

TITLE 1	ADMINISTRATION
PART 15	TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 351	COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES
SUBCHAPTER B	ADVISORY COMMITTEES
DIVISION 1	COMMITTEES

§351.841. Joint Committee on Access and Forensic Services.

(a) Definitions. The following words and terms, when used in this section, have the following meanings unless the context clearly indicates otherwise.

- (1) Executive Commissioner--The Executive Commissioner of the Texas Health and Human Services Commission or the Executive Commissioner's designee.
- (2) Forensic patient--The term has the meaning described in Texas Health and Safety Code Chapter 532.013.
- (3) Forensic services--A competency examination, competency restoration service, or mental health service provided to a current or former forensic patient in the community or at a facility that receives state funds for providing mental health services for forensic patients.
- (4) HHSC--The Texas Health and Human Services Commission.
- (5) JCAFS--The Joint Committee on Access and Forensic Services.

(b) Statutory authority. JCAFS is authorized by:

- (1) Texas Health and Safety Code §533.051(c), which defines membership requirements and prescribes the duties of the JCAFS; and

(2) Texas Health and Safety Code §533.0515, which authorizes the Executive Commissioner to adopt rules as necessary to implement its provisions.

(c) Purpose. The purpose of the JCAFS is to:

(1) make recommendations and monitor implementation of updates to a bed day allocation methodology;

(2) make recommendations and monitor implementation of a utilization review protocol for state funded beds in hospitals and other inpatient mental health facilities; and

(3) make recommendations to improve access to mental health services for both civil and forensic patients throughout the full continuum of care from institution to community-based settings.

(d) Tasks. The JCAFS considers and makes recommendations to the Executive Commissioner consistent with the committee's purpose as stated in subsection (c) of this section.

(e) Reporting requirements. The JCAFS submits:

(1) a written report to the Executive Commissioner, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Senate Finance Committee, the House Appropriations Committee and the standing committees of the legislature having jurisdiction over mental health and human services by December 1 of each even-numbered year, in accordance with Texas Health and Safety Code §533.0515(e); and

(2) a proposal for an updated bed day allocation methodology and bed day utilization review protocol to the Executive Commissioner no later than December 1 of each even-numbered year, in accordance with Texas Health and Safety Code §533.015.

(f) Open meetings. The JCAFS complies with the requirements for open meetings under Texas Government Code Chapter 551.

(g) Membership. The JCAFS is composed of 17 members nominated by the designating organization and appointed by the Executive Commissioner. A majority of the voting members of the JCAFS constitutes a quorum. Each member serves until a replacement is nominated by the designating organization and appointed by the Executive Commissioner.

(1) The membership consists of:

(A) one Texas Department of Criminal Justice-designated representative;

(B) one Texas Association of Counties-designated representative;

(C) two Texas Council of Community Centers-designated representatives, including one representative of an urban local service area and one representative of a rural local service area;

(D) two County Judges and Commissioners Association of Texas-designated representatives, one of which is the presiding judge of a court with jurisdiction over mental health matters;

(E) one Sheriffs' Association of Texas-designated representative;

(F) two Texas Municipal League-designated representatives, one of which is a municipal law enforcement official;

(G) one Texas Conference of Urban Counties-designated representative;

(H) two Texas Hospital Association-designated representatives, one of which is a physician;

(I) one representative designated by an organization identified by HHSC representing individuals with lived experience receiving publicly funded mental health services; and

(J) four representatives designated by the HHSC Behavioral Health Advisory Committee (BHAC), or its successor:

(i) including the chair of the BHAC;

(ii) one representative of the BHAC's members who is a consumer of or advocate for mental health services;

(iii) one representative of the BHAC's members who is a consumer of or advocate for substance abuse treatment; and

(iv) one representative of the BHAC's members who is a family member of or advocate for persons with mental health and substance abuse disorders.

(2) The HHSC Forensic Director and the State Hospital Chief of Forensic Medicine serve as non-voting ex officio members of the JCAFS.

(h) Officers. The JCAFS selects from among its members, a presiding chair and vice-chair. Unless re-elected, the term of the presiding chair and vice-chair is one year. The chair and vice-chair will each serve no more than three one-year terms in each position.

(i) Required training. Each member shall complete all training on relevant statutes and rules, including this section, §351.801 of this subchapter (relating to Authority and General Provisions), Texas Government Code §531.012, and Texas Government Code Chapters 551 and 2110. Training will be provided by HHSC.

(j) Date of abolition. The JCAFS will not be abolished as long as the Texas Health and Safety Code §533.051 and §533.0515 remain in effect because the JCAFS is established by statute.

# Rulemaking Roadmap



## Program completes RNF and obtains approvals

- Program Management
- Deputy Executive Commissioner (DEC)
- Chief Officer

## Program sends RNF to RCO

- DEC-Policy & Rules (DEC-PR) approves
- RCO organizes kick-off meeting
- Rule project timeline starts

## Program develops draft rule text and obtains approvals

- Program management
- Assigned attorney
- Senior Executive Policy Advisor (SEPA)

## RCO posts draft rule text on HHSC site for informal comment – two weeks

- Program develops rule packet
- Program incorporates informal comment
- Obtains internal approvals

## Program develops and sends packet to RCO

- Preamble
- Rule text
- RFI
- RNF
- Memoranda EC, council, committee

## RCO edits packet, working with program

## RCO routes packet by email for executive management approvals

- Financial Services Division (FSD)
- DEC-PR/SEPA
- Legal Services and Chief Counsel
- DSHS approval includes DSHS General Counsel and DSHS Commissioner

## RCO reviews packet after each routing

- In collaboration with program, RCO incorporates edits
- After Chief/General Counsel approval, DEC-PR sends packet to Office of Governor (OOG) for review

## Rule packet presented to council/committees

- Advisory committees
- HHSC Executive Council
- Public comment is received

## After Executive Council, any changes to rule packet are incorporated with approvals

- Program
- DEC-PR
- Legal/Chief/General Counsel

## Rule packet is reviewed, approved, and signed by Executive Commissioner

## Executive Clerk's Office returns rule packet to RCO

## Rule text and preamble sent to Texas Register

## Proposal requires 31-day comment period

- Begins upon publication in *Texas Register*
- *Texas Register* publication schedule

## During 31-day comment, program receives and considers comments

- Any resulting changes are incorporated into the rule proposal as it is prepared for adoption

## After 31-day comment, program develops adoption packet

- Adoption preamble; rule text; memoranda
- Sends to RCO
- RCO edits, finalizes per program
- RCO sends to DEC-PR
- Legal/Chief/General Counsel for approvals (No FSD or OOG review)

## Once approved by the EC, adoption preamble and rule text sent to Texas Register

- The rule becomes effective 20 days after filing with the Secretary of State, unless a later effective date has been specified

# HHSC's Rulemaking Process

## Background

### Administrative rules – within government

- Federal government starting place (Constitution, federal regulations, APA)
- State statutes and regulations; system of agencies for matters of public interest
- Agencies have administrative rules, policies and procedures
- Texas Administrative Code (TAC)
- *Texas Register*/Secretary of State

### Administrative rules – within agencies

- Implement, interpret or prescribe law or policy; or describe the procedure or practice requirements of a state agency
- Window into state government: notice of rulemaking; public comment; transparency
- How initiated at HHSC? Response to statute; internal or external directive; litigation
- How managed at HHSC? Rules Coordination Office (RCO) under Deputy Executive Commissioner Policy & Rules and Chief Policy & Regulatory Officer
- Where viewed at HHSC? HHSC Executive Council, advisory committees; website

## Rulemaking Phases

### Two phases of rulemaking

1. Proposal
2. Adoption

### Six stages

#### 1. RNF (Rulemaking Notification Form)

- RNF with program approvals submitted to RCO; kick-off; draft for informal comment

#### 2. Rule packet development

- Preamble
- Rule
- RFI (Rulemaking Fiscal Impact form)
- RNF (Rulemaking Notification Form)
- Memos and Council items

#### 3. Rule packet approvals

- Program management
- Executive management
- Office of the Governor

#### 4. Council review – advisory committees (MCAC) and HHSC Executive Council

- Reviewed, approved and signed by Executive Commissioner

## *Texas Register*

### 5. *Texas Register* – Proposal

- 31-day public comment period
- Rule and preamble prepared for adoption; comments; approvals

### 6. *Texas Register* – Adoption

- Rule effective 20 days (or more) after filing
- Program may designate later effective date

### Notes: