

The Health and Human Services Commission adopts, on behalf of the Department of Family and Protective Services (DFPS), amendments to §748.43 and §748.1219, without changes to the proposed text published in the February 13, 2015, issue of the *Texas Register* (40 TexReg 679). These amendments will be effective June 1, 2015

The justification for the amendments is to change the admission assessment requirements for children receiving treatment services. Currently, minimum standards require all children receiving treatment services to have a psychiatric or psychological evaluation. There is concern that some children may receive this level of evaluation unnecessarily. This change allows a psychosocial assessment to be conducted on a child instead of a psychiatric or psychological evaluation. A psychosocial assessment will provide a broad view of the child's issues with the added advantage of immediate therapy and additional referrals for psychiatric or psychological evaluations as indicated.

The amendment to §748.43: (1) Adds a definition for "mental health professional" which are the professionals that may conduct a psychosocial assessment; (2) Adds a definition for "psychosocial assessment", which explains the parameters for this assessment; and (3) Clarifies the definition for "regularly."

The amendment to §748.1219: (1) Provides an option for a child receiving treatment services (except for a child with primary medical needs) to have a psychosocial assessment instead of a psychiatric or psychological evaluation. If a psychosocial assessment is conducted, referrals for a psychiatric or psychological evaluation may also be indicated; and (2) Clarifies the wording, including replacing "mental retardation" with "intellectual disabilities."

The amendments will function by allowing regulated entities to have more flexibility to use a psychosocial assessment when appropriate.

No comments were received regarding adoption of the amendments.

§748.43. What do certain words and terms mean in this chapter?

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or unless the context clearly indicates otherwise. The following words and terms have the following meanings unless the context clearly indicates otherwise:

(1) Accredited college or university--An institution of higher education accredited by one of the following:

- (A) Southern Association of Colleges and Schools, Commission on Colleges;
- (B) Middle States Association of Colleges and Schools, Commission on Higher Education;
- (C) New England Association of Schools and Colleges, Commission on Institutions of Higher Education;
- (D) North Central Association of Colleges and Schools, The Higher Learning Commission;

- (E) Northwest Commission on Colleges and Universities;
 - (F) Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities; or
 - (G) Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges.
- (2) Activity space--An area or room used for child activities.
 - (3) Adaptive functioning--Refers to how effectively a person copes with common life demands and how well the person meets standards of personal independence expected of someone in his particular age group, sociocultural background, and community setting.
 - (4) Adult--A person 18 years old or older.
 - (5) Caregiver--A person counted in the child/caregiver ratio, whose duties include the direct care, supervision, guidance, and protection of a child. This does not include a contract service provider who:
 - (A) Provides a specific type of service to your operation for a limited number of hours per week or month; or
 - (B) Works with one particular child.
 - (6) Certified lifeguard--A person who has been trained in rescue techniques, lifesaving, and water safety by a qualified instructor from a recognized organization that awards a certificate upon successful completion of the training. A certified lifeguard ensures the safety of persons by preventing and responding to water related emergencies.
 - (7) Child/caregiver ratio--The maximum number of children for whom one caregiver can be responsible.
 - (8) Child in care--A child who is currently admitted as a resident of a general residential operation, regardless of whether the child is temporarily away from the operation, as in the case of a child at school or at work. Unless a child has been discharged from the operation, he is considered a child in care.
 - (9) Child passenger safety seat system--An infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.
 - (10) Cottage home--A living arrangement for children who are not receiving treatment services in which:
 - (A) Each group of children has separate living quarters;
 - (B) 12 or fewer children are in each group;
 - (C) Primary caregivers live in the children's living quarters, 24 hours per day for at least four days a week or 15 days a month; and
 - (D) Other caregivers are used only to meet the child-to-caregiver ratio in an emergency or to supplement care provided by the primary caregivers.
 - (11) Counseling--A procedure used by professionals from various disciplines in guiding individuals, families, groups, and communities by such activities as delineating alternatives, helping to articulate goals, processing feelings and options, and providing needed information. This definition does not include career counseling.
 - (12) Days--Calendar days, unless otherwise stated.
 - (13) De-escalation--Strategies used to defuse a volatile situation, to assist a child to regain behavioral control, and to avoid a physical restraint or other behavioral intervention.

- (14) Department--The Department of Family and Protective Services (DFPS).
- (15) Discipline--Guidance that is constructive or educational in nature and appropriate to the child's age, development, situation, and severity of the behavior.
- (16) Disinfecting solution--A disinfecting solution may be:
- (A) A self-made solution, prepared as follows:
 - (i) One tablespoon of regular strength liquid household bleach to each gallon of water used for disinfecting such items as toys, eating utensils, and nonporous surfaces (such as tile, metal, and hard plastics); or
 - (ii) One-fourth cup of regular strength liquid household bleach to each gallon of water used for disinfecting surfaces such as bathrooms, crib rails, diaper-changing tables, and porous surfaces, such as wood, rubber or soft plastics; or
 - (B) A commercial product that is registered with the Environmental Protection Agency (EPA) as an antimicrobial product and includes directions for use in a hospital as a disinfectant. You must use the product according to label directions. Commercial products must not be toxic on surfaces likely to be mouthed by children like crib rails and toys.
- (17) Emergency Behavior Intervention--Interventions used in an emergency situation, including personal restraints, mechanical restraints, emergency medication, and seclusion.
- (18) Family members--An individual related to another individual within the third degree of consanguinity or affinity. For the definitions of consanguinity and affinity, see Chapter 745 of this title (relating to Licensing). The degree of the relationship is computed as described in Government Code, §573.023 (relating to Computation of Degree of Consanguinity) and §573.025 (relating to Computation of Degree of Affinity).
- (19) Field trip--A group activity conducted away from the operation.
- (20) Food service--The preparation or serving of meals or snacks.
- (21) Full-time--At least 30 hours per week.
- (22) Garbage--Food or items that when deteriorating cause offensive odors and/or attract rodents, insects, and other pests.
- (23) General Residential Operation--A residential child-care operation that provides child care for 13 or more children or young adults. The care may include treatment services and/or programmatic services. These operations include formerly titled emergency shelters, operations providing basic child care, operations serving children with mental retardation, and halfway houses.
- (24) Group of children--Children assigned to a specific caregiver or caregivers. Generally, the group stays with the assigned caregiver(s) throughout the day and may move to different areas throughout the operation, indoors and out. For example, children who are assigned to specific caregivers occupying a unit or cottage are considered a group.
- (25) Health-care professional--A licensed physician, licensed registered nurse with appropriate advanced practice authorization from the Texas Board of Nursing, a licensed vocational nurse (LVN), licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of his license. This does not include medical doctors or medical personnel not licensed to practice in the United States.

(26) High-risk behavior--Behavior of a child that creates an immediate safety risk to self or others. Examples of high-risk behavior include suicide attempt, self-abuse, aggression causing bodily injury, chronic running away, drug addiction, fire-setting, and sexual perpetration.

(27) Human services field--A field of study that contains coursework in the social sciences of psychology and social work including some counseling classes focusing on normal and abnormal human development and interpersonal relationship skills from an accredited college or university. Coursework in guidance counseling does not apply.

(28) Immediate danger--A situation where a prudent person would conclude that bodily harm would occur if there were no immediate interventions. Immediate danger includes a serious risk of suicide, serious physical injury, or the probability of bodily harm resulting from a child running away if under 10 years old chronologically or developmentally. Immediate danger does not include:

(A) Harm that might occur over time or at a later time; or

(B) Verbal threats or verbal attacks.

(29) Infant--A child from birth through 17 months.

(30) Livestock--An animal raised for human consumption or an equine animal.

(31) Living quarters--A structure or part of a structure where a group of children reside, such as a building, house, cottage, or unit.

(32) Mental health professional--Refers to:

(A) A psychiatrist licensed by the Texas Medical Board;

(B) A psychologist licensed by the Texas State Board of Examiners of Psychologists;

(C) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;

(D) A professional counselor licensed by the Texas State Board of Examiners of Professional Counselors;

(E) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists; and

(F) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health.

(33) Non-ambulatory--A child that is only able to move from place to place with assistance, such as a walker, crutches, a wheelchair, or prosthetic leg.

(34) Non-mobile--A child that is not able to move from place to place, even with assistance.

(35) Operation--General residential operations and residential treatment centers.

(36) Parent--A person that has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

(37) Person legally authorized to give consent--The person legally authorized to give consent by the Texas Family Code or a person authorized by the court.

(38) Physical force--Pressure applied to a child's body that reduces or eliminates the child's ability to move freely.

(39) PRN--A standing order or prescription that applies "pro re nata" or "as needed according to circumstances."

(40) Psychosocial assessment--An evaluation by a mental health professional of a child's mental health that includes a:

(A) Clinical interview of the child;

(B) Diagnosis from the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5), or statement that rules out a DSM-5 diagnosis;

(C) Treatment plan for the child, including whether further evaluation of the child is needed (for example: is a psychiatric evaluation needed to determine if the child would benefit from psychotropic medication or hospitalization; or is a psychological evaluation with psychometric testing needed to determine if the child has learning disabilities or intellectual disabilities); and

(D) Written summary of the assessment.

(41) Regularly--On a recurring, scheduled basis. Note: For the definition for "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(42) Residential Treatment Center (RTC)--A general residential operation for 13 or more children or young adults that exclusively provides treatment services for children with emotional disorders.

(43) Sanitize--A four-step process that must be followed in the subsequent order:

(A) Washing with water and soap;

(B) Rinsing with clear water;

(C) Soaking in or spraying on a disinfecting solution for at least two minutes. Rinsing with cool water only those items that a child is likely to place in his mouth; and

(D) Allowing the surface or article to air-dry.

(44) School-age child--A child five years old or older who will attend school in August or September of that year.

(45) Seat belt--A lap belt and any shoulder strap included as original equipment on or added to a motor vehicle.

(46) Service plan--A plan that identifies a child's basic and specific needs and how those needs will be met.

(47) State or local fire inspector--A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government.

(48) State or local sanitation official--A sanitation official who is authorized to conduct environmental sanitation inspections on behalf of the city, county, or state government.

(49) Substantial bodily harm--Physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

(50) Toddler--A child from 18 months through 35 months.

(51) Treatment director--The person responsible for the overall treatment program providing treatment services. A treatment director may have other responsibilities and may designate treatment director responsibilities to other qualified persons.

(52) Universal precautions--An approach to infection control where all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(53) Vaccine-preventable disease--A disease that is included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(54) Volunteer--A person who provides:

(A) Child-care services, treatment services, or programmatic services under the auspices of the operation without monetary compensation, including a "sponsoring family;" or

(B) Any type of services under the auspices of the operation without monetary compensation when the person has unsupervised access to a child in care.

(55) Water activities--Activities related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.

(56) Young adult--An adult whose chronological age is between 18 and 22 years, who is currently in a residential child-care operation, and who continues to need child-care services.

§748.1219. What are the additional admission requirements when I admit a child for treatment services?

When you admit a child for treatment services, you must do the following, as applicable:

If:	Then:
(1) You intend to provide treatment services for a child with an emotional disorder or pervasive development disorder	<p>(A) The admission assessment must include a written, dated, and signed:</p> <ul style="list-style-type: none"> (i) Psychiatric evaluation or psychological evaluation including the child's diagnosis; or (ii) Psychosocial assessment as defined in §748.43(40) of this title (relating to What do certain words and terms mean in this chapter?). <p>(B) A psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within:</p> <ul style="list-style-type: none"> (i) 14 months of the date of admission, if the child is coming from another regulated placement; or (ii) Six months of the date of admission, if the child is not coming from another regulated placement. <p>(C) The admission assessment must include the reason(s) for choosing treatment services for the child.</p> <p>(D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment.</p>
(2) You intend to provide treatment services for a child with intellectual disabilities	<p>(A) The admission assessment must include a written, dated, and signed:</p> <ul style="list-style-type: none"> (i) Psychological evaluation with psychometric testing; or

If:	Then:
	<p>(ii) Psychosocial assessment as defined in §748.43(40) of this title.</p> <p>(B) A psychological evaluation or psychosocial assessment must be completed within 14 months of the date of admission.</p> <p>(C) A psychological evaluation must:</p> <ul style="list-style-type: none"> (i) Be performed by a licensed psychologist who has experience with intellectual disabilities or published scales; (ii) Include the use of standardized tests to determine the intellectual functioning of a child. The test results must be documented in the evaluation; (iii) Determine and document the child's level of adaptive functioning; and (iv) Indicate manifestations of intellectual disabilities as defined in the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5). <p>(D) The admission assessment must include the reason(s) for choosing treatment services for the child.</p> <p>(E) The admission assessment must include consideration given to any history of inpatient or outpatient treatment.</p>
<p>(3) You intend to provide treatment services for a child with primary medical needs</p>	<p>(A) The admission assessment must have a licensed physician's signed, written orders as the basis for the child's admission. The physician's evaluation must confirm that the child can be cared for appropriately in a residential child-care operation.</p> <p>(B) The written orders must include orders for:</p> <ul style="list-style-type: none"> (i) Medications; (ii) Treatments; (iii) Diet; (iv) Range-of-motion program at stated intervals; (v) Habilitation, as appropriate; and (vi) Any special medical or developmental

If:	Then:
	<p>procedures.</p> <p>(C) The admission assessment must include the reason(s) for choosing treatment services for the child.</p> <p>(D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment.</p>
<p>(4) The child's behavior and/or history within the last two months indicates that the child is an immediate danger to himself or others</p>	<p>(A) The admission assessment must include a written, dated, and signed:</p> <ul style="list-style-type: none"> (i) Psychiatric evaluation or psychological evaluation; or (ii) Psychosocial assessment as defined in §748.43(40) of this title. <p>(B) A psychiatric evaluation or psychological evaluation must include:</p> <ul style="list-style-type: none"> (i) The child's diagnosis, if applicable; (ii) An assessment of the child's needs and potential danger to himself or others; and (iii) Recommendations for care, treatment, and further evaluation. If the child is admitted, the recommendations must become part of the child's plan of service and must be implemented. <p>(C) A psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within:</p> <ul style="list-style-type: none"> (i) 14 months of the date of admission, if the child is coming from another regulated placement; or (ii) Six months of the date of admission, if the child is not coming from another regulated placement. <p>(D) You must then evaluate your ability to provide services and safeguards appropriate to the child's needs, including direct and continuous supervision, if needed.</p>

This agency certifies that legal counsel has reviewed the adoption of the rules and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on May 4, 2015.