

The Texas Education Agency (TEA) proposes new §103.1103, concerning opioid antagonist medication requirements in schools. The new section would implement Senate Bill (SB) 629, 88th Texas Legislature, Regular Session, 2023, and adopt by reference the rules of the executive commissioner of the Texas Health and Human Services Commission.

BACKGROUND INFORMATION AND JUSTIFICATION: SB 629, 88th Texas Legislature, Regular Session, 2023, established that each school district adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that serves students in Grades 6-12. Districts may adopt and implement such a policy at each campus in the district, including campuses serving students in a grade level below Grade 6. An open-enrollment charter school or private school may adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists. If a school adopts a policy, the school is permitted to apply the policy only at campuses serving students in Grades 6-12 or at each campus, including campuses serving students in a grade level below Grade 6.

The executive commissioner of the Health and Human Services Commission must, in consultation with the commissioner of education, adopt rules regarding the maintenance, administration, and disposal of opioid antagonists at a school campus subject to a policy. The rules must establish the process for checking the inventory of opioid antagonists at regular intervals for expiration and replacement and include the amount of training required for school personnel and school volunteers to administer an opioid antagonist.

Schools with a policy on the administration of opioid antagonists must be required to report certain information no later than the tenth business day after the date a school personnel member or a school volunteer administers an opioid antagonist.

Each school district, open-enrollment charter school, and private school that adopts a policy regarding the maintenance, administration, and disposal of opioid antagonists is responsible for training school personnel and school volunteers in the administration of an opioid antagonist. Training must include information on recognizing the signs and symptoms of an opioid-related drug overdose; administering an opioid antagonist; implementing emergency procedures, if necessary, after administering an opioid antagonist; and properly disposing of used or expired opioid antagonists. Training must be provided in a formal training session or through online education. Each school district, open-enrollment charter school, or private school that adopts a policy must maintain records on the required training.

The commissioner of education and the executive commissioner of the Health and Human Services Commission must jointly adopt rules necessary to implement Texas Education Code (TEC), Chapter 38, Subchapter E-1. The proposed new rule would, therefore, adopt by reference the rules of the executive commissioner of the Texas Health and Human Services Commission implementing the provisions of TEC, §38.222.

FISCAL IMPACT: Shannon Trejo, deputy commissioner for school programs, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation to adopt by reference the rules of the executive commissioner of the Texas Health and Human Services Commission.

It would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Dr. Trejo has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that school districts and charter schools have policies in place regarding the maintenance, administration, and disposal of opioid antagonists to support the health and safety of students on school campuses. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins April 19, 2024, and ends May 20, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 19, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §38.222, as added by Senate Bill (SB) 629, 88th Texas Legislature, Regular Session, 2023, which requires each school district to adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus that serves students in Grades 6-12 and allows each school district to adopt and implement the policy at each campus in the district that serves students in a grade level below Grade 6. The statute also allows each open-enrollment charter school or private school to adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus; and TEC, §38.228, as added by SB 629, 88th Texas Legislature, Regular Session, 2023, requires the commissioner of education and the executive commissioner of the Health and Human Services Commission to jointly adopt rules regarding the maintenance, administration, and disposal of opioid antagonists.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §38.222 and §38.228, as added by Senate Bill 629, 88th Texas Legislature, Regular Session, 2023.

<rule>

§103.1103. Opioid Antagonist Medication Requirements in Schools.

In accordance with Texas Education Code, §38.222 and §38.228, the commissioner of education adopts by reference the rules of the executive commissioner of the Texas Health and Human Services Commission, on behalf of the Department of State Health Services, in the Texas Administrative Code, Title 25, Part 1, Chapter 40, Subchapter F (relating to Opioid Antagonist Medication Requirements in Schools).