



TO: Health and Human Services Commission
Executive Council

DATE: December 6, 2018

FROM: Kirk S. Cole, Interim Associate Commissioner,
Consumer Protection Division

AGENDA ITEM: 2.c

SUBJECT: Youth Camp Licensing

BACKGROUND: Federal Legislative Other: Program Initiative

The amendments make necessary updates to Department of State Health Services (DSHS) rules in Texas Administrative Code, Title 25, Chapter 265, Subchapter B, concerning Texas youth camps.

Section 265.11 amends definitions to help eliminate confusion for applicants and licensees by simplifying the application process, reducing the need for refunds, and ensuring the correct license is obtained. In addition, removing the 60% camper time out of doors requirement will help protect campers from unnecessary exposure to heat, thereby, reducing potential heat-related illnesses.

Section 265.15(d) adds the requirement to notify the youth camp regulatory authority, the DSHS-Policy, Standards, and Quality Assurance section, of any incidents or suspected incidents of abuse or neglect of a minor at a youth camp and clarifies that this requirement is separate and distinct from the duty to report under Chapter 261 of the Family Code. This is being updated to address the issue of reported abuse or neglect of a minor at a youth camp that has not been reported in a timely manner to the department.

Additional amendments include revising the term "hazardous activity" to "youth camp activity," updating unit, division, and agency titles, eliminating unnecessary language, and clarifying grammar and syntax.

ISSUES AND ALTERNATIVES:

There are no known concerns, issues, or objections to the proposal, including anticipated stakeholder concerns.

STAKEHOLDER INVOLVEMENT:

The proposed amendments were presented to external stakeholders at the September 12, 2018, Youth Camp Advisory Committee meeting for review, comment, and discussion. Comments received from stakeholders were reviewed by DSHS staff and taken into consideration and recommended changes to §265.11 were incorporated. External stakeholders included members and representatives of the youth camp industry and the general public.

FISCAL IMPACT:

Yes

	SFY18	SFY19	SFY20	SFY21	SFY22
State	(\$6000)	(\$1500)	(\$600)	(\$150)	(\$150)
Federal	0	0	0	0	0
Total	(\$6000)	(\$1500)	(\$600)	(\$150)	(\$150)

SERVICES IMPACT STATEMENT:

The public benefit anticipated from enforcing or administering the section is to better ensure the health and safety of children attending youth camps.

RULE DEVELOPMENT SCHEDULE:

December 6, 2018	Present to HHSC Executive Council
December 2018	Publish proposed rules in <i>Texas Register</i>
February 2019	Publish adopted rules in <i>Texas Register</i>
March 2019	Effective date

PROPOSED PREAMBLE

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (DSHS), proposes amendments to §265.11, concerning Definitions; §265.12 concerning Directors, Supervisors, and Staff; §265.15, concerning Medical and Nursing Care; §265.23, concerning Application and Denial of a New License; Non-transferable and §265.24, concerning Application and Denial of a Renewal License.

BACKGROUND AND PURPOSE

Texas Health and Safety Code, §141.006 establishes DSHS as the principal authority on matters relating to health and safety conditions at youth camps. Texas Health and Safety Code, §141.008 authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules to implement the Youth Camp Safety and Health Act.

The purpose of the amendment to §265.11 is to create a more concise description of the general characteristics of a youth camp to ensure proper licensing of those operations that are traditional youth camps and eliminate improper licensing of those operations that are child care programs. The amendment also eliminates the 60% out of doors requirement to reduce campers' exposure to heat-related illnesses.

The purpose of the amendment to §265.15 is to require licensees to notify the youth camp regulatory authority, DSHS-Policy Standards Quality Assurance (PSQA) section, of any incidents or suspected incidents of abuse or neglect of a minor at a youth camp. The proposed revisions further clarify that notification of the PSQA section is separate and distinct from the abuse and neglect reporting requirements established in Chapter 261 of the Family Code.

The amendments replace the term "hazardous activity" with "youth camp activity;" update organizational units and divisions and agency titles; eliminate unnecessary language; and correct grammatical and syntax changes for clarity.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §265.11 creates a new definition for a "challenge course" to clarify the activities and equipment for the industry and regulators. The "hazardous activity" definition is renamed to "youth camp activity." The definition for "playground" updates the "Handbook for

Public Playground Safety” website. The “public water system” definition revises the public drinking water rule references in 30 Texas Administrative Code. The definition of “youth camp, general characteristics of” is amended by removing the 60% out of doors requirement that was a qualifying characteristic of a youth camp, and inserting the minimum requirement of two youth camp activities to better define and license those operations that are traditional youth camps and eliminate improper licensing of child care programs. This change will also help protect campers from exposure to heat-related illnesses.

The proposed amendment to §265.12 replaces the references to “hazardous activity” with “youth camp activity.”

The proposed amendment to §265.15(d) adds the requirement for youth camp operators or staff to notify the youth camp regulatory authority, DSHS-PSQA section, of any incidents or suspected incidents of abuse or neglect of a minor at a youth camp. The amendment also clarifies that this requirement is separate and distinct from Texas Family Code, Chapter 261, which describes the authorities to which a person must report child abuse or neglect. Also, the Texas Juvenile Justice Department names are updated.

The amendment to §265.23 provides grammatical changes for clarity.

The amendment to §265.24 updates the organizational division and unit.

FISCAL NOTE

Donna Shepard, Chief Financial Officer, has determined that for the first five years that the sections will be in effect, there will be fiscal implications to state government as a result of enforcing and administering the sections as proposed.

DSHS will lose revenue from licensing fees for those camps that no longer meet the criteria, probably less than \$8,500.00 in total for the first five years. A loss of revenue is anticipated in licensing fees collected. Due to the definition change, some current operations will no longer qualify for a license. The first year should see the largest decrease in numbers of firms not qualifying for renewal of license or initial application of a license, approximately (\$6000) 40 licenses at \$150. It is anticipated that in future years those numbers should steadily decrease: second year (\$1500) 10 licenses at \$150, third year (\$600) 4 licenses at \$150, fourth and fifth years (\$150) 1 license per year at \$150 each year. There will be no fiscal implications to local government as a result of enforcing or administering the sections as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate 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 result in a decrease in fees paid to the agency;
- (5) the proposed rules will not create a new rule;
- (6) the proposed rules will expand existing rules; and
- (7) the proposed rules will decrease the number of individuals subject to the rules.

DSHS has insufficient information to determine the proposed rules effect on the state's economy.

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

Donna Shepard, Chief Financial Officer, has also determined that there will be no adverse impact on small businesses, micro-businesses or rural communities required to comply with the sections as proposed. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

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 adopted.

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 are necessary to protect the health, safety, and welfare of the residents of Texas; does not impose a cost on regulated persons; and reduces the burden or responsibilities imposed on regulated persons by the rules.

PUBLIC BENEFIT

Kirk Cole, Interim Associate Commissioner, has determined that for each year of the first five years that the sections will be in effect, the public will benefit from adoption of the sections. The public benefit anticipated from enforcing or administering the sections is to better ensure the health and safety of children attending youth camps.

REGULATORY ANALYSIS

DSHS has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

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 Texas Government Code, §2007.043.

PUBLIC HEARING

A public hearing to receive comments on the proposal will be scheduled after publication in the *Texas Register* and will be held at the DSHS Exchange Building, 8407 Wall Street, Austin, TX 78754. The meeting date and time will be posted on the DSHS Youth Camp website at www.dshs.state.tx.us/youthcamp/default.shtm. Please contact Jeff Mantia by phone at (512)231-5753 or by email at Jeffrey.Mantia@dshs.texas.gov if you have questions.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Jeff Mantia, Consumer Protection Division, Texas Department of State Health Services, Mail Code 1987, P.O. Box 149347, Austin, TX 78714-9347; by phone (512) 231-5753 or by email to CPDRuleComments@dshs.texas.gov. Please indicate "Comments on Chapter 265 Youth Camp Rules" in the subject line.

To be considered, comments must be submitted no later than 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, or emailed before midnight on the following business day to be considered.

STATUTORY AUTHORITY

The amendments are authorized by Texas Health and Safety Code, §141.008, which authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §531.0055, and Health and Safety Code §1001.075, which authorizes the Executive Commissioner of the Health and Human Services Commission 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 amendments implement Texas Health and Safety Code, Chapters 141 and 1001; and Texas Government Code, Chapter 531.

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

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 265 GENERAL SANITATION
SUBCHAPTER B TEXAS YOUTH CAMPS SAFETY AND HEALTH

§265.11. Definitions.

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

(1) Act--Texas Youth Camp Safety and Health Act, Health and Safety Code, Chapter 141.

(2) Adult--A person at least 18 years of age or older.

(3) Camper--A minor child, under 18 years of age, who is attending a youth camp on either a day or boarding basis.

(4) Challenge course--Activity designed for educational purposes or team building, which may offer a variety of challenges, including zip lines, high and low rope courses, rappelling, and climbing walls.

(5) [~~(4)~~] Commissioner--The Commissioner of the Department of State Health Services.

(6) [~~(5)~~] Day camp--A camp that operates during the day or any portion of the day between 7:00 a.m. and 10:00 p.m. for four or more consecutive days and that offers no more than two overnight stays during each camp session. To be eligible to be licensed as a youth camp, the camp's schedule shall be structured so that each camper attends for more than four hours per day for four consecutive days. The term does not include a facility that is required to be licensed with the Department of Family and Protective Services [~~(formerly the Department of Protective and Regulatory Services)~~].

(7) [~~(6)~~] Department--Department of State Health Services[~~, P.O. Box 149347, Austin, Texas 78714-9347~~].

(8) [~~(7)~~] Executive Commissioner--Executive Commissioner of the Health and Human Services Commission.

(9) [~~(8)~~] Firearm--Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or a burning substance, or any device readily convertible to that use.

~~[(9) Hazardous activity--A camp activity such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations.]~~

(10) Municipal water supply--A public water supply owned or operated by or for a city or a corporation having the right of administering local government.

(11) Pellet gun--Any device designed, made, or adapted to expel a projectile through a barrel by using compressed air or carbon dioxide. This definition includes ~~[, but is not limited to,]~~ air guns, air rifles, BB guns, and paintball guns.

(12) Permanent structure--Man-made buildings such as dining halls, dormitories, cabins, or other buildings that are constructed to remain stationary.

(13) Person--An individual, partnership, corporation, association, or organization. In ~~[these]~~ rules for this subchapter, a person does not include a government or governmental subdivision.

(14) Playground--A designated area designed for campers to play freely on equipment as defined in the U.S. Consumer Product Safety Commission Publication Number 325, "Handbook for Public Playground Safety," December 2015 (<https://www.cpsc.gov//PageFiles/122149/325.pdf>) ~~[April 2008 (<http://www.cpsc.gov/CPSC/PUBS/325.pdf>)]~~ as amended.

(15) Primitive camp--A youth camp that does not provide either permanent structures or utilities for camper use.

(16) Public water system--A public water system, as defined in 30 Texas Administrative Code (TAC) §290.38(71) is ~~[\$290.38(66)--The rules effective December 10, 2009 define a public water system as]~~ a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water (30 TAC §290.38(23)) ~~[\$290.38(22))]. Such a system shall have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or~~

~~corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.]~~

(17) Resident camp--A camp that for a period of four or more consecutive days continuously provides residential services to each camper, including overnight accommodations for at least three consecutive nights.

(18) Supervised--A person is supervised if the person is within sight, except for infrequent momentary periods such as restroom breaks, and within reasonable hearing distance of a camper's outcry, of an adult with an obligation to report inappropriate or dangerous activities or behavior who has been made aware that the obligation is in effect at that time and who has willingly accepted the obligation. This definition is applicable only to rules relating to unsupervised contact with campers.

(19) Supervisor/counselor--Camp personnel or youth group leader, at least 18 years of age or older, who is responsible for the immediate supervision of campers.

(20) Swim test--A formalized test, specific to the body of water utilized, to determine each child's swimming ability. A swim test includes a skill evaluation, or some equivalent method of determining swimming ability, such as:

(A) Non-swimmer: Get into the shallow water, sit down, stand up, and exit the water.

(B) Intermediate swimmer: Jump feet first into water at least twelve inches deeper than the height of the child. Level off, swim 25 feet, turn around and swim back. Exit the water.

(C) Swimmer: Jump feet-first into water at least twelve inches deeper than the height of the child and swim 75 yards in a strong stroke on your stomach or side (breaststroke, sidestroke, crawl, trudgen, or any combination). Then swim 25 yards on your back (elementary back stroke), then float and rest on your back for one minute. Exit the water.

(21) Travel camp--A day or resident camp, lasting for four or more

consecutive days, that begins and ends at a fixed location, but may move from location to location on a daily basis.

(22) TCEQ--Texas Commission on Environmental Quality[~~, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-1000~~].

(23) Waterfront--A natural, or artificial body of water that includes[~~, but is not limited to,~~] a lake, ocean, bay, pond, river, swimming pool, or spa, which is the site of any water activity.

(24) Waterfront activity--A recreational or instructional activity, occurring in, on, or near a waterfront. Waterfront activity includes[~~, but is not limited to,~~] swimming, boating, water skiing, scuba diving, rafting, tubing, synchronized swimming or sailing.

(25) Youth camp--A facility or property, other than a facility required to be licensed by the Department of Family and Protective Services that:

(A) has the general characteristics of a day camp, resident camp, or travel camp;

(B) is used for recreational, athletic, religious, or educational activities;

(C) accommodates at least five minors who attend or temporarily reside at the camp for all or part of at least four consecutive days; and

(D) is not a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Education Code, §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

(26) Youth camp, general characteristics of--A youth camp:

(A) provides supervision, instruction, and recreation;

(B) accommodates at least five minors during each camp session;

(C) operates as a youth camp for no more than 120 days each calendar year;

(D) hosts children who are apart from parents or guardians;

(E) operates as a youth camp for a period of four or more consecutive

days;

(F) operates as a youth camp for more than four consecutive hours per day;

(G) operates as a youth camp only during school vacation periods; and

(H) offers at least two youth camp activities in an outdoor setting such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations.

~~[(H) offers a variety of activities in an outdoor setting; and]~~

~~[(I) schedules activities so that campers spend a minimum of 60% of their time out-of-doors between the hours of 7:00 a.m. and 10:00 p.m.]~~

(27) Youth camp activity--A camp activity such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations.

(28) [(27)] Youth camp operator--Any person who owns, operates, controls, or supervises a youth camp, whether or not for profit.

§265.12. Directors, Supervisors, and Staff.

(a) On-site director required. Each youth camp shall be under the on-site direction of a qualified adult with at least two years of experience working with children. The director shall be knowledgeable in camp administrative practices and shall have at least one year of leadership experience with an organized youth camp, school or other youth-serving organization, such as the Boy Scouts of America or Young Men's Christian Association (YMCA).

(b) Adult supervisors. Each youth camp shall have at least one adult supervisor who is responsible for the supervision of no more than ten children in the camp. For any youth camp ~~[hazardous]~~ activity the supervisor(s) shall be in the immediate vicinity (within sight and/or hearing) of the campers. An "all camp" sedentary activity, not requiring physical activity, may require less supervision, and each camp shall establish its own guidelines, but not less than one adult supervisor to every 25 campers. The camp director shall not be included in the supervisor to camper ratio in camps serving over 50 campers at one time.

(c) Supervision of youth camp ~~[hazardous]~~ activity. Youth camp ~~[Hazardous camp]~~ activities shall be conducted by and under the direct supervision of a

qualified adult capable of implementing safety standards established by the department or the camp. The specialist shall also have documented training or at least two years documented experience in conducting the activity.

(d) Written personnel policies and practices. A camp shall have written personnel policies and practices for both campers and staff. Supervisors shall be informed of these policies and practices prior to assuming responsibility for campers.

(e) Staff member character and integrity records. The camp management shall ascertain and have on record information, such as a letter of reference, attesting to the character and integrity of each staff member, and information, such as training certificates, attesting to the ability of each staff member to perform the tasks required in his or her position.

(f) Criminal conviction and sex offender background check requirements. The camp management shall have on file a record of any criminal conviction and a sex offender registration check for all adult staff members and all adult volunteers working at the camp before the staff member or volunteer has unsupervised contact with children at the camp. If the records are located off-site, a letter from the national or regional headquarters of the camp organization stating the names of individuals at the camp site for whom background checks have been conducted, shall be available at the camp site. All records of criminal convictions and written evaluations for a camp or camping organization shall be made available to department personnel within two business days upon request. Youth camps are responsible for ensuring that criminal and sex offender background checks have been conducted for international staff obtained through the J-1 visa process, and that documentation of these checks are located with other staff background checks. Records of criminal convictions and sex offender status shall be obtained by:

(1) performing an annual criminal background check using a criminal history database for each adult staff member's and each adult volunteer's permanent residence. If the staff member or adult volunteer has a temporary or an educational residence, an annual criminal background check shall include searching under the permanent, temporary and educational address, as applicable. The criminal history database used for the criminal background check is to be based on the individual's residences, and may include state, national or international databases. Documentation of the search results, whether or not the results are positive, shall be maintained with the sex offender background documentation; and

(2) performing an annual background check using a sex offender

registration database for each adult staff member's and each adult volunteer's permanent residence and educational residence if applicable, such as the TXDPS - Sex Offender Registry, which may be accessed at Texas Department of Public Safety - Crime Records Service. Documentation of the search results, whether or not the results are positive, shall be maintained with the criminal background documentation.

(g) Persons whose presence at a youth camp shall be precluded. Youth camps shall not employ paid or unpaid staff members or volunteers at a youth camp, or permit any person to have unsupervised contact with campers other than their own children if the person has the following types of criminal convictions or deferred adjudications: a misdemeanor or felony under Texas Penal Code, Title 5 (Offenses Against the Person), Title 6 (Offenses Against the Family), Chapter 29 (Robbery) of Title 7, Chapter 43 (Public Indecency) or §42.072 (Stalking) of Title 9, §15.031 (Criminal Solicitation of a Minor) of Title 4, §38.17 (Failure to Stop or Report Aggravated Sexual Assault of Child) of Title 8, or any like offense under the law of another state or under federal law.

(h) Persons whose presence at a youth camp may be precluded.

(1) Youth camps may preclude a person from being a paid or unpaid staff member or volunteer at a youth camp; or may preclude a person from having unsupervised contact with campers other than the person's own children, if the person has the following types of criminal convictions or deferred adjudications:

(A) a misdemeanor or felony committed within the past ten years under §46.13 (Making a Firearm Accessible to a Child) or Chapter 49 (Intoxication and Alcoholic Beverage Offenses) of Title 10 of the Texas Penal Code, or any like offense under the law of another state or under federal law; or

(B) any other felony under the Texas Penal Code or any like offense under the law of another state or under federal law that the person committed within the past ten years.

(2) Camp management shall have on file a written evaluation by two or more camp executive staff for any staff member or volunteer whose presence at the youth camp may be precluded under this subsection showing that management has determined the person is suitable for a position at the youth camp despite a criminal conviction or deferred adjudication.

(i) Sexual abuse and child molestation awareness training and examination program.

(1) Effective June 1, 2006, a youth camp licensee may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp unless:

(A) the individual submits to the licensee or the youth camp has on file documentation that verifies the individual within the preceding two years has successfully completed the training and examination program required by this subsection; or

(B) the individual successfully completes the youth camp's training and examination program approved by the department during the individual's first workweek, and prior to any contact with campers unless supervised during the first workweek by an adult who has successfully completed the program.

(2) For purposes of this subsection, the term "contact with campers" does not include visitors such as a guest speaker, an entertainer, or a parent who visits for a limited purpose or a limited time if the visitor has no direct and unsupervised contact with campers. A visitor may have direct and unsupervised contact with a camper to whom the visitor is related. A camp may require training and an examination for visitors if it chooses.

(3) A youth camp licensee shall retain in the person's personnel record a copy of the documentation required or issued under paragraph (1)(A) of this subsection for each employee or volunteer until the second anniversary of the examination date.

(4) Prior to their use, the department may approve training and examination programs offered by trainers under contract with youth camps, by online training organizations, or programs offered in another format, such as a videotape, authorized by the department.

(5) A training and examination program on sexual abuse and child molestation approved by the department shall at a minimum include training and an examination on:

(A) the definitions and effects of sexual abuse and child molestation;

(B) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;

(C) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse;

(D) the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation;

(E) the need to minimize unsupervised encounters between adults and minors; and

(F) the potential for consensual and nonconsensual sexual activity between campers, steps to prevent sexual activity between campers, and how to respond if sexual activity between campers occurs.

(6) The training program shall last for a minimum of one hour and discuss each of the topics described in paragraph (5) of this subsection.

(7) The examination shall consist of a minimum of 25 questions which shall cover each of the topics described in paragraph (5) of this subsection.

(8) To successfully complete the training program, each employee or volunteer shall achieve a score of 70% or more correct on an individual examination. If the examination is taken on-line, the employee or volunteer shall retain a certificate of completion indicating they successfully completed the course.

(9) The department may assess a fee of \$125 to each applicant to cover the costs of the department's initial review and each follow-up review of a training and examination program.

(10) Applications and fees shall be mailed to the Environmental and Sanitation Licensing Group, Department of State Health Services, Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347. Applications may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600 or may be downloaded from <http://www.dshs.state.tx.us/youthcamp/default.shtm>.

(11) The department, at least every five years from the date of initial approval, shall review each training and examination program approved by the department to ensure the program continues to meet the criteria and guidelines established under this subsection.

(j) Supervised contact with campers.

(1) A person supervising another person who is prohibited from having unsupervised contact with campers:

(A) may include one or more paid or unpaid members of camp staff or management; law enforcement officers; security personnel; lifeguards or other responsible staff at any off-site facility; or parents or other adults;

(B) must be charged with responsibility to monitor, oversee, or supervise the person on behalf of the licensee or camp management; and

(C) must have the ability and means to summon competent assistance at all times while remaining within sight and hearing distance of the supervised person.

(2) A person who is prohibited from having unsupervised contact with campers must be supervised at all times during which that person has or might have any contact with one or more campers, whether intentional or unintentional, and whether part of scheduled camp activities or not. The potential for contact with campers by a person is presumed at all times during which one or more campers are present at the facility at which the person is present unless there is an impassable barrier between them.

(k) Records retention. All applications, background check reports, training documentation, and other required personnel documentation required by this subchapter shall be maintained in hard copy or electronic format for a minimum of two years following a person's last day of service.

§265.15. Medical and Nursing Care.

(a) Record of an on-call physician required. Documentation shall be kept on file of a physician licensed to practice in Texas who is available to be on call at all times to advise health service personnel on all first aid and nursing services provided by the camp.

(b) Emergency transportation. Transportation shall be available at all times to transport any sick or injured camper in an emergency.

(c) Medical staffing requirements. A physician, registered nurse, licensed vocational nurse, or a person with an American Red Cross Emergency Response certificate, or its equivalent, shall be in the camp and on call at all times, and will be considered the Camp Health Officer. For camps having documented evidence, such as a letter from the local emergency medical services (EMS), that the camp is located within a 20 minute community EMS response time, a person certified in American Red Cross Community First Aid

and Safety, or its equivalent, shall be in the camp and on call at all times, and will be considered the Camp Health Officer.

(d) Requirement to report incidents of abuse or neglect of a minor.

(1) Requirement to report incidents of abuse or neglect of a minor at a youth camp.

(A) If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Family Code, Chapter 261, and the abuse or neglect occurred at the youth camp, then that person shall immediately make a report, in accordance with Family Code, §261.101(a) to one of the appropriate agencies designated by Family Code, §261.103. Accordingly, a report shall be made to:

(i) any local or state law enforcement agency;

(ii) the Department of Family and Protective Services Abuse Hotline, which may be contacted at (800) 252-5400 or through the secure web site <http://www.txabusehotline.org/>; or

(iii) the department.

(B) If a person making a report in accordance with subparagraph (A) of this paragraph has not already notified the department as part of such a report, the person shall also immediately notify the department's Policy, Standards and Quality Assurance Unit by phone at (512) 834-6788, by fax at (512) 834-6707, or by email at PHSCPS@dshs.texas.gov that a minor has been or may have been abused or neglected at a youth camp.

~~[(1) Requirement to report incidents of abuse or neglect of a minor at a youth camp. If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Family Code, Chapter 261, and the abuse or neglect occurred at the youth camp, then that person shall immediately make a report, in accordance with Family Code, §261.101(a) to the Health and Human Services Commission Office of Inspector General, as required by Family Code, §261.103. To make an online report go to https://oig.hhsc.state.tx.us/Fraud_Report_Home.aspx. A report intake form, entitled HHSC Office of Internal Affairs: Texas Youth Camp Waste, Abuse and Fraud Referral Form may be faxed to the Office of Inspector General, Internal Affairs, 1-800-436-6184. A report shall be made to the Health and~~

~~Human Services Commission Office of Inspector General and may be made to a local or state law enforcement agency or other agency listed in Family Code, §261.103.]~~

(2) Requirement to report incidents of abuse or neglect of a minor other than at a youth camp. If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Family Code, Chapter 261, and the abuse or neglect did not occur at the youth camp, then that person shall immediately make a report, in accordance with Family Code, §261.103.

(A) Except as provided by subparagraphs (B), (C) and (D) of this paragraph, a report shall be made to:

(i) any local or state law enforcement agency;

(ii) the Department of Family and Protective Services Abuse Hotline, which may be contacted at (800) 252-5400 or through the secure web site <http://www.txabusehotline.org/>; or

(iii) the agency designated by the court to be responsible for the protection of children.

(B) A report may be made to the Texas Juvenile Justice Department [~~Texas Youth Commission~~] instead of the entities listed under subparagraph (A) of this paragraph if the report is based on information provided by a child while under the supervision of the Texas Juvenile Justice Department [~~commission~~] concerning the child's alleged abuse of another child.

(C) Notwithstanding subparagraph (A) of this paragraph, a report, other than a report under subparagraph (D) of this paragraph, shall be made to the Department of Family and Protective Services if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

(D) A report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility shall be made to the Texas Juvenile Justice Department [~~Probation Commission~~] and a local law enforcement agency for investigation.

(e) Requirement to report camper death or communicable diseases. Camper death or confirmed cases of waterborne or foodborne diseases, such as cholera, dysentery, typhoid, salmonellosis, shigellosis, or infectious hepatitis,

shall be reported to the department's Policy, Standards, and Quality Assurance Unit, within 24 hours of occurrence (or confirmation in the case of disease) by fax at (512) 834-6707, or by email at PHSCPS@dshs.texas.gov [~~the address found at www.dshs.state.tx.us/youthcamp/default.shtm.~~]

(f) Designation of a first aid area. A first aid area, used exclusively to handle health and emergency cases, shall be designated and suitably equipped. Supplies should be in single use packaging. A first aid kit containing at the minimum the items listed in this subsection shall be available in the first aid area.

- (1) Sterile adhesive bandages in assorted sizes.
- (2) Sterile gauze pads in assorted sizes.
- (3) Hypoallergenic adhesive tape.
- (4) Triangular bandages.
- (5) Sterile roller bandages in assorted sizes.
- (6) Scissors.
- (7) Tweezers.
- (8) Moistened towelettes.
- (9) Antiseptic.
- (10) Thermometer.
- (11) Splints.
- (12) Petroleum jelly or other lubricant.
- (13) Cleansing agent/soap.
- (14) Exam quality gloves.
- (15) Eye wash solution.

(g) Isolation of a child with a communicable disease. A child ill with a confirmed or suspected case of a communicable disease shall be isolated to provide safety to other children and quiet to the patient. Any child that is isolated shall be supervised as determined by the Camp Health Officer. A

child with a staphylococcal skin infection is not required to be isolated, if the infection is kept completely covered by a bandage.

(h) Bound medical log required. A bound medical log, or other unalterable record keeping system, listing date, name of the patient, ailment, name of the Camp Health Officer, and the treatment prescribed shall be kept in the first aid area for the duration of the camp year for which the license is issued.

(i) Camper health records shall be kept on file. The first aid area shall keep a health record on each child with the child's name, allergies, immunizations, parent's name, address, and telephone number, and parent or guardian authorization for emergency medical care.

(j) Availability of an emergency telephone. The camp shall have a telephone readily available, preferably in the first aid area, for emergency use.

(k) Emergency plans required. A written plan of procedures to be implemented in case of a disaster, serious accident, epidemic, or fatality shall be formulated and posted in the camp's administrative on-site office or location and in each permanent and semi-permanent occupied building. The plan shall include procedures for emergency shelter and for evacuation of each occupied building and the facility. Campers shall be instructed as to their actions in the event of fire, disaster, or the need to evacuate. These procedures shall be reviewed by the staff with specific assignments made to each staff member and counselor. All camp staff and volunteers shall be made aware of this plan during the staff-training program or volunteer briefing. Documentation of this training shall be kept at the camp's administrative on-site office or location.

(l) Storing and dispensing prescription medication to campers. If a child is taking a prescription medication when he or she reports to camp, the medication shall be in the original container with the prescription label, and the medical staff shall place that medication, sharps, and related paraphernalia or devices in a lockable cabinet or other secure location that is not accessible to campers. The medication shall be administered by the Camp Health Officer or camp counselor, if authorized in writing by the Camp Health Officer. At no time shall the child be allowed to self-administer the medication without adult supervision. Medications needed for immediate use for life-threatening conditions (e.g., bee-sting medication, inhaler) and limited medications approved for use in first-aid kits may be carried by a camper or staff person. The camp shall have on file a written statement of medical necessity from the prescribing doctor or the written approval of the Camp Health Officer for any camper to carry medication and related

paraphernalia or devices.

(m) Camp trip first aid kits. First aid kits containing at the minimum the items listed in subsection (f) of this section shall be taken on all out-of-camp trips.

§265.23. Application and Denial of a New License; Non-transferable.

(a) License required. A person shall possess a valid youth camp license prior to operating a youth camp.

(1) Submitting an application. An application is made by submitting:

(A) a completed youth camp application;

(B) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(C) any other requested documents and information; and

(D) paying the license fee as described in §265.28 of this title (relating to Fees).

(2) Obtaining an application. A blank application may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600 or may be downloaded from the website at www.dshs.state.tx.us/youthcamp/default.shtm. Applications may be submitted to the Environmental and Sanitation Licensing Group, Department of State Health Services, Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347.

(3) Qualifying for a youth camp license. The department shall issue a license if the facility:

(A) meets the definition of a "Youth camp" as described in §265.11(25) of this title (relating to Definitions);

(B) meets the definition of "Youth camp, general characteristics of" in §265.11(26) of this title; and

(C) is in compliance, or has demonstrated a plan for compliance, with all provisions of the Act and the rules prior to operation as determined by:

(i) submitting a complete application as described in paragraph (1)

of this subsection; and

(ii) passing a pre-licensing inspection conducted by the department, using the standard youth camp inspection form that may be found at <http://www.dshs.state.tx.us/youthcamp/forms.shtm>.

(b) Processing applications.

(1) Applications for a new license issued under this chapter shall be submitted to the Environmental and Sanitation Licensing Group at least 90 calendar days prior to camp operation.

(2) The department shall issue the new license or a written notice that the application is complete or that the application is deficient within the following periods of time. The department shall identify deficiencies in the notice, provide a deadline by which the deficiencies shall be corrected, and inform the applicant of the need for a pre-licensing inspection. Deficiencies may include the failure to provide required information, documents, or fees. An application is not considered complete until all required documentation, information, and fees have been received.

(A) Letter of acceptance of application for licensure approving the license and authorizing operation after successfully passing the pre-licensing inspection - within 30 days after the date of passing the pre-licensing inspection. The original license may serve as the letter of acceptance.

(B) Letter of application deficiency - within 30 days after receipt of a deficient application.

(C) Letter of pre-licensing inspection deficiency - a notice of deficiency will be issued to the camp representative on site at the conclusion of the pre-licensing inspection if any deficiencies were noted during the inspection. The camp shall provide documentation that all deficiencies have been corrected within 10 days after [əf] the inspection or prior to camp operation, whichever comes first.

(3) In the event that an application for a new license is not processed within the timeframe established in paragraph (2)(A) of this subsection, and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process so long as a complete application was submitted at least 90 calendar days prior to camp operation. Requests for reimbursement shall be made in writing to the Environmental and Sanitation Licensing Group. Good cause for exceeding the time period is considered to exist if the number of applications for licensure

exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant shall give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner shall make the final decision and provide written notification of the decision to the applicant and to the department.

(c) Record availability. All records, except criminal background and sex offender registration database checks (including any written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication), required by this subchapter shall be made available to the department immediately upon request. Criminal background and sex offender registration database checks (including any written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication) shall be made available to the department within two business days upon request.

(d) Term of license. The term of a youth camp license shall be one year, beginning on the date of issuance.

(e) License non-transferable. A youth camp license is not transferable and may not be sold, assigned, or otherwise transferred. Any new entity that acquires the operation of a youth camp through sale, assignment, or other transfer shall obtain a new license.

(f) Ownership change. A new application, fee, pre-licensing inspection, and license is required if there is a change in ownership.

(g) Name change. If a camp changes its name during operation, but does not change location or ownership, then a new license certificate may be issued if requested using the form designated by the department, available at <http://www.dshs.state.tx.us/youthcamp/forms.shtm>, accompanied by a nonrefundable fee of \$20.

(h) Location change. A new application, fee, pre-licensing inspection, and license is required if there is a change in physical camp location.

(i) Duplicate license. A duplicate license may be issued if requested using the form designated by the department, available at <http://www.dshs.state.tx.us/youthcamp/forms.shtml>, accompanied by a nonrefundable fee of \$20.

(j) Denials.

(1) The department may deny an application for licensing to those who fail to meet the standards established by the rules in this subchapter [~~these rules~~]. When the department proposes to deny an application, it shall give notice of the proposed action in writing and shall provide information on how to request an administrative hearing. The applicant shall make a written request for a hearing within 30 days from the date on the notice letter sent by the department. The hearing shall be conducted in accordance with the Act, the Administrative Procedure Act, Government Code, Chapter 2001, and the formal hearing procedures of the department at 25 Texas Administrative Code, §1.21 et seq.

(2) A letter of denial of licensure may be issued within 60 days after [of] the receipt of application if the applicant does not meet the requirements of subsection (a)(3)(A) or (B) of this section.

(3) A letter of denial of licensure may be issued if the applicant does not meet the requirements of subsection (a)(3)(C) of this section:

(A) within 60 days following the first scheduled date of camp operations if a pre-licensing inspection has not been completed; or

(B) within 60 days following the first scheduled date of camp operations if the camp does not pass the pre-licensing inspection.

(4) A license holder whose license has been denied or revoked may not reapply for a new license for two years from the date of final denial or revocation.

(k) Refunds.

(1) If the applicant does not meet the requirements of subsection (a)(3)(A) or (B) of this section, the application may be denied and the license fee, less a handling fee of \$50, may be refunded. If an application is denied because the facility does not meet the requirements of subsection (a)(3)(A) or (B) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (a)(3)(C) of this section, the application may be denied and the license fee may not be refunded.

§265.24. Application and Denial of a Renewal License.

(a) Renewal of a youth camp license. A person holding a license under the Act shall renew the license annually before the license expires.

(b) Renewal notice. At least 60 days before a license expires, the department, as a service to the licensee, may send a renewal notice to the licensee or registrant to the last known address of the licensee. It remains the responsibility of the licensee to keep the department informed of the licensee's current address and to take action to renew the license whether or not they have received the notification from the department. The renewal notice shall state:

- (1) the type of license requiring renewal;
- (2) the time period allowed for renewal; and
- (3) the amount of the renewal fee.

(c) Renewal requirements. Renewal applications and fees shall be submitted to the department prior to the license's annual expiration date.

(1) Submitting an application. A renewal application is made by submitting:

- (A) a completed youth camp renewal application;
- (B) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;
- (C) any other requested documents and information; and
- (D) paying the renewal license fee as described in §265.28 of this title (relating to Fees).

(2) Obtaining an application. A blank renewal application may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600, or may be downloaded from the website at www.dshs.state.tx.us/youthcamp/default.shtm. Renewal applications may be submitted to the Environmental and Sanitation Licensing Group,

Department of State Health Services, Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347.

(3) Qualifying for renewal of a youth camp license. The department shall issue a renewal license if the facility:

(A) meets the definition of a "Youth camp" as described in §265.11(25) of this title (relating to Definitions);

(B) meets the definition of "Youth camp, general characteristics of" in §265.11(26) of this title; and

(C) is in compliance with all provisions of the Act and the rules prior to operation as determined by:

(i) submitting a complete renewal application as described in this subsection;

(ii) passing a pre-licensing inspection conducted by the department, if required; and

(iii) complying with all final orders resulting from any violations of this subchapter [~~these sections~~] before the application for renewal is submitted.

(d) Processing renewal applications.

(1) Applications for license renewal under this subchapter [~~chapter~~] shall be received by the Environmental and Sanitation Licensing Group prior to the expiration date of the license or 45 days prior to camp operation, whichever is earlier.

(2) The department shall issue the renewal license or a written notice that the renewal application is complete or that the renewal application is deficient within the following periods of time from the date of receipt of the renewal application. The department shall identify deficiencies in the notice and provide a deadline by which the deficiencies shall be corrected in order for the department to renew the license or to schedule the pre-licensing inspection if required. Deficiencies may include the failure to provide required information, documents, or fees, or the failure to schedule or successfully pass the pre-licensing inspection if required. An application is not considered complete until all required documentation, information, and fees have been received. If a camp is subject to pre-licensing inspection, the time period for issuing a letter of acceptance of application for license

renewal begins upon successfully passing inspection.

(A) Letter of acceptance of application for license renewal approving the license and authorizing operation - within 30 days. The original license may serve as the letter of acceptance.

(B) Letter of renewal application deficiency - within 30 days after receipt of a deficient renewal application.

(C) Letter of pre-licensing inspection deficiency - a notice of deficiency will be issued to the camp representative on site at the conclusion of the pre-licensing inspection if any deficiencies were noted during the inspection. The camp shall provide documentation that all deficiencies have been corrected within 10 days after [øf] the inspection or prior to camp operation, whichever comes first.

(3) In the event that a timely and complete application for license renewal is not processed within timeframe established in paragraph (2)(A) of this subsection, and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process. Requests for reimbursement shall be made in writing to the Environmental and Sanitation Licensing Group. Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant shall give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner shall make the final decision and provide written notification of the decision to the applicant and to the department.

(e) Late renewal. If a license is not renewed within one year after the expiration date, the license may not be renewed. A new license may be obtained by submitting a new application in compliance with §265.23 of this title (relating to Application and Denial of a New License; Non-transferable). If the license is renewed after its expiration date, the renewed license shall expire on the date the license would have expired had it been renewed timely.

(f) Non-renewal. The department may refuse to renew a license if the applicant has not complied with all final orders resulting from any violations of these sections. Eligibility for license renewal may be reestablished by meeting all conditions of the orders and complying with the requirements of this section. The department may not renew the license of a youth camp that has not corrected deficiencies identified in a final order before the application for renewal is submitted. Evidence of corrections, such as photography or documentation satisfactory to the department, shall be submitted to and approved by the Environmental and Sanitation Business Filing and Verification Unit [~~Environmental Health Enforcement Unit of the Division for Regulatory Services~~] prior to submitting the renewal application to the Business Filing and Verification Section [~~Regulatory Licensing Unit~~] of the Consumer Protection Division.

(g) Application determination affecting license expiration. If a license holder makes timely and sufficient application for the renewal of a license, the existing license does not expire until the application has been finally determined by the department. If the application is denied, the existing license does not expire until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(h) Reapplication for license upon denial or revocation. A license holder whose license has been denied or revoked may not reapply for a new license for two years from the date of final denial or revocation.

(i) Opportunity for a hearing. When the department proposes to deny an initial or renewal application, it shall give notice of the proposed action in writing and shall provide information on how to request an administrative hearing. The applicant shall make a written request for a hearing within 30 days from the date on the notice letter sent by the department.

(j) Pre-licensing inspections. A youth camp applying for a license renewal may be subject to a pre-licensing inspection. Youth camps shall be in compliance with all provisions of the Act and the rules prior to operation.

(k) Denials.

(1) The department may deny a renewal application for licensing to those who fail to meet the standards established by these rules. Prior to denying a renewal license, the department shall give the applicant an opportunity for a hearing. The hearing shall be conducted in accordance with the Act, the Administrative Procedure Act, Government Code, Chapter 2001, and the formal hearing procedures of the department at 25 Texas Administrative Code §1.21 et seq.

(2) A letter of denial of license renewal may be issued within 60 days of the receipt of application if the applicant does not meet the requirements of subsection (c)(3)(A) or (B) of this section.

(3) A letter of denial of license renewal may be issued within 60 days following the first scheduled date of camp operations if the applicant does not meet the requirements of subsection (c)(3)(C) of this section.

(l) Refunds.

(1) If the applicant does not meet the requirements of subsection (c)(3)(A) or (B) of this section, the renewal application may be denied and the renewal license fee, less a handling fee of \$50, may be refunded. If an applicant is denied because the facility does not meet the requirements of subsection (c)(3)(A) or (B) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (c)(3)(C) of this section, the renewal application may be denied and the renewal license fee may not be refunded.