TO: Health and Human Services Commission
Executive Council

DATE: May 31, 2018

FROM: Lara Lamprecht, Assistant Deputy Commissioner

AGENDA ITEM: 3.c

SUBJECT: Workplace Violence Against Nurses Prevention Grant Program

BACKGROUND: □ Federal □ Legislative □ Other: Program Initiative

This proposal aims to create new rules in 25 TAC, Part 1, Chapter 13, Subchapter G to implement H.B. 280, 85th Legislature, Regular Session, 2017. This bill amends Texas Health and Safety Code, Chapter 105 by adding Section 105.011 to include a workplace violence prevention grant program. The Nursing Resource Section of the Health Professions Resource Center shall administer a grant program to fund innovative approaches for reducing verbal and physical violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies. Grant recipients will be required to submit periodic reports describing the outcome of the activities funded through the grant. Award funding for this program will be contingent upon funds being made available by the Texas Board of Nursing through an increase of nurse licensure fees.

The rules will cover the purpose and authority for the program as well as definitions, application procedures, award amounts, award criteria and selection for funding, general information, and reporting requirements.

ISSUES AND ALTERNATIVES:

No concerns, issues, or objections are anticipated from stakeholders regarding this proposal.

STAKEHOLDER INVOLVEMENT:

The proposed new rules were sent to external stakeholders for review. No comments were received from stakeholders. External stakeholders included:

- Texas Center for Nursing Workforce Studies (TCNWS) Advisory Committee
- TCNWS Advisory Committee Workplace Violence Task Force
Texas Nurses Association
Texas Board of Nursing
Texas Hospital Association
Texas Healthcare Association
Texas Association for Home Care and Hospice
Leading Age Texas
Texas Association of Freestanding Emergency Centers
Texas Association of Deans and Directors of Nursing Programs
Texas Emergency Nurses Association
Texas Team Action Coalition
Texas Organization of Nurse Executives
Texas Organization of Rural and Community Hospitals
South Texas Organization of Nurse Executives
Texas Association of Residential Care Communities
individual nurses involved with the Texas Center for Nursing Workforce Studies

FISCAL IMPACT:

☐ None

SERVICES IMPACT STATEMENT:

These rules are expected to have no direct impact on the health and human services client population. If grants are awarded through this program, there could be a positive impact on nurses through the reduction of violence resulting from any workplace violence prevention programs implemented through this grant program.

RULE DEVELOPMENT SCHEDULE:

May 31, 2018 Present to HHSC Executive Council
June 2018 Publish proposed rules in Texas Register
October 2018 Publish adopted rules in Texas Register
October 2018 Effective date
PROPOSED PREAMBLE

The Executive Commissioner of the Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes new Title 25, Part 1, Chapter 13, Subchapter G, Workplace Violence Against Nurses Prevention Grant Program, including new §13.81, concerning Purpose; §13.82, concerning Definitions; §13.83, concerning Grant Application Procedures; §13.84, concerning Program Funding and Award Amounts; §13.85, concerning Award Criteria and Selection for Funding; §13.86, concerning General Information; and §13.87, concerning Reporting.

BACKGROUND AND PURPOSE

The new subchapter and sections are necessary to implement Texas Health and Safety Code, §105.011, which authorizes HHSC to adopt rules for DSHS to administer a grant program aimed at reducing workplace violence against nurses. The purpose of these new rules is to describe the grant program as well as the eligibility, grant application procedures, award amounts, award criteria and selection criteria, general information, and reporting requirements as they relate to this grant program.

SECTION-BY-SECTION SUMMARY

Proposed new §13.81, concerning Purpose, identifies the purpose of the subchapter, which is to implement rules to establish the Workplace Violence Against Nurses Prevention Grant Program.

Proposed new §13.82, concerning Definitions, defines words and terms used in the subchapter.

Proposed new §13.83, concerning Grant Application Procedures, identifies the steps an applicant must complete to qualify for funding consideration.

Proposed new §13.84, concerning Program Funding and Award Amounts, identifies the source of the funding available to the program, states that award amounts are dependent on the availability of funding, and that the number and amount of awards will be specified in each Request for Application.

Proposed new §13.85, concerning Award Criteria and Selection for Funding, describes the review of applications and the requirements of a complete application.
Proposed new §13.86, concerning General Information, identifies the department’s right to cancel or suspend grant solicitations and the requirement for applicants to sign a Notice of Grant Award before release of funds.

Proposed new §13.87, concerning Reporting, describes reporting requirements for the department and each grant recipient.

FISCAL NOTE

Donna Sheppard, DSHS Chief Financial Officer, has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years that the sections will be in effect:

(1) the proposed rules will create a government program;

(2) implementation of the proposed rules will not affect the number of employee positions;

(3) implementation of the proposed rules will not require an increase or decrease in future legislative appropriations;

(4) the proposed rules will not affect fees paid to the agency;

(5) the proposed rules will create new rules;

(6) the proposed rules will not expand existing rules;

(7) the proposed rules will not change the number of individuals subject to the rules; and

(8) the proposed rules will not affect the state’s economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Donna Sheppard has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.
The rules do not apply to small businesses, micro-businesses, or rural communities. The proposed new rules merely outline the requirements for establishing and administering a grant program.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons.

PUBLIC BENEFIT

Pamela Lauer, Texas Center for Nursing Workforce Studies, has determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections will be the administration of the legislatively required grant program aimed at reducing workplace violence against nurses.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does 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, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Pamela Lauer at (512) 776-6723 in the DSHS Center for Health Statistics.

Written comments on the proposal may be submitted to Pamela Lauer, Texas Center for Nursing Workforce Studies, Center for Health Statistics, Department of State Health Services, 1100 West 49th Street, Austin, TX 78756 or Mail Code 1898, P.O. Box 149347, Austin Texas 78714-9347; by fax to (512) 776-7344; or by email to tcnws@dshs.texas.gov. When faxing
or emailing comments, please indicate "Comments on Proposed Rule 25R066" in the subject line.

Comments are accepted for 30 days following publication of the proposal in the Texas Register. If the last day to submit comments falls on a weekend or a holiday, comments must be postmarked, shipped, faxed, or emailed before midnight on the following business day to be accepted.

STATUTORY AUTHORITY

The new sections are authorized by Texas Health and Safety Code, §105.011, which provides that DSHS shall provide administrative assistance to the nursing resource section in administering the grant program and that the Executive Commissioner shall adopt rules to implement the grant program, including rules governing the submission and approval of grant requests and establishing a reporting procedure for grant recipients. Texas Government Code, §531.0055 and Texas Health and Safety Code, §1001.075 authorize the Executive Commissioner to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

The new sections implement Texas Health and Safety Code, Chapters 105 and 1001; and Texas Government Code, Chapter 531.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

For further information, please call: (512) 776-6723.
§13.81. Purpose.

(a) The purpose of this subchapter is to implement Texas Health and Safety Code, §105.011. The Workplace Violence Against Nurses Prevention Grant Program authorizes the Department of State Health Services to award grant payments to fund innovative approaches aimed at reducing verbal and physical violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies.

(b) Grant funds awarded under this subchapter may only be spent on a program intended to identify and implement efforts to reduce verbal and physical violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies.

§13.82. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Administer—Includes the proposal, development, and implementation of a program, within the parameters of the Request for Applications.

(2) Department—The Texas Department of State Health Services.

(3) Health care facility—Includes any of the following, as defined in Texas Health and Safety Code, §105.001:

   (A) “Freestanding emergency medical care facility” means a facility licensed under Texas Health and Safety Code, Chapter 254.

   (B) “Home health agency” means a home and community support services agency licensed under Texas Health and Safety Code, Chapter 142.

   (C) “Hospital” means a:

      (i) general or special hospital licensed under Texas Health and Safety Code, Chapter 241;
(ii) private mental hospital licensed under Texas Health and Safety Code, Chapter 577; or

(iii) hospital that is maintained or operated by this state or an agency of this state.

(D) “Nursing facility” means an institution licensed under Texas Health and Safety Code, Chapter 242.

(4) Request for Applications (RFA)--A type of solicitation notice in which the department announces available grant funding, sets forth the guidelines governing the program, provides evaluation criteria for submitted applications, and provides instructions for eligible entities to submit applications for such funding. The guidelines governing the program may include a letter of intent, eligibility requirements, performance expectations, budget guidelines, reporting requirements, and other standards of accountability for this program.

(5) Workplace Violence Prevention Grant Program--A grant program under which the department awards grant payments to a health care facility to administer innovative programs designed to reduce verbal and physical violence against nurses in this state.

§13.83. Grant Application Procedures.

To qualify for funding consideration, each eligible applicant must submit an application to department staff identified in the RFA. Each application must:

(1) be submitted electronically in a format specified in the RFA;

(2) adhere to the grant program requirements and the funding priorities contained in the RFA; and

(3) be submitted with proper authorization on or before the date and time specified by the department in the RFA.

§13.84. Program Funding and Award Amounts.

The maximum amount of funding available to the program is dependent on the extent funding is available through fees collected under Texas Occupations Code, §301.155(c) for each biennium. Maximum and minimum award levels and maximum number of awards will be specified in each RFA.
§13.85. Award Criteria and Selection for Funding.

(a) Applicants shall be selected for funding on a competitive basis.

(b) An application must meet the requirements of the RFA and be submitted with proper authorization on or before the day and time specified by the RFA to qualify for further consideration.

(c) A taskforce assigned by the Nursing Advisory Committee, defined by Texas Health and Safety Code, §104.0155, will review and evaluate the proposals. Proposals will be scored by the taskforce and the taskforce will make recommendations to the department for grant awards.

(d) Each application shall:

   (1) provide a detailed explanation of the applicant's workplace violence prevention program, including:

      (A) a timeline for development and implementation;

      (B) a description of the population identified to participate in the program;

      (C) a detailed budget; and

      (D) detailed information related to administration and support for the program;

   (2) document how the workplace violence prevention program will achieve the goals of reducing verbal and physical violence against nurses in the applicant's health care facility; and

   (3) propose performance metrics for measuring short-term and long-term outcomes of the program, including a measure of the change in the severity and frequency of verbal and physical violence against nurses.

(e) Priority for selection will be given to applicants that demonstrate an innovative approach to reducing verbal and physical violence against nurses that includes the following:

   (1) evidence supporting the conceptual foundation of the proposed program;
(2) evidence of institutional commitment to reduce workplace violence against nurses;

(3) evidence of institutional support of the proposal, such as staff time, access to institutional resources, and/or funds; and

(4) description of a plan for long-term sustainability of the proposed program.

§13.86. General Information.

(a) Cancellation or Suspension of Grant Solicitations. The department has the right to cancel or suspend a grant solicitation or RFA for any reason.

(b) Notice of Grant Award (NOGA). Before release of funds, the successful applicants must sign a NOGA issued by department staff.

§13.87. Reporting.

(a) Each grant recipient shall provide reports to the department as required by the RFA. The reports must include descriptions of the following:

(1) activities funded through the grant;

(2) the change in the severity and frequency of verbal and physical violence against nurses;

(3) program performance based on stated performance metrics; and

(4) budget expenditures.

(b) At least annually, the Nursing Resource Section of the Health Professions Resource Center of the department shall publish a report describing the grants awarded under this subchapter, including the amount of the grants, the purpose of the grants, and the outcome reported by the grant recipient.