107, 748.109, 748.111

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.

§748.101. What are my responsibilities as the permit holder before I begin operating?

§748.103. What are my operational responsibilities as the permit holder?

§748.105. What responsibilities do I have for personnel policies and procedures?

§748.107. What must my conflict of interest policies include?

§748.109. May I exceed my operation capacity?

§748.111. May I provide child day care services?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 1, **Plans and Policies Required For the Application Process**

TAC Section Number(s) §§748.101, 748.103, 748.105, 748.107, 748.109, 748.111, 748.113, 748.115, 748.117, 748.119, 748.121, 748.123, 748.125, 748.127, 748.129

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.

**§748.101. What plans must I submit for Licensing's approval as part of the application process?**

**As part of the application process, you must submit the following plans to us for approval:**

**(1) An operation plan that includes:**

**(A) The location and telephone numbers of all of your general residential**

**operations; and**

**(B) A list of persons or officers and their titles who comprise the governing**

**body, if applicable;**

**(2) A fiscal plan that includes:**

**(A) A detailed estimate of the operating costs of the operation for the first**

**three months;**

**(B) Documentation of reserve funds or available credit at least equal to**

**operating costs for the first three months;**

**(C) An estimated 12-month budget of income and expenses; and**

**(D) Predictable funds sufficient for the first year of operation;**

**(3) A sketch of the operation's floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep; and**

**(4) An emergency evacuation and relocation plan that complies with Division 6 of Subchapter O (relating to Emergency Evacuation and Relocation).**

**§748.103. What policies and procedures must I submit for Licensing's approval as part of the application process?**

 **(a) You must develop the policies and procedures identified in subsection (b) of this section. Your policies and procedures must comply with or exceed the minimum standards specified in this chapter, Chapter 42 of the Human Resources Code, and Chapter 745 of this title (relating to Licensing), and any other applicable law.**

 **(b) As part of the application process, you must submit the following policies and procedures to us for our approval:**

 **(1) Policies and procedures related to record keeping, including where the records will be located. The policies must be consistent with Subchapter D of this chapter (relating to Reports and Records Keeping);**

 **(2) Personnel policies and procedures consistent with §748.105 of this title (relating to What are the requirements for my personnel policies and procedures?);**

 **(3) Conflict of interest policies consistent with §748.107 of this title (relating to What must my conflict of interest policies include?);**

 **(4) Admission policies consistent with §748.109 of this title (relating to What must my admission policies include?);**

 **(5) Child-care policies consistent with §748.111 of this title (relating to What child-care policies must I develop?);**

 **(6) Emergency behavior intervention policies consistent with §748.113 of this title (relating to What emergency behavior intervention policies must I develop if my operation is permitted to use emergency behavior intervention?);**

 **(7) Discipline policies consistent with §748.115 of this title (relating to What are the requirements for my discipline policies for children in care?);**

 **(8) Policies for a transitional living program, if applicable, consistent with §748.117 of this title (relating to What policies for a transitional living program must I develop?);**

 **(9) Volunteer policies consistent with §748.119 of this title (relating to What policies must I develop if I use volunteers?);**

 **(10) Abuse and neglect policies consistent with §748.121 of this title (relating to What abuse and neglect policies must I develop?);**

 **(11) Employee policies and procedures that protect children from vaccine-preventable diseases. The policies must be consistent with §748.123 of this title (relating to What must an employee policy for protecting children from vaccine-preventable diseases include?);**

 **(12) A weapons, firearms, explosive materials, and projectiles policy consistent with Division 6 of Subchapter Q (relating to Weapons, Firearms, Explosive Materials, and Projectiles); and**

 **(13) A tobacco and e-cigarette policy consistent with §748.1661 of this title (relating to What policies must I enforce regarding tobacco products and e-cigarettes?).**

**§748.105. What are the requirements for my personnel policies and procedures?**

**Your personnel policies and procedure must:**

**(1) Include an organizational chart showing the administrative, professional, and staffing structures and lines of authority;**

**(2) Include written job descriptions, including minimum qualifications and job responsibilities for each position;**

**(3) Include a written professional staffing plan that:**

**(A) Demonstrates that the number, qualifications, and responsibilities of**

**professional positions, including the child-care administrator, are appropriate for the size and scope of your services and that workloads are reasonable enough to meet the needs of the children in care;**

**(B) Describes in detail the qualifications, duties, responsibilities, and**

**authority of professional positions. For each position, the plan must show whether employment is on a full-time, part-time, or continuing consultative basis. For part-time and consulting positions, the plan must specify the number of hours and/or frequency of services;**

**(C) Documents your staffing patterns, including your child/caregiver ratios,**

**hours of coverage, and plans for providing backup caregivers in emergencies; and**

**(D) Identifies, if you provide treatment services, your:**

**(i) Ability to have enough caregivers, including caregivers who are**

**awake throughout the night to supervise children 24 hours a day, including frequent one-to-one monitoring whenever necessary to meet the needs of a particular child; and**

**(ii) Staffing patterns, including your child/caregiver ratios, hours of**

**coverage, and plans for providing backup caregivers in emergencies.**

**(4) Include written training requirements for employees and caregivers;**

**(5) Include policies on whether your operation allows individual caregivers to take children away from the operation for day or overnight visits. The policy must require obtaining the parent's written approval prior to allowing overnight visits with staff. The policy must also address the issue outlined in §748.685(e) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?);**

**(6) Comply with background check requirements outlined in Subchapter F of Chapter 745 of this title (relating to Background Checks);**

**(7) Require your employees to report serious incidents and suspected abuse, neglect, or exploitation. An employee who suspects abuse, neglect, or exploitation must report their suspicion directly to us and may not delegate this responsibility, as directed by Texas Family Code §261.101(b);**

**(8) Require that all employees and consulting, contracting, and volunteer professionals who work with a child and others with access to information about a child be informed in writing of their responsibility to maintain child confidentiality; and**

**(9) Include either the model drug testing policy or a written drug testing policy that meets or exceeds the criteria in the model policy provided in §745.4151 of this title (relating to What drug testing policy must my residential child-care operation have?).**

**§748.107. What must my conflict of interest policies include?**

**Your conflict of interest policies must include:**

**(1) A code of conduct on the relationship between your operation's owners (including members of the governing body, if applicable), employees, contract service providers, children in placement, and children's families, including required parameters for entering into independent financial relationships or transactions; and**

 **(2) For corporations or other types of business entities, a statement that the majority of the voting members of the governing body must consist of persons who do not have a conflict of interest that would potentially interfere with objective decision making. Persons who have such a conflict of interest include the following:**

**(A) Family members of:**

**(i) An officer of the governing body;**

**(ii) The administrator or executive director of the operation; or**

**(iii) Any person with a controlling interest in the entity's stock; or**

**(B) If the governing body is a non-profit entity, persons who benefit financially from the operation, including but not limited to persons employed by or working at the operation, paid consultants, subcontractors, or vendors.**

**§748.109. What must my admission policies include?**

**Your admission policies must include a description of each program you offer, including:**

**(1) The program's goals and services provided, including whether the program accepts emergency admissions; and**

**(2) The characteristics of the population the program serves, such as gender, age range, behaviors, and diagnoses. If the program includes treatment services, your policy must describe the type of treatment services the program is designed to treat, including emotional disorders, intellectual disability, autism spectrum disorder, primary medical needs, or trafficking victim services.**

**§748.111. What child-care policies must I develop?**

**You must develop policies that describe:**

**(1) Visitation rights between the child and family members and the child and friends;**

**(2) The child's right to correspond by mail with family members and friends, including any policies regarding mail restrictions and receipt of electronic messages and mail;**

**(3) The child's right to correspond by telephone with family members and friends;**

**(4) The child's right to receive and give gifts to family, friends, employees, or other children in care, including any restrictions on gifts;**

**(5) How a child obtains clothing;**

**(6) Personal possessions a child is or is not allowed to have, where the possessions may be stored, and search policies;**

**(7) Emergency behavior intervention techniques if the use of emergency behavior intervention is permitted in your operation. The policy must be consistent with §748.113(5) of this title (relating to What emergency behavior intervention policies must I develop if my operation is permitted to use emergency behavior intervention?);**

**(8) Any religious program or activity that you offer, including whether children must participate in the program or activity;**

**(9) The plans for meeting the educational needs of each child;**

**(10) When trips with caregivers away from the operation are allowed and what protocols will be used;**

**(11) Program expectations and rules that apply to all children, including an overview of your discipline policy;**

**(12) Child grievance procedures;**

**(13) The types and frequency of reports to parents;**

**(14) Procedures for routine and emergency diagnosis and treatment of medical and dental problems;**

**(15) Routine health care relating to pregnancy and childbirth, if you admit and/or care for a pregnant child;**

**(16) Your plan for providing health-care services to a child with primary medical needs;**

**(17) Transitional living policies, if applicable; and**

**(18) If applicable, how you will determine whether it is appropriate for a child to use weapons, firearms, explosive materials, and projectiles. This information must be consistent with §748.103(b)(12) of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?).**

**§748.113. What emergency behavior intervention policies must I develop if my operation is permitted to use emergency behavior intervention?**

**At a minimum, you must develop emergency behavior intervention policies to implement the requirements in Subchapter N of this chapter (relating to Emergency Behavior Intervention). The policies must include the following:**

**(1) A complete description of emergency behavior interventions that you permit caregivers to use;**

**(2) The specific techniques that caregivers can use;**

**(3) The qualifications for caregivers who assume the responsibility for emergency behavior intervention implementation, including required experience and training, and an evaluation component for determining when a specific caregiver meets the requirements of a caregiver qualified in emergency behavior intervention. You must have an on-going program to evaluate caregivers qualified in emergency behavior intervention and the use of emergency behavior interventions;**

**(4) Your requirements for and restrictions on the use of permitted emergency behavior interventions;**

**(5) For the orientation required in §748.1209(b)(6) of this title (relating to What orientation must I provide a child?), how you will:**

**(A) Explain and document to a child in a manner that the child can**

**understand:**

**(i) Who can use an emergency behavior intervention;**

**(ii) The actions a caregiver must first attempt to defuse the situation and**

**avoid the use of emergency behavior intervention;**

**(iii) The situations in which emergency behavior intervention may be**

**used;**

**(iv) The types of emergency behavior intervention you permit;**

**(v) When the use of an emergency behavior intervention must cease;**

**(vi) What action the child must exhibit to be released from the**

**emergency behavior intervention;**

**(vii) The way to report an inappropriate emergency behavior**

**intervention;**

**(viii) The way to provide voluntary comments during or after an**

**emergency behavior intervention; and**

**(ix) The process for making written comments after an emergency**

**behavior intervention, such as comments regarding the incident that led to the emergency behavior intervention, the manner in which a caregiver intervened, and the manner in which the child was the subject or to which they were a witness. You may create a standardized form that is easily accessible or give children the permission to submit comments on regular paper; and**

**(B) Obtain each child's input on preferred de-escalation techniques that**

**caregivers can use to assist the child in the de-escalation process;**

**(6) That you will either:**

**(A) Post in a place where children and adult clients can view them, the**

**emergency behavior interventions that you permit at your operation; or**

**(B) Provide the children and adult clients at admission a personal copy of**

**the operation's emergency behavior intervention policies;**

**(7) Requirements that caregivers must attempt less restrictive and less**

**intrusive emergency behavior interventions as preventive measures and de-escalating interventions to avoid the use of emergency behavior intervention;**

**(8) Training for emergency behavior intervention. The policy must include a description of the emergency behavior intervention training curriculum that meets the requirements in the rules of this chapter, the amount and type of training required for different levels of caregivers (if applicable), training content, and how the training will be delivered; and**

**(9) Prohibitions for discharging or otherwise retaliating against:**

**(A) An employee, child, adult client, resident, or other person for filing a**

**complaint, presenting a grievance, or otherwise providing in good faith information relating to the misuse of emergency behavior intervention at the operation; or**

**(B) A child, adult client, or resident because someone on behalf of the**

**client or resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of emergency behavior intervention at the operation.**

**§748.115. What are the requirements for my discipline policies for children in care?**

**The discipline policies you develop for children in care must be consistent with Subchapter M of this chapter (relating to Discipline and Punishment).The discipline policies you develop must also:**

**(1) Guide caregivers and employees in the methods used for the discipline of children;**

**(2) Integrate trauma informed care into the care, treatment, and management of each child;**

**(3) Include measures for positive responses to appropriate behavior;**

**(4) Include the importance of nurturing behavior, stimulation, and promptly meeting the child's needs; and**

**(5) Include a statement that discipline of any type is not allowable for infants.**

**§748.117. What policies for a transitional living program must I develop?**

**For operations who offer a transitional living program, you must develop policies that address the following:**

**(1) Criteria used to select participants for the program;**

**(2) Supervision of participants consistent with §748.1019 of this title (relating to What are the supervision requirements for a transitional living program?) and §748.1021 of this title (relating to When does a child who is in a transitional living program not need supervision?);**

**(3) Expected behaviors of participants and consequences for failure to comply;**

**(4) Training, education, and experiences to be achieved in the program; and**

**(5) Roles of participants, employees, contract staff, and caregivers.**

**§748.119. What policies must I develop if I use volunteers?**

**If you use volunteers, you must develop policies that:**

**(1) Include job descriptions and/or responsibilities for the volunteers;**

**(2) Address qualifications, screening, and selection procedures for the volunteers;**

**(3) Address orientation and training programs for the volunteers;**

**(4) Address supervision of volunteers; and**

**(5) Address volunteer contact with children in care.**

**§748.121. What abuse and neglect policies must I develop?**

**You must develop policies on preventing, recognizing, and responding to abuse and neglect of children, including:**

**(1) Required annual training for employees;**

**(2) Methods for increasing employee awareness of issues regarding child abuse and neglect, including warning signs that a child may be a victim of abuse or neglect;**

**(3) Methods for increasing employee awareness of prevention techniques for child abuse and neglect;**

**(4) Strategies for coordination between the operation and appropriate community organizations; and**

**(5) Actions that the parent of a child who is a victim of abuse or neglect should take to obtain assistance and intervention.**

**§748.123. What must an employee policy for protecting children from vaccine-preventable diseases include?**

**A policy for protecting the children in your care from vaccine-preventable diseases must:**

**(1) Specify any vaccines that you have determined an employee must have for vaccine-preventable diseases based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;**

**(2) Require each employee to receive each specified vaccine that the employee is not exempt from having;**

**(3) Include procedures for verifying whether an employee has complied with your policy;**

**(4) Include procedures for an employee to be exempt from having a required vaccine because of:**

**(A) Medical conditions identified as contraindications or precautions by the**

**Centers for Disease Control and Prevention (CDC); or**

**(B) Reasons of conscience, including a religious belief;**

**(5) Include procedures that an exempt employee must follow to protect children in your care from exposure to disease, such as the use of protective medical equipment, including gloves and masks, based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;**

**(6) Prohibit discrimination or retaliatory action against an exempt employee,**

**except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action for purposes of this section;**

**(7) Outline how you will maintain a written or electronic record of each employee's compliance with or exemption from your policy; and**

**(8) State the disciplinary actions you may take against an employee who fails to comply with your policy.**

**§748.125. What are the general requirements for my operation's policies and procedures?**

 **(a) The requirements for policies only apply to the operation's policies that are required or governed by this chapter.**

 **(b) All employees and caregivers must be aware of and follow your policies and procedures.**

**§748.127. What requirements must I follow when adopting my operation's plans, policies, and procedures?**

 **(a) Your operation's plans, policies, and procedures must indicate the date on which you adopted them and their effective date.**

 **(b) You must formalize the adoption of your operation's plans, policies, and procedures as appropriate for your type of ownership:**

 **(1) If you are a sole proprietor, you must sign them;**

 **(2) If you are a partnership, each partner must sign them; or**

 **(3) If you are a corporation or other type of business entity, the governing body must take a written action to adopt (sometimes this may be an order or the adoption may be included in the minutes of the governing body).**

**§748.129. Can Licensing cite my operation for a deficiency if I fail to operate according to my approved plans, policies, and procedures?**

**Yes, if you violate plans, policies, or procedures, then we may cite the relevant standard in Division 1 of this Subchapter (relating to Plans and Policies Required for the Application Process) as a deficiency;**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 2, Governing Body

TAC Section Number(s) §748.131, §748.133

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.

§748.131. What are the specific responsibilities of the governing body?

§748.133. After a permit has been issued, what subsequent information regarding my governing body must I provide to Licensing, and when must I provide it?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 2, **Operational Responsibilities and Notifications**

TAC Section Number(s) §§748.151, 748.153, 748.155, 748.157

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.

**§748.151. What are my operational responsibilities?**

**While you are operating, you must:**

**(1) Have a designated full-time child-care administrator who meets the minimum qualifications of §748.531 of this title (relating to What qualifications must a child-care administrator meet?);**

**(2) Operate according to your approved plans, policies, and procedures;**

**(3) Maintain current, true, accurate, and complete records;**

**(4) Allow us to inspect your operation during its hours of operation;**

**(5) Not offer unrelated types of services that conflict or interfere with the best interests of a child in care, a caregiver's responsibilities, or operation space. If you offer more than one type of service, you must determine and document that no conflict exists;**

**(6) Maintain liability insurance as required by the Human Resources Code, §42.049; and**

 **(7) Prepare the annual budget and control expenditures and ensure compliance with Division 3 of this Subchapter (relating to General Fiscal Requirements).**

**§748.153. What changes must I notify Licensing about regarding my operation?**

**You must provide written notification to your Licensing Representative:**

**(1) As soon as possible, but at least 30 days before you:**

**(A) Change the legal structure of your operation or your governing body, if**

**applicable;**

**(B) Move your operation to another location; or**

**(C) Change your operating hours;**

**(2) As soon as possible, but at least 15 days before:**

**(A) You make changes to the policies and procedures required in**

**§748.103(b) of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?);**

**(B) Changes are made to the operation's floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep; and**

**(C) Construction begins on adding a swimming pool or other permanent**

**body of water;**

**(3) As soon as possible, but no later than two days after:**

**(A) You change your child-care administrator.**

**(B) A new individual becomes a controlling person at your operation;**

**(C) An individual ceases to be a controlling person at your operation; or**

**(D) There is a significant change in the information we maintain about a**

**controlling person, such as a name change or mailing address change; and**

 **(4) Within 24 hours of the child's placement, if you provide emergency care services and exceed capacity according to §748.155(b) of this title (relating to May I exceed my operation's capacity?).**

**§748.155. May I exceed my operation's capacity?**

 **(a) The number of children and young adults in your care must not exceed the capacity stated on your permit, except as described in subsection (b) of this section.**

 **(b) If you are licensed to provide emergency care services, you may temporarily exceed your licensed capacity for not more than 48 hours to provide temporary care for a child needing emergency care services.**

 **(c) For the purpose of determining whether you exceed your capacity, the number of children in your care includes a caregiver's own children who are at the operation, if they share general living space, bedroom, and/or bathroom space with children in care, and any children receiving respite child-care services at an operation providing emergency care services.**

**§748.157. May I provide child day care services?**

**You may provide child day care services under the following conditions:**

**(1) You don't provide treatment services to children with emotional disorders;**

**(2) You care for and supervise children who receive day care services separately from the children receiving residential services; and**

**(3) You have separate administrative employees and caregivers for each program.**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 3, General Fiscal Requirements

TAC Section Number(s) §748.161, §748.163

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.

§748.161. What are my fiscal requirements?

§748.163. How often must I have a financial records review?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 3, General Fiscal Requirements

TAC Section Number(s) §748.161

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.

**§748.161. What are my fiscal requirements?**

 **(a) You must establish and maintain your operation on a sound fiscal basis, including**

 **(1) Paying your employees timely; and**

 **(2) Making sure the needs of children in care are being met.**

 **(b) You must maintain complete financial records that comply with Generally Accepted Accounting Principles, including accounting for a child's money separately from the funds of your operation. You may not use a child's personal earnings, allowances, or gifts to pay for the child's room and board, unless such use is a part of the child's service plan and the child's parent approves it in writing. You must give or send the child's money to the child, parent, or next placement within 30 days of the child's discharge.**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 4, Required Postings

TAC Section Number(s) §748.191

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.

§748.191. What items must I post at my operation?

 **(a)** The items listed below must be posted in a prominent and publicly accessible place where employees, children, parents, and others may easily view them at all times:

 (1) Your permit**. An operation does not have to post its permit in its cottage homes, as long as it posts the permit at the main office location**;

 (2) The Licensing notice *Keeping Children Safe;* and

 (3) Emergency and evacuation relocation plans posted in each building and living quarters used by children.

 **(b) Cottage homes do not have to post the permit of the operation in their cottage homes, as long as the operation posts the permit at the main office location.**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter C. Organization and Administration

Division 5, Policies and Procedures

TAC Section Number(s) §§748.231, 748.233, 748.235, 748.237, 748.239, 748.241

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.

§748.231. What are the general requirements for my operation's policies?

§748.233. What are the requirements for my admission policies?

§748.235. What child-care policies must I develop?

§748.237. What emergency behavior intervention policies must I develop if the use of emergency behavior intervention is permitted at my operation?

§748.239. What policies must I develop if I use volunteers?

§748.241. What must a policy for protecting children from vaccine-preventable diseases include?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

TAC Section Number(s) §748.301, 748.303, 748.309, 748.313, 748.315

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.

§748.301. What is a serious incident?

A serious incident is a non-routine occurrence that has or may have dangerous or significant consequences on the care, supervision, and/or treatment of a child. **The different types of serious incidents are noted in §748.303 of this title (relating to When must I report and document a serious incident?).**

§748.303. When must I report and document a serious incident?

 (a) You must report and document the following types of serious incidents involving a child in your care. The reports must be made to the following entities, and the reporting and documenting must be within the specified time frames:

| Serious Incident |  (i)To Licensing?(ii) If so, when? | (i) To Parents?(ii) If so, when? | (i) To Law enforcement?(ii) If so, when? |
| --- | --- | --- | --- |
| (1) A child dies while in your care. | (A)(i) YES(A)(ii) **Within 2 hours after the child's death** [Report as soon as possible, but no later than 24 hours after the incident or occurrence.] | (B)(i) YES(B)(ii) **Within 2 hours after the child's death** [Immediately]. | (C)(i) YES(C)(ii) Immediately**, but no later than 1 hour after the child's death** . |
| (2) A **substantial physical** [critical] injury or **critical** illness that **a reasonable person would conclude needs** [warrants] treatment by a medical professional or hospitalization[ including dislocated, fractured, or broken bones; concussions; lacerations requiring stitches; second and third degree burns; and damage to internal organs.] | (A)(i) YES(A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. | (B)(i) YES(B)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. | (C)(i) NO(C)(ii) Not Applicable. |
| (3) Allegations of abuse, neglect, or exploitation of a child; or any incident where there are indications that a child in care may have been abused, neglected, or exploited. | (A)(i) YES(A)(ii) As soon as you become aware of it. | (B)(i) YES(B)(ii) As soon as you become aware of it. | (C)(i) NO(C)(ii) Not applicable. |
| (4) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse **occurs when there** is **substantial**[:] physical injury [that results in substantial bodily harm and requiring emergency medical treatment], excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in **substantial** physical injury [that results in substantial bodily harm] to a child. | (A)(i) YES(A)(ii) As soon as **you become aware of it** [possible, but no later than 24 hours after the occurrence or incident]. | (B)(i) YES(B)(ii) As soon as **you become aware of it** [possible, but no later than 24 hours after the occurrence or incident]. | (C)(i) NO(C)(ii) Not applicable. |
| (5) Sexual abuse committed by a child against another child. For the purpose of this subsection, sexual abuse is:conduct harmful to a child's mental, emotional or physical welfare, including nonconsensual sexual activity between children of any age, and consensual sexual activity between children with more than 24 months difference in age or when there is a significant difference in the developmental level of the children; or failure to make a reasonable effort to prevent sexual conduct harmful to a child. | (A)(i) YES(A)(ii) As soon as **you become aware of it** [possible, but no later than 24 hours after the occurrence or incident]. | (B)(i) YES(B)(ii) As soon as **you become aware of it** [possible, but no later than 24 hours after the occurrence or incident.] | (C)(i) NO(C)(ii) Not applicable. |
| (6) A child is indicted, charged, or arrested for a crime, not including being issued a ticket at school by law enforcement or any other citation that does not result in the child being detained**; or when law enforcement responds to an alleged incident at the operation**. | (A)(i) YES(A)(ii) As soon as possible, but no later than 24 hours after you become aware of it. | (B)(i) YES(B)(ii) As soon as you become aware of it. | (C)(i) NO(C)(ii) Not applicable. |
| (7) A child developmentally or chronologically under 6 years old is absent from your operation and cannot be located, including the removal of a child by an unauthorized person. | (A)(i) YES(A)(ii) Within 2 hours of notifying law enforcement. | (B)(i) YES(B)(ii) Within 2 hours of notifying law enforcement. | (C)(i) YES(C)(ii) Immediately upon determining the child is not on the premises and the child is still missing. |
| (8) A child developmentally or chronologically 6 to 12 years old is absent from your operation and cannot be located, including the removal of a child by an unauthorized person.  | (A)(i) YES(A)(ii) Within 2 hours of notifying law enforcement, if the child is still missing. | (B)(i) YES(B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. | (C)(i) YES(C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. |
| (9) A child 13 years old or older is absent from your operation and cannot be located, including the removal of a child by an unauthorized person.  | (A)(i) YES(A)(ii) No later than **2** [24] hours from when the child's absence is discovered and the child is still missing. | (B)(i) YES(B)(ii) No later than **2** [24] hours from when the child's absence is discovered and the child is still missing. | (C)(i) YES(C)(ii) No later than **2** [24] hours from when the child's absence is discovered and the child is still missing. |
| (10) A child in your care contracts a communicable disease that the law requires you to report to the Department of State Health Services (DSHS) as specified in 25 TAC Chapter 97, Subchapter A, (relating to Control of Communicable Diseases). | (A)(i) YES, unless the information is confidential.(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease. | (B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.  | (C)(i) NO(C)(ii) Not applicable. |
| (11) A suicide attempt by a child. | (A)(i) YES(A)(ii) As soon as you become aware of the incident. | (B)(i) YES(B)(ii) As soon as you become aware of the incident.  | (C)(i) NO(C)(ii) Not applicable. |

 **(b)** **If there is a medically pertinent incident, such as a seizure, that does not rise to the level of a serious incident, you do not have to report the incident but you must document the incident in the same manner as a serious incident.**

 **(c)** [(b)]If there is a serious incident involving an adult resident, you do not have to report the incident to Licensing, but you must document the incident **in the same manner as a serious incident**. You do have to report the incident to**:**

 **(1) Law** [law] enforcement, as outlined in the chart above**;**[. You also have to report the incident to the]

 **(2) The** parents, if the adult resident is not capable of making decisions about **the resident's** [his] own care**; and**[.]

 **(3) Adult Protective Services through the Texas Abuse and Neglect Hotline if there is reason to believe the adult resident has been abused, neglected or exploited.**

 **(d)** [(c)] You must report and document the following types of serious incidents involving your operation, an employee, **a** professional level service provider**,** **contract staff,** or a volunteer to the following entities within the specified time frame:

| Serious Incident | (i) To Licensing?(ii) If so, when? | (i) To Parents?(ii) If so, when? |
| --- | --- | --- |
| (1) Any incident that renders all or part of your operation unsafe or unsanitary for a child, such as a fire or a flood.  | (A)(i) YES(A)(ii) As soon as possible, but no later than 24 hours after the incident. | (B)(i) YES(B)(ii) As soon as possible, but no later than 24 hours after the incident. |
| (2) A disaster or emergency that requires your operation to close. | (A)(i) YES(A)(ii) As soon as possible, but no later than 24 hours after the incident. | (B)(i) YES(B)(ii) As soon as possible, but no later than 24 hours after the incident. |
| (3) An adult who has contact with a child in care contracts a communicable disease noted in 25 TAC 97, Subchapter A, (relating to Control of Communicable Diseases). | (A)(i) YES, unless the information is confidential.(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease. | (B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.  |
| (4) An allegation that a person under the auspices of your operation who directly cares for or has access to a child in the operation has abused drugs within the past seven days. | (A)(i) YES(A)(ii) Within 24 hours after learning of the allegation. | (B)(i) NO(B)(ii) Not applicable. |
| (5) An investigation of abuse or neglect by an entity **other than Licensing** [(other than Licensing)] of an employee, professional level service provider, **contract staff,** volunteer, or other adult at the operation.  | (A)(i) YES(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the investigation. |  |
| (6) An arrest, indictment, or a county or district attorney accepts an "Information" regarding an official complaint against an employee, professional level service provider, **contract staff,** or volunteer**, or other adult at the operation** alleging commission of any crime as provided in §745.651 of this title (relating to What types of criminal convictions may affect a person's ability to be present at an operation?)**; or when law enforcement responds to an alleged incident to the operation**.  | (B)(i) NO(B)(ii) Not applicable. | (B)(i) NO(B)(ii) Not applicable. |

§748.309. How do I make a report of a serious incident or occurrence to Licensing?

 [(a)] All serious incident reports must be made **directly** to the **Texas** [Child] Abuse **and Neglect** Hotline; and

 [(b) Occurrences that are required to be reported to Licensing in writing must be forwarded to your Licensing representative (See §748.307(2) and (3) of this title (relating to When must I report other occurrences?)).]

§748.313. What additional documentation must I include with a written serious incident report?

You must include the following additional documentation with a written serious incident report, as applicable:

| Serious incident | Documentation |
| --- | --- |
| (1) Child death, **substantial physical** [suicide attempt, or a critical] injury**, or a suicide attempt** reportable under §748.303(a)(1), (2), and (11) of this title (relating to When must I report and document a serious incident?). | Any emergency behavior interventions implemented on the child within 48 hours prior to the serious incident. |
| (2) Any **substantial physical** [critical] injury reportable under §748.303(a)(2) of this title that resulted from a short personal restraint. | Documentation of the short personal restraint, including the precipitating circumstances and specific behaviors that led to the emergency behavior intervention. |
| (3) Child absent without permission. | (A) Any efforts made to locate the child;(B) The date and time you notified the parent(s) and the appropriate law enforcement agency and the names of the persons with whom you spoke regarding the child’s absence and subsequent location or return to the operation; and (C) If the parent cannot be located, dates and times of all efforts made to notify the parent regarding the child’s absence and subsequent location or return to the operation. |
| (4) Any **physical or sexual abuse committed by a child against another child** [abusive behavior among children] reportable under §748.303(a)(4) or (5) of this title. | The difference in size, age, and developmental level of the children involved in the **physical or sexual abuse** [abusive behavior]. |

§748.315. **How long** [Where] must I keep incident reports?

 [(a)] You must keep the incident reports on file at the operation for two years. **The reports must be easily accessible to Licensing upon request.**

 [(b) You must permit Licensing to make a copy of incident reports, as 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 .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

TAC Section Number(s) §748.307

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 repeal implements HRC §42.042.

§748.307. When must I report other occurrences?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

TAC Section Number(s) §748.341

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.

§748.341. If I keep electronic records, what procedures must I have for those records?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

TAC Section Number(s) §§748.341, 748.343, 748.345, 748.347

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.

**§748.341. What are the retention requirements for my operation's policies?**

 **(a) You must maintain a copy of your policies and procedures at the operation. They must be available for review by employees, contract staff, caregivers, Licensing, or your clients, upon request.**

 **(b) You must maintain copies of all current and previous policies for at least two years.**

**§748.343. What policies and procedures must I have for protecting records?**

**You must have policies and procedures for:**

 **(1) Protecting paper and electronic records from destruction and loss; and**

 **(2) Clarifying the persons:**

 **(A) Within your operation who are authorized to access records; and**

 **(B) Outside of your operation who are authorized by law to have access to records.**

**§748.345. What additional policies and procedures must I have for electronic records?**

**If you keep electronic records, you must develop policies and procedures in addition to the requirements in §748.343 of this title (relating to What policies and procedures must I have for protecting records?). These policies and procedures must address:**

 **(1) What records must be in the external paper file and what records can be stored in the electronic file;**

 **(2) Computer security systems, including confidentiality, passwords, and employee procedures to ensure the security of the system;**

 **(3) Requirements for routine back-up of data;**

 **(4) Anti-virus protection systems; and**

 **(5) Limit access to your electronic files to persons within your operation authorized to see specific information in an electronic file.**

**748.347. Are electronic signatures allowed?**

**Yes, you may use electronic and digital signatures, including approvals by e-mail and electronic approvals.**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 3, Personnel Records

TAC Section Number(s) §748.361, §748.363

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.

§748.361. Where must I maintain personnel records?

 (a)You must maintain **all** active personnel records at the operation. [This may include electronic records per §748.341 of this title (relating to If I keep electronic records, what procedures must I have for those records?).]

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

 (e) You must maintain **in the main office of the operation** a master list of active and archived personnel records **with a notation of the** [and their] location **of those records** [in the main office of the operation].

§748.363. What information must the personnel record of an employee include?

For each employee, the personnel record must include:

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

 (7) A statement signed and dated by the employee documentingthat the employeehas read a copy of the **operational policies required by §748.103 of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?);**[:]

 [(A) Operational policies; and]

 [(B) Personnel policies;]

 (8) A statement signed and dated by the employee **indicating** [documenting:]

[(A) That] the employeemust immediately report any suspected incident of child abuse, neglect, or exploitation to the **Texas** [Child] Abuse **and Neglect** Hotline and to the operation’s administrator or administrator’s designee; [and]

[(B) The date the employee attended pre-service training in measures to prevent, identify, treat, and report suspected occurrences of child abuse (including sexual abuse), neglect, and exploitation, as required by §748.881(2) of this title (relating to What curriculum components must be included in the general pre-service training?);]

 (9) - (10) (No change.)

 (11) A record of training**, including the date of the training,** **the number of** [and] training hours**, and the curriculum covered**;

 (12) Any documentation of the person’s **performance** [tenure] with the operation; and

 (13) The date and reason for the person’s separation, if applicable.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 4, Child Records

TAC Section Number(s) §748.393, §748.395

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.

§748.393. How must I maintain an active child record?

 (a) You must keep active child records at the operation where the child is receiving services. This may include electronic records [per §748.341 of this title (relating to If I keep electronic records, what procedures must I have for those records?)].

 (b) On an on-going basis, you must ensure that each child’s record:

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

 [(3) Includes the date of each data entry and the name of the employee who makes the data entry;]

 **(3)** [(4)] Is kept accurate and current;

 **(4)** [(5)] Is locked and kept in a safe location; and

 **(5)** [(6)] Is kept confidential as required by law.

§748.395. How current must a child’s record be?

All documentation must be in the record:

 (1) No later than 30 days after the occurrence or event; **or**

 [(2) Within 15 days from the end of the month for monthly summaries; or]

 **(2)** [(3)] As otherwise specified in this chapter.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter D, Reports and Record Keeping

Division 5, Record Retention

TAC Section Number(s) §748.435

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.

§748.435. What procedures must I have for protecting records?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 1, General Requirements

TAC Section Number(s) §748.501

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.

§748.501. What must my written professional staffing plan include?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 1, General Requirements

TAC Section Number(s) §748.505

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.

§748.505. What minimum qualifications must all employees meet?

 (a) (No change.)

 (b) Each employee [who is regularly or frequently present while children are in care] 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 .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 2, Child-Care Administrator

TAC Section Number(s) §§748.533, 748.535, 748.539

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.

§748.533. Can a child-care administrator be an administrator for two residential child-care programs?

(a) (No change.)

(b) An operation that provides emergency care services must designate an employee in the staffing plan that is solely responsible for administering those services. This employee must have the experience and background to be able to perform the child-care administrator responsibilities. See §748.535 of this title (relating to What responsibilities must the child-care administrator [designated to be responsible for the on-site administration of the operation] have?). A designated employee, other than the child-care administrator for the operation, is not required if the emergency care services program has a capacity of not more than 30 children.

§748.535. What responsibilities must the child-care administrator [designated to be responsible for the on-site administration of the operation] have?

The child-care administrator must:

 (1) (No change.)

 (2) Be responsible for or assign responsibility for:

 (A) - (D) (No change.)

 (E) Administering and managing the operation according to **your** [the] policies [adopted by the governing body];

 (F) - (H) (No change.)

§748.539. Who must have overall administrative responsibility when the child-care administrator is absent on a frequent and/or extended basis?

 [(a) The child-care] **When the child-care administrator is absent on a frequent and/or extended basis, the** administrator must designate an employee **that has a Child-Care Administrator's License** to be responsible for the overall administration of the operation while the administrator is absent [on a frequent and/or extended basis].

 [(b) The designee must be a Licensed Child-Care Administrator as required in Chapter 43 of the Human Resources Code].

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 3, Professional Level Service Providers

TAC Section Number(s) §§748.563, 748.571, 748.575

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.

§748.563. What professional qualifications must a professional level service provider have in order to perform professional level service activities?

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

 (c)To provide services for any other children, a professional level service provider must have the following qualifications:

| Options: | Educational qualifications: | Professional qualifications: |
| --- | --- | --- |
| [Option 1] | [(A) A master's degree or higher from an accredited college or university in social work or other human services field; and][(B) Nine credit hours in graduate level courses that focus on family and individual function and interaction.] | [One year of documented full-time work experience in a residential child-care operation, or related field of child and family services.] |
| Option **1**[2] | A master's degree or higher from an accredited college or university**; or a bachelor's degree from an accredited college or university in social work or other human services field.** | One year [Two years] of documented full-time work experience in a residential child-care operation, or related field of child and family services. |
| [Option 3] | [A bachelor's degree from an accredited college or university in social work or other human services field.] | [Two years of documented full-time work experience in a residential child-care operation, or related field of child and family services.] |
| Option **2** [4] | A bachelor's degree from an accredited college or university. | Two [Three] years of documented full-time work experience in a residential child-care operation, or related field of child and family services. |

 [(d)A person who is a professional level service provider at your operation on or before the effective date of these rules may have the following qualifications in lieu of those set forth in subsection (c)of this section:]

|  |  |  |
| --- | --- | --- |
| [Options:] | [Educational Qualifications:] | [Professional Qualifications:] |
| Option 1 | [A bachelor's degree from an accredited college or university.] | [No qualifications are needed if the professional level service provider is directly supervised by a service provider who meets one of the qualifications in subsection (a) or (c)of this section.] |
| [Option 2] | [Educational requirements for a Licensed Child-Care Administrator.] | [Child-Care Administrator's License.] |

§748.571. What are the responsibilities of a registered nurse at an operation that provides services to a child with primary medical needs?

The responsibilities of a registered nurse include:

 (1) (No change.)

 (2) Leading **or participating** **in** the service planning process for the child's care [including registered nurse delegation of tasks or exemption from the registered nurse delegation in compliance with 22 TAC, Chapters 224 and 225 of the Texas Board of Nurse Examiners rules];

 (3) - (9) (No change.)

§748.575. In what circumstances may a physician or registered nurse (including an advanced practice registered nurse) delegate nursing tasks to unlicensed caregivers?

The physician or registered nurse may delegate nursing tasks to unlicensed caregivers only if all delegation criteria are met for the task to be delegated, including, but not limited to:

 [(1) Compliance with 22 TAC, Chapters 224 and 225 of the Texas Board of Nurse Examiners rules;]

 **(1)** [(2)] The nursing task is one that a reasonable and prudent physician or registered nurse would find is within the scope of sound nursing judgment to delegate;

 **(2)** [(3)] The physician or registered nurse determines that the nursing task can be properly and safely performed by the unlicensed caregiver without jeopardizing the child's welfare;

 **(3)** [(4)] The operation employing or contracting with the unlicensed caregivers develops and follows a protocol, with input from a physician or registered nurse, for the instruction and training of unlicensed caregivers performing nursing tasks. The protocol must address:

 (A) An established mechanism for identifying those individuals to whom nursing tasks may be designated;

 (B) The manner in which the instruction addresses the complexity of the delegated task;

 (C) The manner in which the unlicensed caregivers demonstrate the competency of the delegated task; and

 (D) The mechanism for re-evaluation of the competency;

 **(4)** [(5)] The training protocol recognizes that the final decision as to what nursing tasks can be safely delegated in any specific situation is within the specific scope of the physician's or registered nurse's judgment; and

 **(5)** [(6)] A physician or registered nurse must instruct unlicensed caregivers in performing nursing tasks.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 4, Treatment Director

TAC Section Number(s) §748.605

Proposed Action

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

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

 The amendment implements HRC §42.042.

§748.605. What qualifications must a treatment director have?

 (a) A treatment director that provides or oversees treatment services for children with **intellectual disabilities** [mental retardation] or children with **autism spectrum disorder** [pervasive developmental disorders] must be:

 (1) (No change.)

 (2) Certified by the Texas Education Agency as an education diagnostician, have a master's degree in special education or a human services field, and have three years of experience working with children with **intellectual disabilities** [mental retardation] or **autism spectrum** [a pervasive developmental] disorder.

 (b) - (c) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 5, Caregivers

TAC Section Number(s) §748.681

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.

§748.681. What minimum qualifications must a caregiver meet?

Each employee must meet the following qualifications before you can count **the employee** [him] in the child/caregiver ratio:

 (1) (No change.)

 (2) Have **either:**

 **(A) A high school diploma or high school equivalency, such as a General Educational Development (GED)** [one of the following] from a program recognized by the Texas Education Agency (TEA**), the Texas Private School Accreditation Commission TPSAC),** or **similar** [a public] educational entity **from another state; or** [outside of Texas:]

 [(A) High school diploma; or]

 [(B) High school equivalency, such as a General Educational Development (GED); and]

 **(B) Documentation to verify high school equivalency from home schooling. The documentation must adequately address basic competencies that would be otherwise met by a high-school diploma or a GED, including basic reading, writing, and math skills; and**

 (3) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 6, Contract Staff and Volunteers

TAC Section Number(s) §§748.721, 748.724, 748.725, 748.729, 748.731

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.

§748.721. What are the requirements for a volunteer?

 (a) (No change.)

 (b) The personnel record must include a statement signed and dated by the volunteer indicating **the volunteer** [he] must immediately report any suspected incident of abuse, neglect, or exploitation to the **Texas** [Child] Abuse **and Neglect** Hotline and the operation's administrator or administrator's designee. An internal reporting policy may not require **or allow a person to delegate** the person's responsibility to report suspected abuse, neglect, or exploitation.

 [(c) If the volunteer provides short-term services through an agency or an organization, you must determine that the organization or agency's policies meet the intent of these rules before the volunteer can have contact with children.]

**§748.724. When is a volunteer or contractor who is a part of another organization subject to my policies and procedures?**

**(a) A volunteer or contractor who is part of another organization is subject to your policies and procedures unless that organization provides screening, training, and supervision to the volunteer/contractor that are adequate to protect the health and safety of children. Before the volunteer/contractor can have contact with children:**

**(1) The volunteer/contractor must meet the relevant requirements of your policies and procedures; or**

**(2) You must confirm the organization provides adequate screening, training, and supervision.**

**(b) An organization may be another licensed operation.**

§748.725. **Can a volunteer, a volunteer's family, or a sponsoring family take** [Is a family or organization that invites] a child in care for an overnight or weekend **visit** [a

"volunteer"]?

 (a) **Yes, but, when** [When] a **volunteer, a volunteer's family, or a sponsoring** family [or organization] takes a child who is in care for an overnight or weekend visit, this is [not] a volunteer activity.

 (b) **Neither the volunteer nor the family would have to comply with employee or caregiver requirements, but:**

 **(1) The volunteer and/or the family would have to meet the relevant background checks; and**

 **(2)** In order for a **volunteer or a** family [or organization] to take a child out of care for more than 48 hours, you must get written approval from the parent.

§748.729. What must I do when a child in care visits a volunteer or sponsoring family for a day or overnight?

 [(a)] If a child has a day or overnight visit with a volunteer**, a volunteer's family,** or sponsoring family, you must ensure that:

 (1) The child is properly supervised, properly fed and hydrated, and provided with safe housing accommodations, if applicable**;**[.]

 (2) The child's health, safety, and well-being are protected**; and**[.]

 (3) Prior to the visit, the person responsible for the child during the visit has **to receive the same** information **that you as a respite child-care services provider would receive, as specified in §748.4265 of this title (relating to What information regarding a child must I receive prior to providing respite child-care services to that child?)** [for emergency medical care, such as permission for emergency medical care, telephone numbers for the child's licensed physician(s), and medication and treatment information].

 [(4) Unless the volunteer is court-appointed, the volunteer must not remove the child from the operation for more than 48 hours without prior written approval of the child's parent.]

 [(b) When a child who is not in your care invites a child who is in your care for an overnight or weekend visit, this is not a volunteer activity. You must get prior written approval from the parent to continue a visit for more than 48 hours.]

**§748.731. May a person perform community service hours at my operation?**

**A person may not perform community service hours at your operation. For the purposes of this rule, community service includes service a person must perform because the person is on probation, parole, or otherwise required to perform the service through the courts because of criminal activity.**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter E, Personnel

Division 6, Contract Staff and Volunteers

TAC Section Number(s) §748.727 and §748.731

Proposed Action

X Repeals

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.

§748.727. Is a "sponsoring family" program a volunteer program?

§748.731. Can I use a volunteer that is on probation, parole, or referred for community service through the courts?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter F, Training and Professional Development

Division 1, Definitions

TAC Section Number(s) §748.801

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.

§748.801. What do certain words **and terms** mean in this subchapter?

**The** [These] words **and terms used in this subchapter** have the following **meaning** [meanings in this subchapter]:

 [(1) CEU--Continuing education unit.]

 **(1)** [(2)] CPR--Cardiopulmonary resuscitation.

 **(2)** [(3)] Hours--Clock hours.

 **(3)** [(4)] **Instructor-led** [Instructor led] training--Training that is characterized by the communication and interaction that takes place between the student and the instructor**. It** [and] must include an opportunity for the student to [timely] interact with the instructor to obtain clarifications and information beyond the scope of the training **material**

[materials, including answering]**. For such an opportunity to exist, the instructor must be able to answer** questions, **provide** [providing] feedback on skills practice, **provide** [providing] guidance or information on additional resources, and proactively **interact** [interacting] with students. Examples of this type of training include classroom training, on-line distance learning, video-conferencing, or other group learning experiences.

 **(4)** [(5)] **Self-instructional** [Self instructional] training--Training that is designed to be used by one individual working alone **and** at **the individual's** [his] own pace to complete lessons or modules. Examples of this type of training include computer based training, written materials, or video training.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter F, Training and Professional Development

Division 3, Pre-Service Experience and Training

TAC Section Number(s) §§748.861, 748.867, 748.869

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.

§748.861. What are the pre-service experience requirements for a caregiver?

 (a) (No change.)

 (b) If 25 or more children or 30% or more of your total population of children in care are receiving treatment services, then a caregiver must have 40 hours of supervised child-care experience in **your operation and/or another** [an] operation that provides the same treatment services. **Until the caregiver has met this** [If the] 40-hour experience requirement**, the caregiver:**

 **(1) May not be assigned as the only caregiver responsible for a group of children;**

 **(2) Must be supervised at all times by another caregiver who has already satisfied the 40-hour experience requirement; and** [is not met, before you may assign the person as the only caregiver responsible for a group of children, the caregiver must have at least 40 total hours of supervised child-care experience from your operation and/or another operation that provides the same treatment services. Until the caregiver completes the supervised experience, an experienced caregiver must be physically available to supervise the caregiver at all times.]

 **(3)** The supervised child-care experience must be documented in the appropriate personnel record.

§748.867. Must I provide pre-service training to a caregiver or an employee who has previously worked in an operation?

 (a) A caregiver is exempt from completing the eight hours of general pre-service training if **the caregiver** [he] has been employed as a caregiver in a general residential operation [or residential treatment center]during the past 12 months.

 (b) A caregiver or an employee [working with children] does not have to complete the pre-service training regarding emergency behavior intervention if **the caregiver or employee** [he]:

 (1) Has been employed by a general residential operation [or residential treatment center] during the last 12 months;

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

 (c) (No change.)

§748.869. What are the instructor requirements for providing pre-service training?

 **(a)** **The training must instructor-led.**

 (b)[(a)] A qualified instructor must deliver the pre-service training**. A qualified instructor must hold a generally recognized credential or possess documented knowledge and/or experience relevant to the training the instructor will provide.** [The training must be instructor led.]

 (c) - (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 .

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

Chapter 748, General Residential Operations

Subchapter F, Training and Professional Development

Division 4, General Pre-Service Training

TAC Section Number(s) §748.883 and §748.885

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.

§748.883. **What additional** [If your operation cares for children younger than two years old, what additional curriculum components must be included in the] general pre-service training **requirements are there for a caregiver who will care for children younger than two years old**?

**Yes. You must ensure that each caregiver who provides care** [If your operation cares] for children younger than two years old **receives**[, the] general pre-service training **on** [curriculum must also include the following components]:

 (1) (No change.)

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

(3) (No change.)

§748.885. **What additional** [For caregivers that administer psychotropic medication, what additional curriculum components must be included in the] general pre-service training **requirements are there for a caregiver that administers psychotropic medication**?

**You must ensure that each caregiver that administers psychotropic medication receives general pre-service training on:** [Before a caregiver is permitted to administer psychotropic medication, the caregiver must be trained on administering the medication. The training curriculum must include the following components]:

 (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 .

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

Chapter 748, General Residential Operations

Subchapter F, Training and Professional Development

Division 6, Annual Training

TAC Section Number(s) §§748.935, 748.937, 748.939, 748.941, 748.943, 748.945

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.

 §748.935. When must a person complete the annual training?

 (a) Each person must complete the annual training:

 (1) Within 12 months from **when you hire the person** [the date of his employment]; and

 (2) During each subsequent 12-month period **after the anniversary date of hire**.

 (b) Alternately, you have the option of prorating the person's annual training requirements from the date of **hire** [employment] to the end of the calendar year or the end of the operation'sfiscal year and then beginning a new 12-month period that coincides with the calendar or fiscal year.

 (c) (No change.)

§748.937. What types of hours or instruction can be used to complete the annual training requirements?

 (a) If the training complies with the other rules in this division (relating to Annual Training), annual training may include hours or **Continuing Education Units** [CEUs] earned through:

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

 (3) Self-instructional training, excluding training on emergency behavior intervention[, first-aid,] and CPR;

 (4) - (6) (No change.)

 (b) For annual training hours, you may count:

 (1) The hours of annual training that a person received at another **child-care** [general] residential operation [or residential treatment center,] if the person:

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

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

 (4) **Any** [The] hours of pre-service training that the person **earned** [earns] in addition to the required pre-service hours**, although you may not carry over more than 10 hours of a person's pre-service training hours for use as annual training hours during the upcoming year**. [For example, if a person completes 24 hours of pre-service emergency behavior intervention training, and is required to obtain 16 hours, that person may count eight of the hours toward annual training requirements];

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

 (c) For annual training hours, you may not count:

 (1) Orientation training;

 (2) **Required pre-service** [Pre-service] training;

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

 (d) No more than **one-half** [one-third] of the required annual training hours may come from self-instructional training**.** **No more than three of those self-instructional hours may come from reading written materials.**

 (e) (No change.)

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

No. We do not approve or endorse training resources or trainers for training hours. You must, however, ensure the employees receive reliable training relevant to the population of children served,which includes **for both instructor-led training and self-instructional training**:

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

§748.941. What are the instructor requirements for providing annual training?

 (a) (No change.)

 (b) Transportation safety training must be **instructor-led and** provided by:

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

§748.943. What areas or topics are appropriate for annual training?

**Other than the mandated topics, annual** [Annual] training must be in areas appropriate to the needs of children for whom the operation or employee will be providing care, which may include:

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

 (6) Supervision and safety practices **for** [in the care of] children **in care**;[or]

 (7) Preventing the spread of communicable diseases**;**[.]

**(8) Water safety; or**

**(9) Administration of medication.**

§748.945. For **a new caregiver who** [caregivers that] administer psychotropic medication, what annual training is required?

If you permit a caregiver to administer psychotropic medication:

 (1) **The caregiver's** [His]annual training must meet the **psychotropic medication training** requirements in §748.885 of this title (relating to **What additional general pre-service training requirements are there for a caregiver that administers psychotropic medication?** [For caregivers that administer psychotropic medication, what additional curriculum components must be included in the general pre-service training?]); and

(2) **The caregiver** [He] must obtain **the** annual psychotropic medication training no later than 12 months after **the caregiver's** [his] last psychotropic medication training.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter F, Training and Professional Development

Division 7, First-Aid and CPR Certification

TAC Section Number(s) §748.985 and §748.987

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.

§748.985. Who can provide first-aid and CPR certification?

 (a) The following may provide first-aid and CPR certification:

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

 (b) A caregiver may not obtain [first-aid or] CPR certification through self-instructional training.

§748.987. What must the [first-aid and] CPR training include?

 (a) [First-aid and] CPR **training/certification** [training] and re-certification must consist of a curriculum that includes both written and hands-on skill-based instruction, practice [(for CPR, the practice] is through the use of a CPR mannequin[)], and testing.

 (b) CPR **training/certification** [training] and recertification must include CPR for children and adults. For operations that care for infants and/or admit children with infants, the training must also include CPR for infants.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter G, Child/Caregiver Ratios

TAC Section Number(s) §§748.1009, 748.1013, 748.1021

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.

§748.1009. How many caregivers must I employ?

 [(a)] You must employ an adequate number of qualified caregivers to meet the needs of children, taking into account each child's age, medical, physical, and mental condition and other factors that affect the amount of supervision the child requires, including enough caregivers to meet:

 (1) Child/caregiver ratios; and

 (2) All of their responsibilities required in §748.685 of this title (relating to What responsibilities does a caregiver have when supervising a child or children?).

 [(b) If you provide treatment services, your professional staffing plan must identify your:]

 [(1) Ability to have enough caregivers, including caregivers who are awake throughout the night to supervise children 24 hours a day, including frequent one-to-one monitoring whenever necessary to meet the needs of a particular child; and]

 [(2) Staffing patterns, including your child/caregiver ratios, hours of coverage, and plans for providing backup caregivers in emergencies.]

§748.1013. How does a caregiver care for a child needing constant supervision during sleeping hours?

 (a) A caregiver must always be awake when caring for a child needing constant supervision, such as a medically fragile child or a child that is an immediate danger to **self** [himself] or others.

 (b) To facilitate continuous care for a child, the caregiver may move a child to a location where the caregiver can directly and continuously supervise a child until there is no longer an immediate danger to **self** [himself] or others. The caregiver must provide comfortable sleeping arrangements for the child.

§748.1021. When does a child who is in a transitional living program not need supervision?

 **(a)** **The child must be 16 years old or older.**

 **(b)** [(a)] You must evaluate each child in a transitional living program to determine whether the child needs supervision. The evaluation must:

 (1) Include a written plan defining the periods of time the child may be left unsupervised;

 (2) Include a written plan for addressing behavioral problems that a child may have while in the transitional living program; and

 (3) Identify how the child may contact the caregivers when caregivers are not physically present with the child, such as being available to the child by telephone or other means of contact.

 **(c)** [(b)] The child's service planning team must approve the evaluation.

 **(d)** [(c)] You must document the evaluation of the child and the approval in the child's record. You must review and update the evaluation during the child's service planning meetings.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter H, Child Rights

TAC Section Number(s) §748.1101, §748.1105

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.

§748.1101. What rights does a child in care have?

§748.1105. What provisions must I make for a child’s personal care?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter H, Child Rights

TAC Section Number(s) §§748.1101, 748.1103, 748.1109, 748.1117, 748.1119

Proposed Action

X New

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

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

**§748.1101. What rights does a child in care have?**

 **(a) A child's rights are cumulative of any other rights granted by law or other Licensing rules.**

 **(b) The following categories include the child's rights that you must adhere to:**

 **(1) Safety and care, including:**

 **(A) The right to good care and treatment that meets the child's needs in the most family-like setting possible;**

 **(B) The right to be free from abuse, neglect, and exploitation; and**

 **(C) The right to fair treatment;**

 **(2) Family contacts, including the right to maintain regular contact with the child's parents and siblings, unless restrictions are necessary because of the child's best interest, the decision of an appropriate professional, or a court order;**

 **(3) Living a normal life, including:**

 **(A) The right to be able to communicate in a language or any other means that is understandable to the child at admission or within a reasonable time after an emergency admission, if applicable, such as having a plan for an interpreter, having at least one person at the operation at all times who can communicate with the child in the child's own language, or other means to communicate with the child in the child's own language;**

 **(B) The right to receive educational services appropriate to the child's age and developmental level;**

 **(C) The right to have the child's religious needs met. The child has the right to choose a church or not to practice a religion;**

 **(D) The right to participate in childhood activities, including unsupervised childhood activities away from the operation and the caregivers, that are appropriate for the child's age, maturity, and developmental level;**

 **(E) The right to privacy, including sending and receiving unopened mail, making and receiving phone calls, keeping a personal journal, and having visitors, unless the child's best interest, appropriate professionals, or court order necessitates restrictions;**

 **(F) The right to personal care, hygiene, and grooming equipment and supplies and training in how to use them;**

 **(G) The right to have comfortable clothing, which is suitable to the child's age and size and similar to the clothing of other children in the community. Teenagers should have reasonable opportunities to select the clothing;**

 **(H) The right to clothing that protects the child against the weather;**

 **(I) The right to have personal items in the child's room and to get additional things within reasonable limits;**

 **(J) The right to personal space in the child's bedroom to store the child's clothes and belongings;**

 **(K) The right to be informed of search policies and be free of unreasonable searches and unreasonable removal of personal items**

 **(L) Depending on the child's age and maturity, the right to seek employment, keep the child's own money, have a bank account in the child's name, and get paid for any work done for the operation as part of the child's service plan or vocational training, with the exception of assigned routine duties that relate to the child's living environment, such as cleaning the child's room, or other chores, or work assigned as a disciplinary measure;**

 **(M) The right to consent in writing before taking part in any publicity or fund raising activity for the operation, including the use of the child's photograph;**

 **(N) The right to refuse to make public statements showing gratitude to operation; and**

 **(O) The right to not be pressured to get an abortion, give up her child for adoption, or parent her child, if applicable;**

 **(4) Discipline, including:**

 **(A) The right to be free from any harsh, cruel, unusual, unnecessary, demeaning, or humiliating treatment or punishment. This means the child must not be:**

 **(i) Shaken;**

 **(ii) Subjected to or threatened with corporal punishment, including spanking or hitting the child;**

 **(iii) Forced to do unproductive work that serves no purpose except to demean the child, such as moving rocks from one pile to another or digging a hole and then filling it in;**

 **(iv) Denied food, sleep, a bathroom, mail, or family visits as punishment;**

 **(v) Subjected to remarks that belittle or ridicule the child or the child's family;**

 **(vi) Threatened with the loss of placement or shelter as punishment; and**

 **(vii) Subjected to demeaning behavior to embarrass, control, harm, intimidate, or isolate the child. "Demeaning behavior" may include using physical force, rumors, threats, or inappropriate comments;**

 **(B) The right to discipline that is appropriate to the child's age, maturity, and developmental level; and**

 **(C) The right to have restrictions or disciplinary policies explained to the child at admittance and when the measures are imposed;**

 **(5) Plans for the child while in care, including:**

 **(A) The right to have a comprehensive service plan that addresses the child's needs, including transitional and discharge planning; and**

 **(B) The right to actively participate in the development of the child's service plan within the limits of the child's comprehension and ability to manage the information. The child has the right to a copy or summary of the plan. A child 14 years of age or older has the right to review and sign the service plan;**

 **(6) Medical care and records, including:**

 **(A) The right to medical, dental, vision, and mental health care and developmental services that adequately meet the child's needs. The right to request that the care or services be separate from adults (other than young adults) who are receiving services;**

 **(B) The right to be free of unnecessary or excessive medication; and**

 **(C) The right to confidential care and treatment, including keeping medical records and operation records private and only discussing them when it is about the child's care; and**

 **(7) Complaints, including the right to make calls, reports, or complaints without interference, coercion, punishment, retaliation, or threats of punishment or retaliation. The child may make these calls, reports, or complaints anonymously. Depending upon the nature of the complaint, the child has the right to call, report, or complain to:**

 **(A) The DFPS Texas Abuse/Neglect Hotline at 1-800-252-5400;**

 **(B) The HHSC Ombusman for Children and Youth Currently in Foster Care at 1-844-286-0769;**

 **(C) The DFPS Office of Consumer Affairs at 1-800-720-7777; or**

 **(D) Disability Rights of Texas at 1-800-252-9108.**

§748.1103. How must I inform a child and the child’s parents of their rights?

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

 (d) The person you are informing of the child’s rights must sign a statement indicating that the person has read and understands these rights. **A copy of a timely signed "CPS Rights of Children and Youth in Foster Care" will meet this standard.** You must put the signed copy in the child’s record.

§748.1109. What right does a child have regarding contact with siblings?

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

 (c) When you restrict sibling contact, you must include justification in the **child's record.** **Restrictions imposed by you that continue for more than 60 days must be re-evaluated every 60 days by a professional level service provider, who also must:**

**(1) Explain the reasons for the continued restrictions to the child; and**

**(2) Document the reasons in the child's record.** [service plan and service plan reviews and updates. If a restriction imposed by you lasts more than 90 days, you must document the justification for continuing the restriction in the child's record at least every 90 days.]

 (d) (No change.)

§748.1117. What must I document regarding a search?

You must document the following in the child's record when you conduct a search under §748.1113(b) of this title (relating to Under what circumstances may I conduct a search for prohibited items or items that endanger a child's safety?):

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

 (9) The resolution of the issue with the child, including increased supervision, additional **counseling** [therapy], or disciplinary consequences.

§748.1119. What techniques am I prohibited from using on a child?

**Certain** [You may not use any of the following] techniques **must not be used** on a child**, including**:

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

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 1, Admission

TAC Section Number(s) §§748.1205, 748.1207, 748.1209, 748.1211, 748.1213, 748.1215, 748.1217, 748.1219, 748.1223, 748.1225

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.

§748.1205. What information must I document in the child's record at admission?

 (a) You must include the following in the child's record at admission:

 (1) The child's name, gender, race, religion, **and** date of birth[, and birthplace];

 [(2) Court orders establishing who is the managing conservator for the child, if applicable;]

 **(2)** [(3)] The name, address, and telephone number of the managing conservator, the primary caregivers for the child, any person with whom the child is allowed to leave the operation, and any other individual who has the legal authority to consent to the child's medical care;

 **(3)** [(4)] The names, addresses, and telephone numbers of biological or adoptive parents, unless parental rights have been terminated;

 **(4)** [(5)] The names, addresses, and telephone numbers of siblings;

 **(5)** [(6)] The date of admission;

 **(6)** [(7)] Medication the child is taking;

 **(7)** [(8)] The child's immunization record;

 **(8)** [(9)] Allergies, such as food, medication, sting, and skin allergies;

 **(9)** [(10)] Chronic health conditions, such as asthma or diabetes;

 **(10)** [(11)] Known contraindications to the use of restraint;

 **(11)** [(12)] Identification of the child's treatment needs, if applicable, and any additional treatment services or programmatic services the child is receiving;

 **(12)** [(13)] Identification of the child's high-risk behavior(s), if applicable, and the safety plan staff and caregivers will implement related to the behavior(s);

 **(13)** [(14)] A copy of the placement agreement, if applicable; and

 **(14)** [(15)] Documentation of the attempt to notify the parent of the child's location as required by §748.1211(c) of this title (relating to What information must I share with the parent at the time of placement?), if applicable.

 (b) - (c) (No change.)

§748.1207. What is a placement agreement?

 **(a)** A placement agreement is your agreement with a child’s parent **or the child** that defines your roles and responsibilities and authorizes you to obtain or provide services for the child. The placement agreement must include:

 (1) Authorization permitting you to care for the child;

 (2) A medical consent form signed by a person legally authorized by the Texas Family Code to provide consent; and

 (3) The reason for placement and anticipated length of time in care.

 **(b) A placement agreement must be signed by the child's parent, except as provided in subsection (c).**

 **(c) For a transitional living program, a child 16 years of age or older may sign the placement agreement on the child's own behalf, as provided in the Texas Family Code §32.203, without the consent of the child's parent if the child:**

 **(1) Resides separate and apart from the child's parent and manages the child's own financial affairs;**

 **(2) Is unmarried and pregnant; or**

 **(3) Is unmarried and a parent.**

§748.1209. What orientation must I provide a child?

 (a) (No change.)

 (b) Orientation must include information about your policies on the following:

 (1) - (11) (No change.)

 (12) A general daily schedule for routine activities for children in care; and

 (13) **Internal grievance** [Grievance] procedures.

 **(c) Orientation must include information on how to:**

 **(1) Make complaints to outside agencies; and**

 **(2) Contact parties to a child's case (i.e. caseworker, attorney ad litem, guardian ad litem, CASA worker, etc.).**

 **(d)** [(c)] You must document in the child's record when the orientation occurred, any **item** [items] that the orientation did not include, and the reason that the orientation did not include that item.

§748.1211. What information must I share with the parent at the time of placement?

 (a) **At admission, you must provide the following policies to the parent placing the child:**

 **(1) Fee policies;**

 **(2) Emergency behavior intervention policies;**

 **(3) Discipline policies; and**

 **(4) Any other policies required by us, upon request of the parent**. [The parent must be able to determine whether your program and/or practices are appropriate for the child and can meet the child’s needs.]

 (b) At admission, you must [review and] provide **and explain the following** written **information and policies** [materials] to the parent placing the child [that explain]:

 (1) (No change.)

 (2) Your policies regarding the:

 (A) Use of volunteers or sponsoring families**, if applicable**;

 (B) - (C) (No change.)

 (3) **Information about the** [The] parent’s right to refuse to or withdraw consent for a child to participate in:

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

 **(c) If you sign a placement agreement for a transitional living program with a child as specified in §748.1207 of this title (relating to What is a placement agreement?), then you:**

 **(1) Must share the policies noted in subsection (a) with the child, instead of the parent;**

 **(2) Do not have to comply with subsection (b), but you must provide and explain to the child your policies regarding the:**

 **(A) Use of volunteers or sponsoring families, if applicable;**

 **(B) Involvement of the child in any publicity and/or fund raising activity for the operation; and**

 **(C) Child's right to refuse to or withdraw consent to participate in:**

 **(i) Research programs; and/or**

 **(ii) Publicity and/or fund raising activities for the operation; and**

 **(3)** [(c)] **Must** [You must] attempt to notify the **child's** parent [of a child you admit to a transitional living program] of the child’s location**,** if the child was admitted without the consent of the parent[, as provided in Texas Family Code §32.203.]

§748.1213. What information must I provide caregivers when I admit a child?

 (a) (No change.)

 (b) You must inform appropriate caregivers of any special needs, such as medical or dietary needs or conditions **or supervision needs, and document that you shared the information with the caregiver**.

§748.1215. When must I complete the admission assessment?

 (a) You must complete a non-emergency admission assessment **prior to admission.** [according to the time frames required in §748.1217 of this title (relating to What information must an admission assessment include?). For an emergency admission assessment, see §748.1269 of this title (relating to For an emergency admission, when must I complete all of the requirements of an admission assessment?).]

 (b) (No change.)

§748.1217. What information must an admission assessment include?

 (a) (No change.)

 (b) Prior to a child's non-emergency admission, an admission assessment must be completed which includes:

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

 (3) A description of the child's behavior, including appropriate and maladaptive behavior, and any high-risk behavior [posing a risk to self or others];

 (4) - (5) (No change.)

 (6) Current mental health and substance abuse status, including available results of any **psychiatric evaluation,** psychological **evaluation, or psychosocial assessment** [or psychiatric examination];

 (7) - (8) (No change.)

 (9) Any applicable requirements of §748.1219 of this title (relating to What are the additional admission **assessment** requirements when I admit a child for treatment services?);

 (10) Documentation indicating efforts made to obtain any of the information in paragraphs **(1)-(9)** [(1) - (9)] of this subsection, if any information is not obtainable;

 (11) - (13) (No change.)

 (14) The child's understanding of the placement; **and**

 (15) A determination of whether **and how** you can meet the [immediate] needs of the child[; and]

 [(16) A rationale for the appropriateness of the admission].

 (c) Prior to completing a child's initial service plan, the following information must be added to the admission assessment:

 (1) - (12) (No change.)

 (13) A recommended behavior management plan; **and**

 (14) A determination of whether **and how** you can meet the needs of the child, based on an evaluation of the child's special strengths and needs**.**[; and]

 [(15) A rationale for the appropriateness of the admission.]

 (d) - (e) (No change.)

§748.1219. What are the additional admission **assessment** requirements when I admit a child for treatment services?

When you admit a child for treatment services, you must do the following, as applicable:

| If: | Then: |
| --- | --- |
| (1) You intend to provide treatment services for a child with an emotional disorder or **autism spectrum** [pervasive development] disorder | (A) The admission assessment must include a written, dated, and signed:(i) Psychiatricevaluationor psychological evaluationincluding the child's diagnosis; or (ii) Psychosocial assessment as defined in **§748.43** [§748.43(40)] of this title (relating to What do certain words and terms mean in this chapter?). (B) A psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within:  (i) 14months of the date of admission, if the child is coming from another regulated placement; or  (ii) Six months of the date of admission, if the child is not coming from another regulated placement. (C)The admission assessment must include the reason(s) for choosing treatment services for the child. (D)The admission assessment must include consideration given to any history of inpatient or outpatient treatment.  |
| (2) You intend to provide treatment services for a child with **an** intellectual **disability** [disabilities] | (A) The admission assessment must include a written, dated, and signed: (i) Psychologicalevaluation with psychometric testing**, including the child's diagnosis**; or (ii) Psychosocial assessment as defined in **§748.43** [§748.43(40)] of this title. (B) A psychological evaluation or psychosocial assessment must becompleted within 14months of the date of admission. (C) A psychological evaluation must:  (i) Be performed by a licensed psychologist who has experience with intellectual disabilitiesor published scales;  (ii) Include the use of standardizedtests to determine the intellectual functioning of a child. The test results must be documented in the evaluation;  (iii) Determine and document the child's level of adaptive functioning; and (iv)Indicatemanifestations of **an** intellectual **disability** [disabilities]as defined in the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5). (D)The admission assessment must include the reason(s) for choosing treatment services for the child. (E)The admission assessment must include consideration given to any history of inpatient or outpatient treatment. |
| (3) You intend to provide treatment services for a child with primary medical needs | (A) The admission assessment must have a licensed physician's signed, written orders as the basis for the child's admission. **An** [The physician's] evaluation **from a health care professional** must confirm that the child can be cared for appropriately in a **general** residential [child-care] operation.(B) The written orders **and/or hospital discharge** must include orders for: (i) Medications; (ii) Treatments; (iii) Diet; (iv) Range-of-motion program at stated intervals; (v) Habilitation, as appropriate; and  (vi) Any special medical or developmental procedures. (C) The admission assessment must include the reason(s) for choosing treatment services for the child. (D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment. |
| (4) The child's behavior and/or history within the last two months indicates that the child is an immediate danger to **self** [himself] or others | (A) The admission assessment must include a written, dated, and signed:(i) Psychiatric evaluation or psychological evaluation**, including the child's diagnosis**; or (ii) Psychosocial assessment as defined in **§748.43** [§748.43(40)] of this title.(B) A psychiatric evaluation or psychological evaluation must include: (i) The child's diagnosis, if applicable; (ii) An assessment of the child's needs and potential danger to **self** [himself] or others; and  (iii) Recommendations for care, treatment, and further evaluation. If the child is admitted, the recommendations must become part of the child's [plan of] service **plan** and must be implemented.(C) A psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within: (i) 14 months of the date of admission, if the child is coming from another regulated placement; or (ii) Six months of the date of admission, if the child is not coming from another regulated placement. [(D)You must then evaluate your ability to provide services and safeguards appropriate to the child's needs, including direct and continuous supervision, if needed.] |

§748.1223. What are the medical requirements when I admit a child into care?

 (a) You must ensure that the child has a medical examination by a health-care professional within 30 days after the date of admission. This exam is not required ifyou have documentation that the child has had a medical examination within the past year**,** including documentation in the child's health passport if **the child** [he] is in **the department's** [DFPS] conservatorship.

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

§748.1225. What are the dental requirements when I admit a child into care?

 (a) If the child is younger than three years old and a **health-care professional** [physician] recommends a dental examination, then you must ensure that a dentist examines the child.

 (b) A child three years old or older must have a dental appointment scheduled with a dentist within 30 days after the date of admission, and the examination must occur within 90 days after the date of admission. A dental examination is not required if you have documentation that the child has had a dental examination within the past year, including documentation in the child's health passport if **the child** [he] is in [DFPS] **the department's** conservatorship.

 (c) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 2, Emergency Admission

TAC Section Number(s) §748.1263, §748.1269

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.

§748.1263. What constitutes an emergency admission to my operation?

**It is an emergency admission if** [You may admit a child on an emergency basis if the child]:

 **(1) You must place the child within 72 hours;**

 **(2)** [(1)] **The child was** [Is being] removed from a situation involving alleged abuse or neglect;

 **(3)** [(2)] **The child is** [Is] an alleged perpetrator of abuse and cannot be served in the child’s current placement due to **the child** [his] perpetrating behaviors;

 **(4)** [(3)] **The child displays** [Displays] behavior that is an immediate danger to **self** [himself] or others and cannot function or be served in his current setting;

 **(5)** [(4)] **The child was** [Is] abandoned and after exercising reasonable efforts, the child’s identity cannot be immediately determined. **You must document the** [The] efforts made to obtain information on the child’s identity [must be documented] in the child’s record;

 **(6)** [(5)] **The child was** [Is] removed from **the child's** [his] home or placement, and there is an immediate need to find a residence for the child;

 **(7)** [(6)] **A law enforcement officer or juvenile probation officer** [Is] released **the child** to your authorized emergency care program [by a law enforcement or juvenile probation officer]; or

 **(8)** [(7)] **The child is otherwise** [Is] without adult care.

§748.1269. For an emergency admission, when must I complete all of the requirements for an admission assessment?

 (a) (No change.)

 (b) In an emergency admission of a child receiving treatment services, the child must not continue in care for more than 30 days after the date of admission or 10 days after the date of admission for a residential treatment center, unless the child has received the [psychological,] psychiatric **evaluation, psychological evaluation, psychosocial assessmen**t, [psychometric] or [physician’s] **medical** evaluation that is required by §748.1219 of this title (relating to What are the additional admission **assessment** requirements when I admit a child for treatment services?), and the evaluation **or assessment** indicates manifestations of the disorder requiring treatment services. All evaluations **and assessments** must be signed, dated, and documented 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 748, General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 3, Educational Services

TAC Section Number(s) §748.1303

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.

§748.1303. What responsibilities do I have for a child’s individual educational needs?

You must:

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

 (6) **Let the parent know that an** [Request] **IEP (Individual Education Plan) meeting should be requested** [meetings] if **you are** concerned with the child’s educational program or if the child does not appear to be making progress; and

 (7) Attend IEP meetings and other school staffings and conferences**, if requested by the parent,** to represent the child’s educational best interests, including the child being evaluated for and provided with related services needed to benefit from educational services, and positive behavior supports designed to decrease the need for negative disciplinary techniques or interventions.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 4, Service Plans

TAC Section Number(s) §§748.1331, 748.1335, 748.1337, 748.1339, 748.1340, 748.1341, 748.1345, 748.1249, 748.1351

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 §431.0055, 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.

§748.1331. What are the requirements for a preliminary service plan?

 (a) You must complete a preliminary service plan that addresses the immediate needs of a child **within 72 hours**, such as **supervision requirements,** enrolling the child in school**,** or obtaining needed medical care or clothing[, within 72 hours of the child’s admission].

 (b) - (f) (No change.)

§748.1335. When must I complete an initial service plan?

You must complete the initial service plan within **45** [40] days after you admit the child.

§748.1337. What must a child's initial service plan include?

 (a) You must base the child's initial service plan on the child's needs identified in the child's admission assessment **and integrate trauma informed care in the care, treatment, and management of each child**. The service planning team may prioritize the child's service planning goals and objectives based on the child's admission assessment. However, any required service plan components not initially addressed must have a justification for the delay in addressing the needs.

 (b) The child's initial service plan must be documented in the child's record and include those items that a preliminary plan must include (see §748.1331 of this title (relating to What are the requirements for a preliminary service plan?)), and the items noted below for each specific type of service that you provide the child:

| Type of Service  | Items that must be included: |
| --- | --- |
| (1) Child-care services | (A) The child's needs identified in the admission assessment, in addition to basic needs related to day-to-day care and development, including: (i) Medical needs, including scheduled medical exams and plans for recommended follow-up treatment; (ii) Dental needs, including scheduled dental exams and plans for recommended follow-up treatment; (iii) Intellectual functioning, including any testing and plans for recommended follow-up; (iv) Developmental functioning, including any developmental delays and plans to improve or remediate developmental functioning; (v) Educational needs and how those needs will be met, including planning for high school completion and post-secondary education and training, if appropriate, and any school evaluations or recommendations; (vi) Plans for **normalcy, including:** **(I) Social, extracurricular,** [social,] recreation, and leisure activities; **and** **(II)** [(vii)] **Integrating** [Plans for integrating] the child into the community and community activities, as appropriate;  **(vii)** [(viii)] Therapeutic needs, including plans for **psychological** [psychological/psychiatric] psychiatric **evaluation, psychological evaluation, psychosocial assessment or** [testing and] follow-up treatment**, testing,** and **the** use of psychotropic medications; and **(viii)** [(ix)] Cultural identity needs, including assisting children in connecting with their culture in the community;(B) Plans for maintaining and improving the child's relationship with family members, including recommendations for visitation and contacts between the child and the child's parents, the child and the child's siblings, and the child and the child's extended family;(C) Recent **information** [data] from the current caregiver's evaluation of the child's behavior and level of functioning;(D) Specific goals and strategies to meet the child's needs, including instructions to caregivers responsible for the care of the child. Instructions must include specific information about: **(i)** **The child's personal trauma history;** **(ii)** [(i)] Level of supervision required; **(iii) The child's trauma triggers;**  **(iv) Methods of responding that improve a child's ability to trust, to feels safe, and to adapt to changes in the child's environment;** **(v)** [(ii)] Discipline techniques; **(vi)** [(iii)] Behavior intervention techniques; **(vii)** [(iv)] Plans for trips and visits away from the operation; and **(viii)** [(v)] Any actions the caregivers must take or conditions the caregivers must be aware of to meet the child's special needs, such as medications, medical care, dietary needs, **therapeutic** [psychiatric] care, how to communicate with the child, and reward systems;(E) If the child is 13 years old or older, a plan for educating the child in the following areas:  (i) Healthy interpersonal relationships; (ii) Healthy boundaries;  (iii) Pro-social communication skills;  (iv) Sexually transmitted diseases; and  (v) Human reproduction;(F) If the child is 14 years old or older, plans for the caregivers to assist the child in obtaining experiential life-skills training to improve **the child's** [his] transition to independent living. Plans must: (i) Be tailored to a child's skills and abilities; and (ii) Include training in practical activities that include, but are not limited to, grocery shopping, meal preparation, cooking, using public transportation, performing basic household tasks, and **money management, including** balancing a checkbook;(G)For children 16 years old and older, preparation for independent living**, including employment opportunities, if appropriate**; (H)For children who exhibit high-riskbehaviors[, such as self harm, sexual aggression, runaway, or substance abuse]:  (i) Plans to minimize the risk of harm to the child or others, such as special instructions for caregivers, sleeping arrangements, or bathroom arrangements; and (ii) A specific safety contract developed between the child and **staff** [employee] that addresses how the child's safety needs will be maintained; (I)Expected outcomes of placement for the child and estimated length of stay in care;(J)Plans for discharge;(K)The names and roles of persons who participated in the development of the child's service plan;(L)The date the service plan was developed and completed;(M)The effective date of the service plan; and(N)The signatures of the service planning team members that were involved in the development of the service plan. |
| (2) Treatment services | **For children receiving treatment services, the plan must address all of the child's waking hours and include:** (A) The child-care services planning requirements noted **in paragraph (1) of this subsection** [above];(B) A description of the emotional, behavioral, and physical conditions that require treatment services; (C) A description of the emotional, behavioral, and physical conditions the child must achieve and maintain to function in a less restrictive setting, including any special treatment program and/or other services and activities that are planned to help the child achieve and to function in a less restrictive setting; and(D) A list of emotional, physical, and social needs that require specific professional expertise, and plans to obtain the appropriate professional consultation and treatment for those needs. Any specialized testing, recommendations, and/or treatment must be documented in the child's record.  |
| (3) Treatment services for children with **an intellectual disability** [mental retardation] | (A) The child-care andtreatment services planning requirements noted **requirements noted in paragraph (1) and (2) of this subsection** [above];(B) A minimum of one hour per day of visual, auditory and tactile stimulation to enhance the child's physical, neurological, and emotional development; (C) An educational or training plan encouraging normalization appropriate to the child's functioning; and(D) Career planning for older adolescents who are not receiving treatment services for **a** severe or profound **intellectual disability** [mental retardation].  |
| (4) Transitional living program | (A) Child-care service planning requirements **noted in paragraph (1) of this subsection**;(B) Plans for encouraging the child to participate in community life and to form interpersonal relationships/friendships outside the transitional living program, such as **extra-curricular recreational activities** [community team sports, Eagle Scouts, and employment after school]; (C) **Plans for** [Consumer] education **related to** [, such as] meal planning, meal preparation, grocery shopping, public transportation, searching for an apartment, and obtaining utility services; (D) Career planning, including assisting the child in enrolling in an educational or vocational job training program; (E) Money management and assisting the child in establishing a personal bank account;(F) Assisting the child with how to access resources, such as medical and dental care, **counseling** [therapy], mental health care, an attorney, the police, and other emergency assistance; (G) Assisting the child in obtaining the child's social security number, birth certificate, and a driver's license or a Department of Public Safety identification card, as needed; and(H) Problem-solving, such as assessing personal strengths and needs, stress management, reviewing options, assessing consequences for actions taken and possible short-term and long-term results, and establishing goals and planning for the future. |

 [(c) For children receiving treatment services, the plan must address all of the child’s waking hours.]

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

(a) A service planning team must **meet (e.g. face-to-face, video conference, or teleconference) to discuss and** develop the service plan. The team must consist of:

(1) At least one of the child's current caregivers; and

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

(b) If you are providing treatment services to the child, the team must also consist of two of the following professions, which may or may not include additional members:

(1) A licensed professional counselor;

(2) A psychologist;

(3) A psychiatrist or physician;

(4) A licensed registered nurse;

(5) A licensed **master's** [masters] level social worker;

(6) A licensed or registered occupational therapist; or

(7) Any other person in a related discipline or profession that is licensed or regulated in accordance with state law.

(c) **You must invite the** [The] child, as appropriate, and the parents [must be invited] to the meeting**, so they may have the opportunity to participate and provide input into the development of** [to develop] the service plan.

**§748.1340. Can the service planning team discuss to develop a child's service plan in separate meetings?**

**Yes, the service planning team may meet in one meeting, two or more meetings, or in separate meetings, provided that each service planning team member is informed of the discussions and comments regarding the child's service plan that were made in each meeting.**

§748.1341. When must Iinform the child’s parent(s) of an initial service plan meeting?

 (a) **The** [You must give the] child’s parent(s) **must have** at least two weeks advance notice of the **initial service plan** meeting.

 (b) (No change.)

§748.1345. What roles do professional level service providers have in service planning?

The roles of professional level service providers in service planning include:

| Type of Treatment Service  | The roles of professional level service providers in service planning include:  |
| --- | --- |
| (1) Emotional disorder and **autism spectrum** [pervasive development disorder] | (A) Reviewing the child’s diagnoses;(B) Reviewing the identified needs and the plan for treatment based on the child’s diagnoses;(C) Reviewing the techniques, strategies, and therapeutic interventions that are planned for the child to improve adaptive functioning; and(D) Reviewing any medications prescribed for a child with special review of psychotropic medications; the presence or absence of medication side effects, including the effects of the medications on the child’s behavior; laboratory findings; and any reason the child should not use a medication.  |
| (2) **Intellectual disability** [Mental retardation] | (A) Assessing the child’s educational needs and progress toward meeting those needs; (B) Ensuring coordination between educators, caregivers, operation employees, and other professionals involved in the child’s treatment; and(C) Providing information to the education system on the strategies and techniques used with the child in the operation.  |
| (3) Primary medical needs | (A) Reviewing **any** medications prescribed for a child;(B) Recommending **any** special equipment needed by a child; and(C) Reviewing special instructions and training to caregivers for the daily care of the child. |

§748.1349. **To** [With] whom do I **provide a copy of the child's** [share the] initial service plan?

 (a) You must give a copy or summary of the initial service plan to the:

 (1) Child, when appropriate**. At a minimum, you must give a copy or a summary fo the plan to a child 14 years of age or older, unless there is justification for not providing the plan**;

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

 (b)  **If you provide a copy or summary of the initial service plan to a child, the child must review and sign the plan. You must document if the child disagrees with the plan or refuses to sign it.**

**(c)** If you do not **provide a copy or summary of** [share] the service plan **to a** [or summary with the] child, you must document your justification for not sharing the plan in the child's record.

**(d)** [(c)] You must document in the child's record that you provided a copy or summary of the service plan to the child's parents.

§748.1351. When must I implement a service plan?

You must implement and follow an initial service plan as soon as all of the service planning team members have reviewed and signed the plan, but no later than **15** [10] days after the date of the **scheduled** service-planning meeting **involving the parents and the child**.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 5, Service Plan Reviews and Updates

TAC Section Number(s) §§748.1381, 748.1385, 748.1386, 748.1389

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 §431.0055, 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.

§748.1381. How often must I review and update a service plan?

Except for when the child’s placement within your operation changes because of a change in the child’s needs, you must review and update the service plan as follows:

| Type of Service  | Review and Update |
| --- | --- |
| (1) Child-care services | At least 180 days from the date of the child’s last service plan.  |
| (2) Treatment services for emotional disorder, **autism spectrum** [pervasive developmental] disorder, or primary medical needs | At least 90 days from the date of the child’s last service plan. |
| (3) Treatment services for **intellectual disabilities** [mental retardation] | In the first year of care, the plan must be reviewed at least every 180 days from the date of the child’s last service plan. Thereafter, the plan must be reviewed at least annually from the date of the child’s last service plan review. |

§748.1385. How do I review and update a service plan?

To review and update a service plan, you must:

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

 [(8) Determine for children receiving treatment services for emotional disorders, pervasive developmental disorders, or primary medical needs whether to:]

 [(A) Continue the placement;]

 [(B) Continue the placement as child-care services;]

 [(C) Transfer the child to a less restrictive setting; or]

 [(D) Refer the child to an inpatient hospital;]

 **(8)** [(9)] Evaluate the use and effectiveness of emergency behavior intervention techniques, if used, since the last service plan. If applicable, this evaluation must focus on:

 (A) The frequency, patterns, and effectiveness of types of emergency behavior interventions;

 (B) Strategies to reduce the need for emergency behavior interventions overall; and

 (C) Specific strategies to reduce the need for use of personal and mechanical restraints, emergency medication, and/or seclusion, where applicable;

 **(9)** [(10)] Document in the child’s record the review and update of the plan; and

 **(10)** [(11)] Document the names of the persons participating in the review and update.

**§748.1386. Can an operation continue to review and update a child's previous service plan without creating a new service plan?**

**Yes, a single service plan that continues throughout the time a child is in residential child care is acceptable, as long as you:**

**(1) Complete a preliminary service plan as required by §748.1331 of this title (relating to What are the requirements for a preliminary service plan?) each time a child is admitted into your care; and**

 **(2) Continue to comply with the service plan review and update requirements in this division of this subchapter (relating to Service Plan Reviews and Updates).**

§748.1389. How often must I re-evaluate the intellectual functioning of a child receiving treatment services for **intellectual disabilities** [mental retardation]?

 (a) - (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 748, General Residential Operations

Subchapter I, Admission, Service Planning, and Discharge

Division 6, Discharge and Transfer Planning

TAC Section Number(s) §§748.1433, 748.1435, 748.1437

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 §431.0055, 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.

§748.1433. Who must plan a child’s non-emergency discharge or transfer?

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

 (d) If a child in your care is not receiving treatment services, you must inform **the child** [him] of **the** [his] non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your licensed child-care administrator or a professional level service provider has clear justification for not giving **the child** [him] such notice. The licensed child-care administrator or professional level service provider who determines the justification for the child not having the advance notice of the discharge or transfer, must put the justification in writing and sign and date it. The justification must be in the child’s record.

 (e) If a child in your care is receiving treatment services, you must inform **the child** [him] of **the** [his] non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your treatment director, three members of the child’s service planning team, or the child’s psychiatrist or psychologist has justification for not giving **the child** [him] such notice. Whoever determines the justification for the child not having the advance notice of the discharge or transfer must put the justification in writing and sign and date it. The justification must be in the child’s record.

§748.1435. How do I discharge or transfer a child who is an immediate danger to **self** [himself] or others?

An employee of your operation must accompany the child to the receiving operation, agency, or person unless the child’s parent or law enforcement transports the child.

§748.1437. What must I document in the child's record at the time of adischarge or transfer?

At the time of a discharge or transfer, you must document the following:

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

 (3)For discharge, the name, address, telephone number, and relationship of the person to whom you discharge the child, unless the child legally consents to **a** [his] discharge. If the child legally consents to **a** [his] discharge and does not want to involve the child's parent(s), you must document this in the child's record;

(4) - (7) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 1, Dental Care

TAC Section Number(s) §748.1501

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 §431.0055, 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.

§748.1501. What general dental requirements must my operation meet?

 (a) (No change.)

 (b) The child's record must include a written record of each dental examination **that consists of** [specifying the]:

 (1) **A copy of the results of the dental examination;** [Date of the examination;]

 [(2) Procedures completed;]

 **(2)** [(3)] Follow-up treatment recommended and any appointments scheduled; **and**

 **(3)** [(4)] **A notation of the** [The] child's refusal to accept dental treatment, if applicable**.**[; and]

 [(5) A copy of the results of the dental examination.]

(c) For a child in **the** [DFPS] conservatorship **of the department**, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport.

 [(d)You must obtain follow-up dental work recommended by the dentist, such as treatment of cavities and cleaning.]

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 2, Medical Care

TAC Section Number(s) §§748.1531, 748.1539, 748.1541, 748.1543, 748.1549, 748.1551

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 §431.0055, 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.

§748.1531. What general medical requirements must my operation meet?

 (a) (No change.)

 (b) The child's record must include a written record of each medical examination **that consists of** [specifying]:

 (1) **A copy of the results of the medical examination;** [The date of the examination;]

 [(2) The procedures completed;]

 **(2)** [(3)] The follow-up treatment recommended and any appointments scheduled;

 **(3)** [(4)] **A notation of the** [The] child's refusal to accept medical treatment, if applicable;

 [(5) The results of the medical examination;]

 **(4)** [(6)] If the medical examination is a result of an injury or **illness** [medical incident], the documentation of the **date, time, and** circumstances surrounding the **injury or illness** [incident, including the date and time of the incident]; and

 **(5)** [(7)] Any other documentation provided by the health-care professional who performed the examination.

 (c) For a child in **the** [DFPS] conservatorship **of the department**, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport.

 (d)(No change.)

§748.1539. What immunizations must a child in my care have?

 (a) Each child that you admit must meet and continue to meet the applicable immunization requirements **as** specified by [§42.043 of the Human Resources Code and] the Department of State Health Services.

 (b) You must maintain current immunizations records for each child in your care**, including any immunization exemptions or exceptions**. For a child in DFPS conservatorship, documentation in the child's health passport is sufficient.

 (c) Unless the child is exempt from immunization requirements, all immunizations required for the child's age must:

 (1) Be completed by the date of admission; or

 (2) **A child that is homeless or a child in foster care shall be admitted temporarily for 30 days if acceptable evidence of immunization is not available. You should immediately refer the child to an appropriate health care professional to obtain the required immunizations** [Begin within 30 days after the date of admission].

§748.1541. What [are the] exemptions [from] or exceptions are there concerningimmunization requirements?

 **(a) A child may be exempt from** [Exemptions for] 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:

 (1) **§42.043(d) and (d-1)** [§42.043] of the Human Resources Code; or

 (2) The Department of State Health Services **rule** [rules] in 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 immunization requirements for the disease. To claim this exception, the person applying for the child's admission must meet the criteria specified by the Department of State Health Services rule in 25 TAC §97.65 (relating to Exceptions to Immunization Requirements).**

§748.1543. What documentation is acceptable for an immunization record?

 (a) **The documentation for an** [An original or facsimile of the] immunization record must include **the**:

 (1) **Child's** [The child's] name and birth date;

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

 (3) **Month** [The month], day, and year the child received each vaccination; and

 (4) **Name, address, and signature of the health-care professional that administered the vaccine.** **The** [One of the] following **are acceptable as a signature**:

 (A) A [signature or] rubber stamp signature **or electronic signature** from the health-care professional who administered the vaccine; or

 (B) **Another health-care professional's** [A registered nurse's] documentation of the immunization [that is provided by a health-care professional], as long as the **name and address of the** health-care **professional that administered the vaccine** [professional's name and qualifications are] **is** documented.

 (b) **Appropriate documentation for** [Documentation of] an immunization record on file at your operation may **include an original or photocopy of** [be]:

 (1) The **immunization** [original] record;

 [(2) A photocopy;]

 **(2)** [(3)] An official immunization record generated from a state or local health authority, such as a registry;

 **(3)** [(4)] A record received from school officials, including a record from another state;or

 **(4)** [(5)] The child's health passport, for a child in **the** [DFPS] conservatorship **of the department**.

 **(c) The signature of the health-care professional that administered the vaccine is not required for paragraphs (b)(2), (b)(3) and (b)(4).**

§748.1549. What special equipment must I provide for a child with a physical disability?

When recommended by a [physician or other] health-care professional, you must ensure that a child with a physical disability has any special equipment that can be reasonably obtained.

§748.1551. How often must the physician review a child with primary medical needs?

 (a) (No change.)

 (b) The review must address:

 (1) (No change.)

 (2) Any new or changed orders regarding the items outlined in §748.1219(3)(B) of this title (relating to What are the additional admission **assessment** requirements when I admit a child for treatment services?).

 (c) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 3, Communicable Diseases

TAC Section Number(s) §748.1581

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 §431.0055, 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.

§748.1581. What health precautions must I take if someone in my operation has a communicable disease?

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

 (c) If a health-care professional diagnoses a person in your care or a person who resides at your operation with a communicable disease that **is reportable to DSHS** [may be spread through casual contact], a health-care professional must authorize the person’s participation in **any** routine **activities** [activity] at your operation. The authorization must:

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

 (3) Include any specific instructions and precautions to be taken for the protection of others**, if necessary**.

 (d) If an employee, contract service provider, or volunteer has a communicable disease that **is reportable to DSHS** [may be spread through casual contact], you must obtain written authorization from a health-care professional for the person to be present at the operation. The written authorization must include a statement that the person will not pose a serious threat to the health of the others.

 (e) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 6, Tobacco **and E-Cigarette**Use

TAC Section Number(s) §748.1661

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 §431.0055, 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.

§748.1661. What policies must I enforce regarding tobacco products **and e-cigarette**?

 (a) A child may not use or possess tobacco products**, e-cigarettes, or any type of vaporizers**.

 (b) An adult may not smoke tobacco products**, e-cigarettes, or vaporizers** in the children’s living quarters or inside any building on your premises where children are present.

 (c) An adult may only smoke tobacco products**, e-cigarettes, or vaporizers** on your premises at a safe distance from the children’s living quarters.

 (d) No one may smoke tobacco products**, e-cigarettes, or vaporizers** in motor vehicles when transporting children **in care**.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 7, Nutrition and Hydration

TAC Section Number(s) §748.1695, §748.1697

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 §431.0055, 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.

§748.1695. What are the specific requirements for feeding an infant?

 (a) You must feed the infant:

(1) (No change.)

 (2) Based on the recommendation of the infant's **health-care professional** [physician], who must approve you giving the infant any milk other than fortified formula.

 (b) You must hold the infant while feeding **an** [him if the] infant **that** is:

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

 (c) - (d) (No change.)

§748.1697. What are the specific requirements for feeding toddlers and older children?

 (a) (No change.)

 (b) Food service practices for children receiving treatment services for primary medical needs or **an intellectual disability** [mental retardation], including non-mobile children, must encourage self-help and development.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 8, Additional Requirements for Infant Care

TAC Section Number(s) §§748.1741, 748.1743, 748.1751, 748.1753, 748.1757, 748.1759, 748.1761, 748.1763, 748.1765

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 §431.0055, 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.

§748.1741. What do certain **terms** [words] mean in this division?

These words have the following meaning in this division:

 (1) Baby **doorway** [bungee] jumper--A bucket seat that is suspended from a doorway by an elastic bungee cord that allows an infant to bounce while sitting in the seat**;**[.]

 (2) Baby walker--A baby walker allows an infant to sit inside the walker equipped with rollers or wheels and move across the floor**;**[.]

 (3) 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**; and**[.]

 **(4) 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.**

§748.1743. What are the basic care requirements for an infant?

 (a) - (d) (No change.)

 **(e) Items necessary for diaper changing must be kept out of the reach of children, but do not need to be in locked storage.**

 **(f)** [(e)] An infant’s caregiver must never leave the infant unsupervised. A sleeping infant is considered supervised if the caregiver is within eyesight or hearing range of the child and can intervene as needed, or if the caregiver uses a video camera or audio monitoring device to monitor the child and is close enough to the child to intervene as needed.

§748.1751. 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 for the crib**. 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) - (9) (No change.)

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

 (c) You must never leave **an infant** [a child] in the crib with the drop gate down.

 (d) (No change.)

**§748.1753. Are play yards allowed?**

 **(a) Play yards, which are mesh or fabric sided cribs, are allowed if they meet the following safety requirements:**

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

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

 **(A) A firm, flat mattress that snugly fits the sides of the crib and that is designed for the crib. 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 mesh cribs, mesh openings that are 1/4 inch or less; and**

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

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

 **(b) If you become aware of a recall for a non-full-size crib or a mesh crib that you are using, you must discontinue its use immediately.**

§748.1757. What types of equipment are not allowed for use with infants?

 (a) You may not use any of the following types of equipment with infants:

 (1) (No change.)

 (2) Baby **doorway** [bungee] jumpers;

 (3) Accordion safety gates; [and]

 (4) Toys that are **not large** [small] enough to **prevent** **swallowing** or **choking** [swallow or choke a child;[.]

 (5) [(b)] **Bean bags,** [Children may not sleep on beanbags,] waterbeds, **and** [or] foam pads **for use as sleeping equipment**[.]; **and**

 (6) [(c)] **Soft** [You may not use soft] or loose bedding, such as blankets, sleep positioning devices, stuffed toys, quilts, pillows, bumper pads **(including mesh bumpers)**, and comforters in a crib for an infant younger than 12 months of age.

 **(b) An infant receiving treatment services for primary medical needs may have special items that assist with safe sleep at the written recommendation of a health-care professional. You must keep the recommendation in the child's record.**

§748.1759. What activities must I provide for infants?

You must provide the following activities for an infant:

 (1) Multiple opportunities each day to explore in a safe and clean area that is outside **of** the crib or **restrictive device** [other confining equipment];

 (2) - (4) (No change.)

§748.1761. How long may an infant remain in a crib 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.

§748.1763. **What are the specific sleeping requirements for infants** [Are infants required to sleep on their backs]?

 **(a) You** [Yes. You] must place an infant not yet able to turn over on his own in a face-up sleeping position unless a health-care professional orders otherwise. **You must keep any orders from a health-care professional in the child's record.**

 **(b) An infant's head, face, or crib must not be covered at any time by an item such as a blanket, linen, or clothing.**

 **(c) An infant may not sleep in a prone position with a sleeping adult at any time, including in the adult's bed, on a couch, etc.**

**§746.1765. 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 should be removed from the device and placed in a crib as soon as possible.**

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 8, Additional Requirements for Infant Care

TAC Section Number(s) §748.1753, §748.1765

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 §431.0055, 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.

§748.1753. Are mesh cribs or port-a-cribs allowed?

§748.1765. If an infant has difficulty falling asleep, may the infant’s head or crib be covered?

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter J, Child Care

Division 9, Additional Requirements for Toddler Care

TAC Section Number(s) §748.1791, §748.1793

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 §431.0055, 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.

§748.1791. What are the basic care requirements for a toddler?

 (a) (No change.)

(b) A toddler’s caregiver must ensure that the environment is safe. For example, the caregiver must free the area of objects that may choke or harm the **toddler** [infant], take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning.

 (c) A toddler’s caregiver must never leave the toddler unsupervised. A sleeping toddler is considered supervised if the caregiver is within eyesight or hearing range of the **toddler** [child] and can intervene as needed, or if the caregiver uses a video camera or audio monitoring device to monitor the **toddler** [child] and is close enough to the **toddler** [child] to intervene as needed.

§748.1793. What furnishings and equipment must I provide for toddlers?

Furnishings and equipment for toddlers must at a minimum include the following:

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

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

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter L, Medication

Division 1, Administration of Medication

TAC Section Number(s) §748.2003, §748.2009

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 §431.0055, 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.

§748.2003. What **are the requirements for administering prescription medication** [medication requirements must my operation meet]?

 (a) (No change,)

 (b) **For prescription medications, you** [You] must:

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

 (6) Ensure a person trained in and authorized to [administer] prescription medication administers the medication to a child in care unless the child is on a self-medication program;

 (7) Maintain any documentation provided by the health-care professional on the administration of current [prescription] medication;

 (8) Not physically force a child to take [prescription] medication except as allowed by §748.2455(a)(2)(B) of this title (relating to What actions must a caregiver take before using a permitted type of emergency behavior intervention?);

 (9) Ensure that your employees do not provide any [prescription] medication or treatment to a child except on written orders of a health-care professional;

 (10) Not borrow or administer [prescription] medication to a child that is prescribed to another person; and

 (11) Not administer [prescription] medication to more than one child from the same container. Only the child for whom the [prescription] medication was prescribed may use the medication.

§748.2009. What are the requirements for administering nonprescription medication and **supplements** [vitamins]?

 (a) **For non-prescription medications and supplements, you** [You] must**:**

 **(1) Follow** [follow] the label **instructions for dosage;**

 **(2) Inform the child's physician of the administration and dosage of any non-prescription medication or supplements to** [and] ensure the nonprescription medication **and/or supplements are** [is] not contraindicated with any other medication prescribed to the child or the child’s medical conditions.

 (b) You may give nonprescription medication or **supplements** [vitamins] to more than one child from one container.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter L, Medication

Division 2, Self-Administration of Medication

TAC Section Number(s) §748.2053

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 §431.0055, 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.

§748.2053. Who must record the medication dosage if a child is on a self-medication program?

When a child who is on a self-medication program takes a dosage of the medication, **you must ensure there is a system for reviewing the child's medication each day and that** the child **either** [may]:

 (1) **Records** [Record] the **daily** dosage [if you have a system for reviewing the child’s medication each day]; or

 (2) **Reports** [Report] the medication to an appropriate employee or service provider, who must then do the actual **daily** recording.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter L, Medication

Division 3, Medication Storage and Destruction

TAC Section Number(s) §748.2101

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 §431.0055, 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.

§748.2101. What medication storage requirements must my operation meet?

You must:

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

 [(3) Ensure the medication storage area has a separate container where medications "for external use only" are stored separately from other medications;]

 **(3)** [(4)] Store medication covered by ScheduleII of the Texas Controlled Substances Act under double lock in a separate container. For example, a double lock can include a lock on the cabinet or filing cabinet and the door to the closet where medications are stored;

 **(4)** [(5)] Make provisions for storing medication that requires refrigeration;

 **(5)** [(6)] Keep medication storage area(s) clean and orderly;

 **(6)** [(7)] Remove discontinued medication immediately and destroy it in a way that ensures that children do not have access to it;

 **(7)** [(8)] Remove medication on or before the expiration date and destroy it in a way that ensures that children do not have access to it;

 **(8)** [(9)] Remove medication of a discharged or deceased child immediately and destroy it in a way that ensures that children do not have access to it; and

 **(9)** (10) Provide prescription medication to the person to whom a child is discharged or transferred if the child is taking the medication at that time.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter L, Medication

Division 4, Medication Records

TAC Section Number(s) §748.2151

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 §431.0055, 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.

§748.2151. What records must youmaintain for each child receiving medication?

 (a) You must maintain a cumulative **medication** record of all:

 (1) (No change.)

 (2) Nonprescription **medications and supplements** [medication, excluding vitamins,] **that are** dispensed to a child under five years old.

 **(b) The cumulative medication record must be updated:**

 **(1) Within 2 hours of administering medication, unless you operate a cottage home model; or**

 **(2) Within 24 hours of administering medication if you operate a cottage home model.**

 **(c)** [(b)]You must maintain the medication record**,** [during the time that you provide services to the child. This record] **which** must include [the]:

 (1) Child's full name;

 (2) Prescribing health-care professional's name, if applicable;

 (3) Reason medication was prescribed, for prescription medication;

 (4) Medication name, strength, and dosage;

 (5) Date (day, month, and year) and time the medication was administered;

 (6) Name and signature of the person who administered the medication;

 (7) Child's refusal to accept medication, if applicable; and

 (8)Reasons for administering the medication, including the specific symptoms, condition, and/or injuries of the child that you are treating, onlyfor:

(A) PRN psychotropic medications; and

(B) Nonprescriptionmedications **and supplements** [(excluding vitamins)] for children under five years old.

 **(d)** [(c)]Unless you operate on a cottage home model, you must count each medication prescribed to a child at least daily and document the count. The medication count must match the medication documentation.

 **(e) You must document in the medication record any non-prescription medication or supplement that is given to the child and how often the child receives the medication or supplement.**

 **(f)** [(d)] **You must document** [Identification of] any prohibited prescription **medications (for example, medication allergies or contraindications) or prohibited** [medication], non-prescription **medications and supplements** [medication, or vitamins for each child must be maintained] in the medication record [that must be incorporated into the child's record].

 **(g)** [(e)] **You must incorporate the** [The] medication **record** [records of prescription and applicable nonprescription medication dispensed to the child must be incorporated] into the child's record.

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter L, Medication

Division 6, Side Effects and Adverse Reactions to Medication

TAC Section Number(s) §748.2231, §748.2233

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 §431.0055, 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.

§748.2231. What must I do if a child has an adverse reaction to a medication?

If a child has an adverse reaction **(unexpected or dangerous reaction)** to a medication, you must:

 (1) Immediately report the reaction to a health-care professional **and the child's parent**;

 (2) - (4) (No change.)

§748.2233. What must I do if a child experiences side effects from any medications?

 **(a) A side effect from any medication is an effect of medication in addition to the medication's intended effect, often an undesirable effect.**

 **(b)** If a child experiences side effects from any medication, the **you** [caregiver] must:

 (1) (No change.)

 (2) Immediately report any serious side effects to the child’s physician **and the child's parent**; and

 (3) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter M, Discipline and Punishment

TAC Section Number(s) §748.2307, §748.2309

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 §431.0055, 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.

§748.2307. What other methods of punishment are prohibited?

In addition to corporal punishment, prohibited discipline techniques include:

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

 (8) Humiliating, shaming, ridiculing, rejecting, **screaming,** or yelling at a child;

 (9) - (15) (No change.)

§748.2309. To what extent may I restrict a child’s activities as a behavior management tool?

 (a) Within limits, a caregiver may restrict a child’s activities as a behavior management tool.

 (b) Restrictions of activities **that** [, other than school or chores, which] will be imposed on a child for more than **fourteen** [seven] days, must have prior approval by the treatment director, service planning team, or professional level service provider.

 (c) - (e) (No change.)

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter N, Emergency Behavior Intervention

Division 1, Definitions

TAC Section Number(s) §748.2401

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 §431.0055, 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.

§748.2401. What do certain **terms** [words] mean in this subchapter?

These **terms** [words] have the following meaning in this subchapter:

 [(1) Chemical restraint--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to immobilize or sedate a child as a mechanism of control. The use of medications that have a secondary effect of immobilizing or sedating a child, but are prescribed by a treating health-care professional and administered solely for medical or dental reasons, is not chemical restraint and is not regulated as such under this chapter.]

 [(2) De-escalation--See §748.43(13)of this title (relating to What do certain words and terms mean in this chapter?).]

[(3) Emergency behavior intervention--See §748.43(17)of this title.]

 [(4) Emergency medication--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to modify a child's behavior. The use of medications that have a secondary effect of modifying a child's behavior, but are prescribed by a treating health-care professional and administered solely for medical or dental reasons (e.g. benadryl for an allergic reaction or medication to control seizures), is not emergency medication and is not regulated as such under this chapter.]

 [(5) Emergency situation--A situation in which attempted preventative de-escalatory or redirection techniques have not effectively reduced the potential for injury and it is immediately necessary to intervene to prevent:]

 [(A) Imminent probable death or substantial bodily harm to the child because the child attempts or continually threatens to commit suicide or substantial bodily harm; or]

 [(B) Imminent physical harm to another because of the child's overt acts, including attempting to harm others. These situations may include aggressive acts by the child, including serious incidents of shoving or grabbing others over their objections. These situations do not include verbal threats or verbal attacks.]

 [(6) Mechanical restraint--A type of emergency behavior intervention that uses the application of a device to restrict the free movement of all or part of a child's body in order to control physical activity.]

 [(7) Personal restraint--A type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.]

 [(8) PRN--See §748.43(38)of this title.]

 [(9) Prone restraint--Placing a child in a chest down restraint hold.]

 [(10) Seclusion--A type of emergency behavior intervention that involves the involuntary separation of a child from other residents and the placement of the child alone in an area from which the resident is prevented from leaving by a physical barrier, force, or threat of force.]

 [(11) Short personal restraint--A personal restraint that does not last longer than one minute before the child is released.]

 [(12) Supine restraint--Placing a child in a chest up restraint hold.]

 **(1)** [(13)] Transitional hold--The use of a temporary restraint technique that lasts no longer than one minute as part of the continuation of a longer personal or mechanical restraint.

 **(2)** [(14)] Triggered review--A review of a specific child's placement, treatment plan, and orders or recommendations for intervention, because a certain number of interventions have been made within a specified period of time (e.g. three seclusions within a seven-day period).

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

 Issued in Austin, Texas, on .

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

Chapter 748, General Residential Operations

Subchapter O, Safety and Emergency Practices

Division 1, Sanitation and Health Practices

TAC Section Number(s) §748.3015, §748.3017

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 §431.0055, 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.

§748.3015. How must caregivers handle bodily fluids that require universal precautions?

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

 [(b) When handling these bodily fluids, caregivers must:]

 (1) **Using** [Use] disposable, nonporous gloves;

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

 **(3)** [(2)] **Discarding all other** [Discard the] gloves in a sanitary manner immediately after one use;

 **(4)** [(3)] **Washing** [Wash] hands with soap and running water after using and disposing of the gloves;

 **(5)** [(4)] **Disposing the** [Dispose these] bodily fluids in accordance with local regulations. Where local disposal regulations do not exist, the Department of State Health Services must be consulted regarding the appropriate disposal procedures and their recommendations must be followed; and

 **(6)** [(5)] **Disposing** [Dispose] disposable syringes, needles, and other sharp items used by persons for injections or for medical or other procedures in a hard plastic, leak and puncture-resistant container immediately after use, and keep them inaccessible to children.

§748.3017. Are animals allowed at my operation?

 (a) Yes; if:

 (1)You have documentation at your operation showing dogs[,] **and** cats[, and ferrets] have been vaccinated **for rabies** as required by Texas Health and Safety Code, Chapter 826; and

 (2)(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 748, Minimum Standards for General Residential Operations

Subchapter P, Physical Site

Division 2, Interior Space

TAC Section Number(s) §§748.3351, 748.3353, 748.3357, 748.3365

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.

§748.3351. What are the requirements for general living space?

You must provide:

 (1) [Us with a sketch of the operation’s floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep. This must be provided to us with the initial application for a permit and when changes are made;]

 [(2)] Living space, appropriate furnishings, and bathroom facilitiesthat are safe, clean, and maintained in good repair;

 (3) - (6) (No change.)

§748.3353. May I use a video camera to supervise a child in the child’s bedroom?

 (a) (No change.)

 (b) Video cameras may not be used to supervise children, other than infants and toddlers unless the:

 (1) (No change.)

 (2) Child:

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

 (C) Requires heightened supervision, such as a child who sleepwalks, experiences night terrors, engages in physically aggressive or sexual behavior problems, or resides in a bedroom with such a child. You must document the justification for the video camera in each child’s service plan, and each child must have other accessible and reasonable locations where **the child** [he] may change [his] clothing in private.

 (c) (No change.)

§748.3357. What are the requirements for floor space in a bedroom used by a child?

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

 (c) [If we granted you a permit to provide emergency care services to a child prior to January 1, 2007, then you are exempt from the 60 square feet of bedroom space for each occupant and the maximum bedroom occupancy requirement until:

 (1) You move your operation to a new building;

 (2) You structurally alter the current building by adding a new room; or

 (3) Your permit is no longer valid.]

 [(d)] If [prior to January 1, 2007], we granted you a permit **prior to January 1, 2007**, then you are exempt from the maximum bedroom occupancy requirement until:

 (1) You move your operation to a new building;

 (2) You structurally alter the current building by adding a new room; or

 (3) Your permit is no longer valid.

**(d) If we granted you a permit to provide emergency care services to a child prior to January 1, 2007, then you are also exempt from the 60 square feet of bedroom space for each occupant until:**

**(1) You move your operation to a new building;**

**(2) You structurally alter the current building by adding a new room; or**

**(3) Your permit is no longer valid.**

§748.3365. What are the requirements for beds and bedding?

 (a) You must provide each child with anindividual bed or bunk bed. Forinfants and toddlers, a crib is allowable. For crib requirements, see §748.1751 of this title (relating to What specific safety requirements must my cribs meet?).Each bed being used by a child must have:

 (1) (No change.)

 (2)A mattress **that is off the floor with a** cover or protector if the child is not provided with a mattress that is waterproof;

 (3)- (5) (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 748, Minimum Standards for General Residential Operations

Subchapter P, Physical Site

Division 6, Play Equipment and Safety Requirements

TAC Section Number(s) §748.3481

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.

§748.3481. If my operation was previously granted a permit by Licensing, will I be given additional time to comply with the requirements of this division?

 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 748, Minimum Standards for General Residential Operations

Subchapter P, Physical Site

Division 7, Playground Use Zones

TAC Section Number(s) §748.3535

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.

§748.3535. If my operation was previously granted a permit by Licensing, will I be given additional time to comply with the requirements of this division?

 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 748, Minimum Standards for General Residential Operations

Subchapter P, Physical Site

Division 8, Protective Surfacing

TAC Section Number(s) §748.3567

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.

§748.3567. If my operation was previously granted a permit by Licensing, will I be given additional time to comply with the requirements of this division?

 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 748, Minimum Standards for General Residential Operations

Subchapter P, Physical Site

Division 9, Swimming Pools, Wading/Splashing Pools, and Hot Tubs

TAC Section Number(s) §748.3601, §748.3603

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.

§748.3601. What are the requirements for swimming pools that a child uses?

If a swimming pool with more than two feet of water is used in an activity sponsored by you, then the swimming pool, either at or away from your operation, must meet the following criteria:

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

 (3) Drain grates, vacuum outlets, and skimmer covers must be in place[, in good repair, and unable to be removed without using tools];

 (4) - (5) (No change.)

 (6) All parts of the swimming pool must be clearly visible **during the use of the pool**;

 (7) The bottom of the pool must be visible **during the use of the pool** [at all times];

 (8) Pool covers must be completely removed prior to pool use and must not present an entrapment hazard; **and**

 (9) [All indoor/outdoor areas within 50 feet of the pool must be free of furniture and equipment that a child could use to scale a fence or barrier or release a lock; and]

 [(10)] Swimming area rules and emergency procedures must be posted at the swimming area and explained to the children.

§748.3603. What are the additional requirements for a swimming pool located at my operation?

 (a) - (k) (No change.)

 (l) **The drain grates, vacuum outlets, and skimmer covers that must be in place, must also be in good repair, and not be able to be removed without using tools.** [If you have a pool on the premises of your operation and we granted you a permit before January 1, 2007, then you have five years from January 1, 2007, to comply with the specific requirements of this rule. However, during this five-year period, you must ensure:]

 [(1) Children do not have unsupervised access to the pool; and ]

 [(2) There is an adult present who is able to immediately turn off the pump and filtering system when children are swimming.]

 (m) **All indoor/outdoor areas within 50 feet of the pool must be free of furniture and equipment that a child could use to scale a fence or barrier or release a lock.**

 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 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 1, General Requirements

TAC Section Number(s) §748.3701, §748.3705

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.

§748.3701. What are my responsibilities for providing opportunities for recreational activities and physical fitness?

 (a) - (d) (No change.)

 (e) You must provide the follow types of recreational activities based on each individual child’s needs:

|  |  |
| --- | --- |
| Types of service | The caregivers must: |
| (1) Child-care services | (A) Ensure that opportunities to participate in community activities, such as school sports or other extracurricular school activities, religious activities, or local social events, are available to the child; and(B) Organize community activities, religious activities, or local social events that are available to the child. |
| (2) Treatment services | (A) Meet the requirements in paragraph (1)(A) of this chart;(B) Ensure that each child receiving treatment services has an individualized recreation plan designed by the service planning team or professionals who are qualified to address the child’s individual needs, that the plan is implemented, and that the plan is revised by the service planning team or qualified professionals, as needed; and(C) Ensure that medical and physical support are given if the recreational and leisure-time activities require it for a child who is receiving treatment services for primary medical needs, **autism spectrum** [pervasive developmental disorder], or **intellectual disability** [mental retardation]. |

§748.3705. What are higher risk recreational activities?

Higher risk recreational activities are activities that present a greater potential of injury to the child and involve special technical skill, equipment, or safety regulations for participation, including using all-terrain vehicles, swimming [and water] activities, watercraft activities, riding horses, wilderness hiking and camping excursions, trampoline use, and using weapons, firearms, explosive materials, and projectiles.

 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 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 2, Swimming Activities

TAC Section Number(s) §§748.3751, 748.3753, 748.3757, 748.3765

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.

§748.3751. Must a certified lifeguard be on duty during a swimmingactivity?

 (a) (No change.)

(b) At all times during a swimming activity **sponsored by the operation** involving a body of water two feet deep or more which occurs away from your operation:

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

 (c) ( No change.)

§748.3753. **Who** [What] must **provide** a certified lifeguard’s training [consist of]?

A certified lifeguard’s training must **be provided through a recognized organization**:

 [(1) Be provided through a recognized organization;]

 [(2) Be taught by a certified instructor; and]

 [(3) Award a valid lifeguard certificate or its equivalent documenting successful completion of the training. The certificate does not have to use the term "lifeguard," but you must be able to document that the certificate represents the type of training required in supervision, rescue techniques, life saving, and water safety.]

§748.3757. What are the child/adult ratios for swimming activities?

 (a) The maximum number of children one adult can supervise during swimming activities is based on the age of the youngest child in the group and is specified in the following chart:

|  |  |  |
| --- | --- | --- |
| If the age of the youngest child is… | [Then you must have one adult to supervise every (number) child/ren in the group] | **Then the** SwimmingChild/Adult Ratio **is** |
| 0 to 23 months old | [1] | 1:1 |
| 2 years old | [2] | 2:1 |
| 3 years old | [3] | 3:1 |
| 4 years old | [4] | 4:1 |
| 5 years old or older | You must meet the applicable child/caregiver ratios as provided in §748.1003 of this title (relating to For purposes of the child/caregiver ratio, how many children can a single caregiver care for during the children’s waking hours?). |

 (b) **For four year olds and older, in** [In] addition to meeting the required swimming child/adult ratio listed in subsection (a) of this section, if four or more children are **actually in the water** [engaged in swimming activities], then there must be at least two adults **supervising** [to supervise] the children.

 (c) (No change.)

§748.3765. What are the requirements for a child's access to a body of water?

 (a) [You must use prudent judgment and ensure children in your care are protected from unsupervised access to a body of water such as a swimming pool, hot tub, pond, river, lake, or creek.]

 [(b)] Prior to any activity regarding a body of water, you must explain the dangers of the body of water and the rules governing the activity to the children in a manner that each child can understand.

 (c) If **your operation sponsors a swimming activity and** you allow a child to swim in a body of water:

 (1) The supervising adult must clearly designate the swimming areas;

 (2) You must meet the swimming child/adult ratios; and

 (3) If more than six children are participating in the activity, youmust have life-saving equipment present at all times that is sufficient to reach and rescue the child, such as a safety throw bag with a brightly colored 50-foot buoyant rope or a rescue boat equipped with a reach pole and a buoy.

 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 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 3, Watercraft Activities

TAC Section Number(s) §748.3801

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.

§748.3801. What watercraft activities do the rules of this division apply to?

The rules of this division apply to **activities involving bodies of** water [activities]:

(1) In which more than six children participate; and

 (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 .

Chapter 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 5, Trampoline Use

TAC Section Number(s) §748.3891

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.

§748.3891. May I use a trampoline?

 (a) You may use a trampoline for individual use if**:**

(1) **The use of the trampoline and the number of children allowed on the**

**trampoline at one time meets the manufacturer's instructions;**

**(2) Shock-absorbing pads cover the springs, hooks, and frame;**

**(3) Ladders are removed from the trampoline when the trampoline is not in**

**use; and**

**(4) A caregiver provides supervision as follows:**

 **(A) For children under 12 years old, the caregiver must be immediately present, watching the child/ren at all times, enforcing safety rules and manufacturer's instructions, and able to respond to an emergency; and**

 **(B) For children 12 years old and older, the caregiver must be on the**

**premises, visually check on the child/ren at frequent intervals, and able to respond in an emergency** [it is less than four feet in diameter and no higher than 12 inches above a properly installed and maintained protective surface as defined in §748.3563 of this title (relating to What are the requirements of protective surfacing for use zones?)].

 (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 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 6, Weapons, Firearms, Explosive Materials, and Projectiles

TAC Section Number(s) §748.3931

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.

§748.3931. Are weapons, firearms, explosive materials, and projectiles permitted at my operation?

Generally, weapons, firearms, explosive materials, and projectiles (such as darts or arrows), are permitted, however, there are some specific restrictions:

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

 (5) No child may use a weapon, firearm, explosive material, projectile, or toy that explodes or shoots, unless the child is directly supervised by a qualified adult**. A qualified adult must hold a generally recognized credential or possess documented knowledge and/or experience in the type of the weapon, firearm, explosive material, projectile, or toy that explodes or shoots that is to be used by the child.**

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

 Issued in Austin, Texas, on .

Chapter 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 6, Weapons, Firearms, Explosive Materials, and Projectiles

TAC Section Number(s) §748.4041, §748.4047

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.

§748.4041. What safety restraint system must I use when I transport children?

§748.4047. Must caregivers, adults, and/or the driver wear a seat belt?

 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 748, Minimum Standards for General Residential Operations

Subchapter Q, Recreation Activities

Division 6, Weapons, Firearms, Explosive Materials, and Projectiles

TAC Section Number(s) §§748.4041, 748.4043, 748.4045

Proposed Action

X New

X Amendment

Proposed Date of Adoption:

X Other (Specify)

 30 Days After Publication

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

**§748.4041.** **What are the requirements for transporting children?**

**The driver and all passengers must follow all federal, state, and local laws when driving, including laws on the use of a child passenger safety seat system, seat belts, and liability insurance.**

§748.4043. Do the seat belt requirements prohibit transporting children in the bed of a pick-up truck?

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

(c) At all other times transportation is provided by the operation, employees, or volunteers, each child must be in a **child passenger** safety **seat system** [restraint] when the vehicle is in motion.

§748.4045. May I place more than one person in each **child passenger** [seat belt or] safety seat system **or seat belt**?

No. Only one person may use each **child passenger** [safety belt or] safety seat system **or seat belt**.

 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 748, Minimum Standards for General Residential Operations

Subchapter S, Additional Requirements for Operations That Provide Emergency Care Services

Division 1, Service Management

TAC Section Number(s) §748.4213

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.

§748.4213. What are the requirements for a **preliminary** [written] discharge plan?

 (a) If the child receives emergency care services for more than 15 days, you must have a written **preliminary** discharge plan for the child from the person responsible for the child.

 (b) You must place the **preliminary discharge** [written] plan in the child’s record on or before the child’s 16th day in care at your operation.

 (c) You must obtain written documentation from the person responsible for the child that the preliminary **discharge** **e** plan is reviewed and updated at least weekly.

 (d) The preliminary **discharge** plan and weekly reviews must be available for our review.

 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 748, Minimum Standards for General Residential Operations

Subchapter S, Additional Requirements for Operations That Provide Emergency Care Services

Division 3, Respite Child-Care Services

TAC Section Number(s) §748.4261, §748.4265

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.

§748.4261. May I provide respite child-care services?

 (a) Respite child-care services are not subject to regulation under this subchapter, if the:

 (1) (No change.)

 (2) Care **meets the short-term program's criteria for exemption as specified §745.117(2) [**does not exceed 40 days per year as outlined in §745.117(6)] of this title (relating to Which programs of limited duration are exempt from Licensing regulation?).

 (b) (No change.)

§748.4265. What information regarding a child must I receive prior to providing respite child-care services to that child?

To ensure continuity of care, you must obtain the following information:

 (1) Specific needs of a child, including:

 (A) All **psychological,** psychiatric or medical treatment currently being provided;

 (B) (No change.)

 (C) Authorization for medical treatment; [and]

 (D) **Safety plans, including any special supervision precautions;**

(E) **Sleeping information;**

**(F) Discipline instructions;**

**(G) Any expectations that the current caregiver may have of the operation;**

**and**

(H) [(F)] Any other needs of a child that should be addressed by the **operation**

[respite child-care services provider];

 (2) Non-routine events taking place in the life of the child**, including any scheduled appointments such as family and sibling visits**;

 (3) - (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 748, Minimum Standards for General Residential Operations

Subchapter T, Additional Requirements for Operations That Provide an Assessment Services Program

Division 1, Regulation

TAC Section Number(s) §748.4301

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.

§748.4301. Does Licensing regulate all assessment services?

(a) No. This subchapter only regulates general residential operations [and residential treatment centers] that also provide an assessment services program.

(b) Services provided by other individuals, agencies, and organizations are not subject to regulation under this subchapter.

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 748, Minimum Standards for General Residential Operations

Subchapter U, Additional Requirements for Operations That Provide Therapeutic Camp Services

Division 1, Definitions

TAC Section Number(s) §748.4403

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.

§748.4403. What children are eligible to participate in a therapeutic camp program?

 (a) (No change.)

 (b) Individuals that are not eligible to participate in a therapeutic camp program include:

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

 (7) A child diagnosed with **Autism Spectrum Disorder** [a Pervasive Developmental Disorders such as Autistic Disorder, Asperger’s Disorder and Rett’s Disorder];

 (8) A child diagnosed with **an intellectual disability**  [Mental Retardation];

 (9) - (10) (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 748, Minimum Standards for General Residential Operations

Subchapter U, Additional Requirements for Operations That Provide Therapeutic Camp Services

Division 3, Primitive Camping Excursions

TAC Section Number(s) §748.4471, §748.4473

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.

§748.4471. What personal hygiene provisions must I provide to a child who participates in a **primitive** [wilderness] camping excursion?

You must provide **the following to a child wo participates in a primitive camping excursion with**:

 (1) (No change.)

 (2) **A means** [Means] for a child to bathe or clean **the child's** [his] body at least twice weekly; and

 (3) ( No change.)

§748.4473. What are the requirements for laundry provisions on a **primitive** [wilderness] camping excursion?

You must provide the **following to a child who participates in a primitive camping excursion** [children]:

 (1) **A** [Who are on a camping excursion a] way to launder clothes at least weekly; or

 (2) Clean [With clean] clothes at least weekly.

 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 .