HUMAN RESOURCES CODE

TITLE 2. HUMAN SERVICES AND PROTECTIVE SERVICES IN GENERAL

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; CHILD WELFARE AND PROTECTIVE SERVICES

CHAPTER 43. REGULATION OF CHILD-CARE AND CHILD-PLACING AGENCY ADMINISTRATORS

Sec. 43.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 746, Sec. 10, eff. September 1, 2013.

(2) "Child-care administrator" means a person who supervises and exercises direct administrative control over a child-care institution and who is responsible for its program and personnel, whether or not the person has an ownership interest in the institution or shares duties with other persons.

(3) "Child-placing agency" has the meaning assigned in Section 42.002.

(4) "Child-placing agency administrator" means a person who supervises and exercises direct control over a child-placing agency and who is responsible for the child-placing agency's program and personnel, regardless of whether the person has an ownership interest in the child-placing agency or shares duties with other persons.

(5) "Controlling person" has the meaning assigned by Section 42.002.

(6) "General residential operation" has the meaning assigned by Section 42.002.

(7) "Permit" means a license, listing, registration, or certification issued to a facility or family home under Chapter 42.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.112, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 10, eff. September 1, 2013.

Sec. 43.003. LICENSE REQUIRED. (a) Except as provided by Subsection (b) of this section, a person may not serve as a child-care administrator of a general residential operation without a license issued by the department under this chapter.

(b) A person who is not licensed under this chapter may serve as the child-care administrator of an emergency shelter located in a county with a population of less than 40,000 if the governing body of the shelter by resolution adopted by a majority vote of the membership of the governing body certifies that the shelter has made a reasonable effort to hire a licensed child-care administrator but is unable to hire a licensed child-care administrator.

(c) A person may not serve as a child-placing agency administrator without a license issued by the department under this chapter.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.10, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 664, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.113(a), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 6, eff. September 1, 2013.

Sec. 43.004. QUALIFICATIONS FOR LICENSE. (a) To be eligible for a child-care administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c), including a complete set of the person's fingerprints;

(2) satisfy the minimum requirements under department rules relating to criminal history and background checks;

(3) pass an examination developed and administered by the department that demonstrates competence in the field of

child-care administration;

(4) have one year of full-time experience in management or supervision of child-care personnel and programs; and

(5) have one of the following educational and experience qualifications:

(A) a master's or doctoral degree in social work or other area of study; or

(B) a bachelor's degree and two years' full-time experience in child care or a closely related field.

(b) To be eligible for a child-placing agency administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c), including a complete set of the person's fingerprints;

(2) satisfy the minimum requirements under department rules relating to criminal history and background checks;

(3) pass an examination developed and administered by the department that demonstrates competence in the field of placing children in residential settings or adoptive homes;

(4) have one year of full-time experience in management or supervision of child-placing personnel and programs; and

(5) have one of the following educational and experience qualifications:

(A) a master's or doctoral degree in social work or other area of study; or

(B) a bachelor's degree and two years' full-time experience in the field of placing children in residential settings or adoptive homes or a closely related field.

(c) Before the department issues a license under this chapter, the department must conduct a criminal history and background check of the applicant using:

(1) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(2) the information in the central registry of

reported cases of child abuse or neglect established under Section 261.002, Family Code.

(d) The executive commissioner shall adopt rules consistent with Section 42.056 relating to requiring a criminal history and background check before issuing or renewing a license under this chapter.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.114(a), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 7, eff. September 1, 2013.

Sec. 43.0041. EXAMINATION RESULTS. (a) Not later than the 30th day after the date on which a licensing examination is administered under this chapter, the department shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the department shall notify examinees of the results of the examination not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the department shall notify the examinee of the reason for the delay before that 90th day.

(b) If requested in writing by a person who fails a licensing examination administered under this chapter, the department shall furnish the person with an analysis of the person's performance on the examination.

(c) A person who fails an examination three times may not submit a new application for a license until after the first anniversary of the date the person last failed the examination.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 4.11, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.115(a), eff.

September 1, 2005.

Sec. 43.0042. RECOGNITION OF LICENSE ISSUED BY ANOTHER STATE. (a) The department may waive any prerequisite to obtaining a license for an applicant:

(1) after reviewing the applicant's credentials and determining that the applicant holds a valid license from another state that has license requirements substantially equivalent to those of this state; or

(2) after determining the applicant has a valid license from another state with which this state has a reciprocity agreement.

(b) The department may enter into an agreement with another state to permit licensing by reciprocity.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 44, eff. Sept. 1, 1997.

Sec. 43.005. RULES. The executive commissioner may adopt rules to administer the provisions of this chapter.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.248, eff. April 2, 2015.

Sec. 43.0055. COMPETITIVE BIDDING OR ADVERTISING RULES. (a) The executive commissioner may not adopt rules restricting competitive bidding or advertising by a license holder except to prohibit false, misleading, or deceptive practices.

(b) Rules to prohibit false, misleading, or deceptive practices may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder; or

(4) restricts the license holder's advertisement under

a trade name.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 45, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.249, eff. April 2, 2015.

Sec. 43.006. FEES. The executive commissioner by rule may set and the department may collect fees for administering an examination and issuing an initial license, renewal license, or provisional license in amounts necessary to cover the costs of administering this chapter.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 386, ch. 81, Sec. 13(a), eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1022, Sec. 46, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.250, eff. April 2, 2015.

Sec. 43.007. LICENSE APPLICATION. (a) A person who has the education and experience required by Section 43.004 of this code may apply to the department for a license.

(b) The applicant shall send the appropriate license fee with the application.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 386, ch. 81, Sec. 13(b), eff. Sept. 1, 1983.

Sec. 43.008. LICENSING. (a) The department shall issue a license to a person who has satisfied all the licensing requirements.

(b) The license is valid for a period of two years from the date issued.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 43.0081. PROVISIONAL LICENSE. (a) The commission may issue a provisional child-care administrator's license to:

(1) an applicant licensed in another state who applies for a license in this state if the applicant:

(A) is licensed in good standing as a child-care administrator for at least two years in another state, the District of Columbia, a foreign country, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(B) has passed a national or other examination recognized by the commission that demonstrates competence in the field of child-care administration; and

(C) is sponsored by a person licensed by the commission under this chapter with whom the provisional license holder may practice under this section; and

(2) an applicant who:

(A) otherwise qualifies for a license but does not meet the experience requirement in Section 43.004(a)(4); and

(B) complies with any additional requirement established by rule under Subsection (e).

(b) The commission may waive the requirement of Subsection (a)(1)(C) for an applicant if the commission determines that compliance with that paragraph constitutes a hardship to the applicant.

(c) A provisional license under Subsection (a)(1) is valid until the date the commission approves or denies the provisional license holder's application for a license. The commission shall issue a license under this chapter to the provisional license holder described by Subsection (a)(1) if:

(1) the provisional license holder passes the examination required by Section 43.004;

(2) the commission verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and

(3) the provisional license holder satisfies any other license requirements under this chapter.

(d) For a provisional license holder described by

Subsection (a)(1), the commission shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The commission may extend the 180-day limit if the results of the license holder's examination have not been received by the commission.

(e) The executive commissioner by rule may establish additional requirements for the issuance of a provisional child-care administrator's license under Subsection (a)(2)(A) as the executive commissioner determines appropriate.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 47, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.116, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 621 (S.B. 1896), Sec. 25, eff. June 14, 2021.

Sec. 43.009. LICENSE RENEWAL. (a) To be eligible for license renewal, a license holder shall:

(1) present evidence to the department of participation in a program of continuing education for 15 hours of formal study each year during the two-year period before the renewal; and

(2) provide information for the department's use in conducting a criminal history and background check under Section 43.004(c) and applicable department rules, including a complete set of the person's fingerprints.

(b) The department shall recognize, prepare, or administer continuing education programs for license holders. The continuing education requirement may be fulfilled by studies in the areas of legal aspects of child care, concepts related to the field of social work, or other subjects approved by the department.

(c) A person who is otherwise eligible to renew a license may renew an unexpired license by paying to the department before the expiration date of the license the required renewal fee. A person whose license has expired may not engage in the activities

that require a license until the license has been renewed under the provisions of this section.

(d) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department one and one-half times the required renewal fee.

(e) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the department two times the required renewal fee.

(f) If a person's license has been expired for one year or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. If the person was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application, the person may renew an expired license without reexamination. The person must pay to the department a fee that is equal to two times the required renewal fee for the license.

(g) At least 30 days before the expiration of a person's license, the department shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the department.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 386, ch. 81, Sec. 13(c), eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 4.12, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 48, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.117(a), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 8, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.251, eff. April 2, 2015.

Sec. 43.010. LICENSE DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW; REPRIMAND OR PROBATION.

(a) The commission may deny, revoke, suspend, or refuse to renew a license, or place on probation or reprimand a license holder for:

(1) violating this chapter or a rule adopted under this chapter;

(2) circumventing or attempting to circumvent the requirements of this chapter or a rule adopted under this chapter;

(3) engaging in fraud or deceit related to the requirements of this chapter or a rule adopted under this chapter;

(4) providing false or misleading information to the commission during the license application or renewal process for any person's license;

(5) making a statement about a material fact during the license application or renewal process that the person knows or should know is false;

(6) having:

(A) a criminal history or central registry record that would prohibit a person from working in a child-care facility, as defined by Section 42.002, under rules applicable to that type of facility; or

(B) a criminal history relevant to the duties of a licensed child-care or child-placing administrator, as those duties are specified in rules adopted by the executive commissioner;

(7) using drugs or alcohol in a manner that jeopardizes the person's ability to function as an administrator;

(8) performing duties as a child-care administrator in a negligent manner; or

(9) engaging in conduct that makes the license holder ineligible for:

(A) a license, listing, registration, or certification of approval under Section 42.072; or

(B) employment as a controlling person or service in that capacity in a facility or family home under Section 42.062.

(b) A person whose license is revoked or refused renewal by the commission under Subsection (a) is not eligible to apply for another license under this chapter for a period of five years after

the date the commission revoked the license or refused to renew the license.

(c) Repealed by Acts 2005, 79th Leg., Ch. 268, Sec. 1.129(5), eff. September 1, 2005.

(d) If a license holder is placed on probation, the commission may require the license holder:

(1) to report regularly to the commission on the conditions of the probation;

(2) to limit practice to the areas prescribed by the commission; or

(3) to continue or renew professional education until the practitioner attains a degree of skill satisfactory to the commission in those areas in which improvement is a condition of the probation.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.13, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 49, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.118, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.119(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.129(5), eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 11, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 9, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 549 (H.B. 4170), Sec. 1, eff. September 1, 2023.

Sec. 43.0105. REVOCATION OF PROBATION. The department may revoke the probation of a license holder if the license holder violates a term of the conditions of probation.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 50, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.120, eff. September 1, 2005.

Sec. 43.0106. ADMINISTRATIVE HEARING. (a) If the department denies a license or proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. Rules of practice adopted by the executive commissioner under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(b) A person may not continue to operate as a licensed child-care administrator or child-placing agency administrator during the appeal process if the department determines that the person is an immediate threat to the health or safety of a child.

(c) The department must notify the person, and if applicable, the governing body of the facility that employs the person, of the department's determination under Subsection (b).

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 50, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.121, eff. September 1, 2005.

Sec. 43.012. PENALTY. A person who serves as a child-care or child-placing agency administrator without the license required by this chapter commits a Class C misdemeanor.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 8, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.122, eff. September 1, 2005.