



**MEETING OF THE
TEXAS WORKFORCE COMMISSION**

DATE

JULY 9, 2024

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Tuesday, July 9, 2024

CHAIRMAN DANIEL: Good morning. This meeting is called to order. Mr. Trobman, has anyone signed up for public comment?

MR. TROBMAN: No, sir.

CHAIRMAN DANIEL: Thank you, Mr. Trobman. Good morning.

CHAIRMAN DANIEL: The motion passes with the exceptions noted. Thank you. That brings us to the end of Agenda Items 1 through 8. We'll take a short recess.

CHAIRMAN DANIEL: All right. Here we are with Agenda Item 9, adoption of rule amendments to 40 TAC Chapter 809, Child Care Services.

REAGAN MILLER: Good morning, chairman, commissioners. Reagan Miller with the Child Care & Early Learning Division. Before you are the final rule amendments to Chapter 9, Child Care Services. On April 30th you approved publishing proposed amendments to the child care rules for public comment. Those proposed changes were informed by significant stakeholder input during local provider focus groups, a statewide Texas Rising Star workgroup, regional in-person meetings as well as statewide virtual stakeholder meetings. We also did digital outreach. We did receive a handful of comments to the proposed rule amendments during the formal public comment period. These comments reiterate issues that were

1 raised through early stakeholder engagement and were already
2 considered by the Texas Rising Star workgroup and TWC staff.
3 Therefore, the final rule does not include any changes to the
4 proposed rules that were approved for publication in April.
5 Staff recommends adoption of the final rule. We also request the
6 ability to make minor nonsubstantive changes to the document to
7 comply with the publication requirements of the Texas Register
8 and the Office of the Secretary of State. I'm happy to answer
9 any questions.

10 CHAIRMAN DANIEL: Any comments or questions?

11 COMMISSIONER TREVIÑO: None here.

12 COMMISSIONER ESPARZA: No questions,
13 chairman.

14 CHAIRMAN DANIEL: Is there a motion today?

15 COMMISSIONER TREVIÑO: Chairman, I move we
16 approve the adoption of amendments to 40 Texas Administrative
17 Code Chapter 809, Child Care Services, as recommended today by
18 staff.

19 COMMISSIONER ESPARZA: I second.

20 CHAIRMAN DANIEL: It's been moved and
21 seconded, and the motion carries. This is Agenda Item 10,
22 revisions to the Texas Rising Star guidelines.

23 REAGAN MILLER: Thank you, chairman. In
24 addition to the rule changes, we have changes to the Texas
25 Rising Star guidelines which were also based on that stakeholder

1 input that I mentioned for the prior agenda item. These changes
2 align with the final rule amendments that you just approved. As
3 with the changes to the child care rules, you approved
4 publishing the draft of the Texas Rising Star guidelines for
5 public comment on April 30th. We received a few comments from
6 entities in response to these guidelines outlined in the
7 discussion paper. Several of the issues raised were already
8 addressed and discussed by the Texas Rising Star workgroup's
9 review and commenters also supported many of the changes that
10 are already in the draft guidelines. Therefore, the final
11 guidelines do not include any changes in response to the
12 comments received. We do recommend approval of the final Texas
13 Rising Star guidelines, and I'm happy to answer any questions.

14 CHAIRMAN DANIEL: Are there any comments or
15 questions.

16 COMMISSIONER TREVIÑO: No questions.

17 COMMISSIONER ESPARZA: No questions.

18 CHAIRMAN DANIEL: Is there a motion?

19 COMMISSIONER TREVIÑO: Chairman, I move we
20 approve the revisions to the Texas Rising Star guidelines as
21 described in the discussion paper and recommended today by
22 staff.

23 COMMISSIONER ESPARZA: I second.

24 CHAIRMAN DANIEL: It's been moved and
25 seconded, and the motion carries. This is Agenda Item 11 which

1 has been postponed to a future meeting. Agenda Item 12, proposed
2 new rules in 40 TAC Chapter 844, prohibited Coronavirus vaccine
3 mandates by private employer.

4 CHUCK ROSS: Good morning, Chair Daniel,
5 Commissioner Treviño, Commissioner Esparza, and Mr. Serna. For
6 the record, my name is Chuck Ross. I'm the director of TWC's
7 Division of Fraud Deterrence and Compliance Monitoring. For your
8 consideration today staff is bringing forward proposed rule
9 amendments to new Chapter 844, Prohibited Coronavirus Vaccine
10 Mandates by Private Employers. During its third called session,
11 the 88th Texas Legislature enacted and the governor signed Senate
12 Bill 7 which amended the Texas Health and Safety Code by adding
13 Chapter 81D. This chapter of the code prohibits private
14 nongovernmental employers from taking an adverse action against
15 their employees, contractors, applicants for employment or
16 applicants for a contract position for refusal to be vaccinated
17 against COVID-19 as a condition of employment or contract
18 position. The chapter provides for an exception in the case of
19 certain health care providers, facilities, and physicians. These
20 employers may establish reasonable policies including the
21 required use of protective medical equipment for employees or
22 contractors not vaccinated against COVID-19. An employee,
23 contractor or prospective employee or contractor who feels
24 aggrieved by an adverse action taken by the employer for failure
25 to vaccinate against COVID-19 may file a complaint with TWC in a

1 manner prescribed by the commission's rules. The agency must
2 investigate the complaint. If the complaint involves a health
3 care employer, agency staff must coordinate with the Texas
4 Department of State Health Services. If the agency finds that an
5 adverse action was imposed, it must assess an administrative
6 penalty of \$50,000 against the employer. The employer may avoid
7 the penalty if it hires the applicant for employment or offers a
8 contract to the prospective contractor or if it rehires the
9 former employee or contractor with back pay and makes every
10 reasonable effort to reverse the effects of the adverse action.
11 If the agency finds that a violation occurred, it may recover
12 from the employer reasonable investigative costs incurred by the
13 agency in conducting its investigation regardless of whether the
14 employer takes mitigating actions to make the complainant whole.
15 Finally, the commissioners are required to adopt rules necessary
16 to implement and enforce the new chapter. The proposed rules
17 before you this morning do the following. Subchapter A clarifies
18 and interprets terms and definitions necessary to implement the
19 new law including the definition of agency, complainant,
20 contractor, employee, employer, governmental entity, and person.
21 Subchapter B clarifies and interprets the complaints provision
22 of Senate Bill 7 including the criteria and elements to be
23 included on the complaint form, what constitutes a valid
24 complaint, the agency's jurisdiction to consider and investigate
25 a complaint, circumstances under which a complaint may be

1 dismissed, the criteria and elements in determining an adverse
2 action, and coordination with the Department of State Health
3 Services. Subchapter C interprets the investigative provisions
4 of Senate Bill 7 by describing the preliminary determination
5 order and as applicable, determinations on remedial action and
6 orders of costs incurred by the agency related to its
7 investigation. Subchapter C also provides for corrected
8 determinations and decisions and withdrawal of a complaint by
9 the complainant. Finally, Subchapter C describes what
10 determinations are appealable and the timelines for any appeals.
11 Lastly, Subchapter D describes the processes and procedures for
12 administrative hearings when the agency's determination is
13 appealed by the employer. Finally, the subchapter provides for
14 judicial review if the employer remains aggrieved following an
15 appeal. This morning staff is seeking your approval to post
16 these proposed rules for a 30-day public comment period in the
17 Texas Register. Additionally, staff is seeking approval to make
18 nonsubstantive changes to facilitate their publication in the
19 register. I'm available to answer any questions you may have.

20 CHAIRMAN DANIEL: Comments or questions?

21 COMMISSIONER TREVIÑO: No questions.

22 COMMISSIONER ESPARZA: No questions.

23 CHAIRMAN DANIEL: Before we move to a
24 motion, commissioners, I wanted to tell you I'll be voting no on
25 the rule package today as currently written. I think that the

1 legislation that was implemented and the statutes that we
2 operate under provide us to authority to adopt rules to manage
3 the program with the appropriate oversight but I don't think
4 that a rule package that abdicates our responsibility to review
5 appeals in this program is good government. We can take a vote
6 on the rules as presented. I would offer this alternative for us
7 to consider. I would like to send it back to staff and ask them
8 to restructure the rules so that a review by the three
9 commissioners of any unfavorable decision in the case could
10 happen. We would give that back to staff, ask them to bring that
11 back to us as soon as they possibly could. If there's no
12 objection to sending it back and asking them to add a review by
13 the three commissioners at the end of the process, we could just
14 do that today and leave this as an open issue. If there's an
15 objection to that, then we'll need to take a motion. I can try
16 to get an amendment to that motion and we can move forward so it
17 would be your preference here.

18 COMMISSIONER TREVIÑO: Yeah, if I'm
19 understanding you correct, I'll just agree that we can wait for
20 staff to come back and I'll forego this motion at this time.

21 CHAIRMAN DANIEL: OK.

22 COMMISSIONER ESPARZA: I'll support that.

23 CHAIRMAN DANIEL: All right, Mr. Serna, my
24 issue is that the three commissioners are not the final decision
25

1 on an appeal within the agency before judicial review. I'd like
2 to send that back to staff and have that addressed.

3 MR. SERNA: Yes, sir.

4 CHAIRMAN DANIEL: Next available commission
5 meeting, I'm not going to assign a timeframe to you because I
6 want you guys to do your best work and let us continue this
7 discussion at that time. Commissioners, anything to add?

8 COMMISSIONER TREVIÑO: No, none here.

9 COMMISSIONER ESPARZA: No.

10 CHAIRMAN DANIEL: All right, thank you.

11 CHUCK ROSS: Thank you.

12 CHAIRMAN DANIEL: This is Agenda Item 13,
13 proposed rule reviews.

14 REED O'BRIEN: Good morning, Chairman
15 Daniel, Commissioner Treviño, Commissioner Esparza, and Mr.
16 Serna. For the record, I'm Reed O'Brien with the Office of
17 General Counsel. Texas Government Code Chapter 2001.039 requires
18 state agencies to review their rules every four years to
19 consider each rule for re Adoption, revision or repeal, and to
20 determine whether the reasons for initially adopting the rules
21 continue to exist. Commissioners, before you today for your
22 consideration and approval are notices of TWC's intention to
23 review its rules in the following five chapters of the Texas
24 Administrative Code: Chapter 823, Integrated Complaints,
25 Hearings, and Appeals; Chapter 837, Apprenticeship Training

1 Program; Chapter 840, WIOA Eligible Training Providers; Chapter
2 842, WIOA Nondiscrimination and Equal Opportunity; and Chapter
3 858, Procurement and Contract Management Requirements for
4 Purchase of Goods and Services for Vocational Rehabilitation
5 Services. TWC staff's assessment of those rules will include
6 determining whether the rules are obsolete, whether they reflect
7 current legal and policy considerations, and whether they
8 reflect the commission's current procedures. Staff recommends
9 submitting the notices of intention to review the rules for
10 publication in the Texas Register for a 30-day public comment
11 period, and after the comment period ends, staff will present
12 the results of the rule review assessments for the commission's
13 consideration. I'm available for any questions you may have.

14 CHAIRMAN DANIEL: Comments or questions?

15 COMMISSIONER TREVIÑO: No, nothing here.

16 COMMISSIONER ESPARZA: Not from me, chair.

17 CHAIRMAN DANIEL: Is there a motion?

18 COMMISSIONER TREVIÑO: Chairman, I move that
19 approve the proposed rule reviews for the following chapters of
20 Title 40 Texas Administrative Code for public comment as
21 recommended today by staff: Chapter 823, Integrated Complaints,
22 Hearings, and Appeals; Chapter 837, Apprenticeship Training
23 Program; Chapter 840, WIOA Eligible Training Providers; Chapter
24 842, WIOA Nondiscrimination and Equal Opportunity; and Chapter
25 858, Procurement and Contract Management Requirements for

1 Purchase of Goods and Services for Vocational Rehabilitation
2 Services.

3 COMMISSIONER ESPARZA: I second.

4 CHAIRMAN DANIEL: It's been moved and
5 seconded, and the motion carries. Thank you. This is Agenda Item
6 14, statewide program to transition from military to civilian
7 employment.

8 DAWN CRONIN: Good morning, chairman,
9 commissioners, Mr. Serna. For the record, my name is Dawn
10 Cronin, and my notes have just blanked themselves out. All
11 right, for your consideration this morning is a discussion paper
12 in your notebooks there, the statewide program to transition
13 military to civilian employment. At the June 19th commission
14 meeting, staff were asked to bring a proposal to create a
15 statewide application-based program to assist active duty
16 transitioning military personnel and their spouses as they
17 depart military service and transition to civilian employment.
18 Additionally, staff were asked to work with other state
19 occupational licensing agencies to review licensing requirements
20 for military credentials to transition to credentials recognized
21 by civilian employers. Staff recommends creating a statewide
22 application-based program funded with \$3,000,000 in WIOA
23 statewide funds to provide employment services, training, and
24 wraparound support services to assist transitioning service
25 members, recently separated veterans, and military spouses

1 transitioning to civilian employment. Staff also recommends
2 convening a workgroup of occupational licensing and regulatory
3 agencies to identify barriers and possible solutions in removing
4 the barriers to transitioning service members, recently
5 separated veterans, and military spouses to facilitate obtaining
6 occupational licenses for civilian employment. That concludes my
7 remarks and I'm happy to answer any questions you may have.

8 CHAIRMAN DANIEL: Any comments or questions?

9 COMMISSIONER TREVIÑO: No comments or
10 questions.

11 COMMISSIONER ESPARZA: Dawn and Bob, I'd
12 like to thank you both for working on this and helping to answer
13 it. Chairman, I really appreciate your insight on helping to
14 better the initial proposal. I think this perspective having-
15 this is an application that's based upon all boards that have
16 military installations that could use this, hopefully this will
17 impact them in some way. Again, as a veteran I was trained to do
18 a lot of different things, one of which was as a diesel
19 mechanic. I'm going to say I left the military able to-I could
20 tear apart an engine but I can't put it back together but it
21 didn't start me off at a base level of not knowing, you know,
22 what from what so the credential part of it was great. Also I
23 really appreciate the credential of transitioning those
24 credentials into something that can give service members a
25 little bit of a boost in basically not starting at the base

1 level so, commissioners, I appreciate the work and consideration
2 that you all put into this as well so thank you for that.

3 CHAIRMAN DANIEL: Thank you, commissioner.
4 Bob, thank you very much for him. I think we're going to help a
5 lot of people. The other thing I would say in addition to
6 Commissioner Esparza's comments are keep—make sure the boards
7 keep good records on this. I anticipate that we will have a very
8 good story to tell but more importantly, if this works as well
9 as I think this is going to work, we're going to want to
10 replicate this inside the system, all right? You know, if it
11 needs more money, it needs more money. If it needs less money,
12 it needs less money. I'm not really as concerned about the
13 funding levels but I think we have some discretion there. What
14 I'm interested in is, you know, let's figure out what really
15 works and what doesn't work. This is for a lot of folks that
16 really frankly have earned quite a bit more help, and I think
17 you've got a great proposal here. I hope it works in practice as
18 well as it seems like it's going to work on paper. Joe, thanks
19 for bringing this forward. I think these are two good issues. I
20 think we're in real good hands here. Oh, can you meet me in the
21 parking garage after this? I'm going to have you take a look at
22 something [inaudible].

23 COMMISSIONER ESPARZA: Absolutely.

24 CHAIRMAN DANIEL: Is there a motion?

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1 COMMISSIONER TREVIÑO: He can tear it apart.
2 He can't put it back together.

3 CHAIRMAN DANIEL: No, you and I are going to
4 put it back together but we're going to have a lot of fun doing
5 it.

6 COMMISSIONER TREVIÑO: Chairman, I move that
7 we approve the creation of the transition from military to
8 civilian employment statewide program utilizing \$3,000,000 in
9 WIOA statewide funds and the creation of a working group of
10 occupational licensing and regulatory agencies to address
11 barriers in the transition from military to civilian employment
12 as described in the discussion paper and presented today by
13 staff.

14 COMMISSIONER ESPARZA: I proudly second.

15 CHAIRMAN DANIEL: Yeah, it's a unanimous
16 vote. Thank you very much.

17 DAWN CRONIN: Thank you, and, Commissioner
18 Esparza, we do have some training programs that will help you
19 put that engine back together.

20 CHAIRMAN DANIEL: They are good. I saw a
21 video one time talking about them. Agenda Item 15, board
22 nominations.

23 CHERIE DUDLEY: Good morning, chairman and
24 commissioners, and Mr. Serna. For the record, Cherie Dudley with
25 Workforce Development. Today for your consideration we have

1 Workforce Board nominations for Borderplex, Brazos Valley,
2 Capital Area, South Texas, Northeast Texas, Central Texas,
3 Panhandle, Permian Basin, Rural Capital Area, and Southeast
4 Texas. Staff recommends approval on the presented nominees and
5 I'm here to answer questions you may have.

6 CHAIRMAN DANIEL: Any comments or questions?

7 COMMISSIONER TREVIÑO: None here.

8 COMMISSIONER ESPARZA: No questions.

9 CHAIRMAN DANIEL: Is there a motion?

10 COMMISSIONER TREVIÑO: Chairman, I move we
11 approve the local Workforce Development Board member nominees
12 presented today for the following: Workforce Solutions
13 Borderplex, Brazos Valley, Capital Area, South Texas, Northeast
14 Texas, Central Texas, Panhandle, Permian Basin, Rural Capital
15 Area, and Southeast Texas.

16 COMMISSIONER ESPARZA: I second.

17 CHAIRMAN DANIEL: It's been moved and
18 seconded, and the motion carries. Thank you.

19 CHERIE DUDLEY: Thank you.

20 CHAIRMAN DANIEL: Is there an executive
21 director's report today?

22 MR. SERNA: No, sir, not today.

23 CHAIRMAN DANIEL: Is there any other order
24 of business to come before the commission? Is there a motion to
25 adjourn?

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COMMISSIONER TREVIÑO: Chairman, I move to
adjourn.

COMMISSIONER ESPARZA: I second.

CHAIRMAN DANIEL: It's been moved and
seconded to adjourn and we're adjourned.