



Title 25. HEALTH SERVICES

Part 1. DEPARTMENT OF STATE HEALTH SERVICES

Chapter 460. Miscellaneous

Subchapter D. Rules and Procedures for Council Officers, Council Employees, Donors and Donations

Repeal §§460.201-460.204

Subchapter E. Historically Underutilized Business (HUB) Program

Repeal §460.211

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes the repeal of §§460.201-460.204 and 460.211, concerning procedures and policies of the Texas Health Care Information Council (council).

BACKGROUND AND PURPOSE

The council was abolished by Acts 2003, 78th Leg., Regular Session, ch. 198 (House Bill 2292), §1.26. All rules of the council were transferred to the department under House Bill 2292, §1.19 on September 1, 2004. Repeal of these sections is necessary to align the department's rules more accurately with the recent consolidation of health and human service agencies. The department has other rules relating to donors and donations at Title 1 Texas Administrative Code (TAC) §1.221-1.228 and to historically underutilized businesses (HUBs) at Title 1 TAC §1.171. The department also has policies and procedures on donations and HUBs. These sections are not necessary because the issues are addressed in these other rules, policies, and procedures.

SECTION-BY-SECTION SUMMARY

The repeal of §§460.201-204 and 460.211 is necessary to prevent duplication and redundancy between the rules transferred from the council and other rules, policies, and procedures of the department on these subjects.

FISCAL NOTE

Ramdas Menon, Director, has determined that for each year of the first five years that the repeals will be in effect, there will be no fiscal implications to state or local governments as a result of repealing the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ramdas Menon has also determined that there are no anticipated economic costs to small businesses or micro-businesses because the department has other rules relating to donors, donations, and to historically underutilized businesses. These sections are not necessary because the issues are addressed in these other rules, policies, and procedures. There are

no anticipated economic costs to persons required to comply with the repeals. There will be no impact on local employment.

#### PUBLIC BENEFIT

Ramdas Menon has also determined that for each year of the first five years the repeal of the sections is in effect, the public benefit anticipated as a result of the repeal is to prevent duplication and redundancy between department rules, policies and procedures.

#### REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by 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

The department has determined that the proposed repeals do 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, do not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted to Julienne Sugarek, Special Assistant to the Chief Financial Officer, Office of the Chief Financial Officer, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512/458-7111, ext. 6815. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

#### STATUTORY AUTHORITY

The proposed repeals are authorized by Government Code, §531.0055; and Health and Safety Code, §1001.075, which authorize 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 the department and for the administration of Chapter 1001, Health and Safety Code.

The proposed repeals affect Government Code, Chapter 531 and Health and Safety Code, Chapter 1001.

## LEGAL CERTIFICATION

The proposed rule has been thoroughly reviewed by legal counsel for the department and has been determined to be a valid exercise of HHSC's legal authority under Government Code, §531.0055 (e) and the department's legal authority to implement or enforce under Tex. Health and Safety Code, ch. 1001.

Sections for repeal.

§ 460.201. Definitions.

§ 460.202. Administration and Investment of Funds.

§ 460.203. Relationships.

§ 460.204. Procedure for Acceptance of Donations.

§ 460.211. Historically Underutilized Business (HUB) Program.

Legend = (Proposed Repeals)

Regular Print with Strikethrough = Proposed repeal language

~~§460.201. Definitions.~~

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

~~–(1) Council—The state agency known as the Texas Health Care Information Council.~~

~~–(2) Donation—A gift of property, including money, or services to the Council.~~

~~–(3) Donor—An individual, not an employee or officer of the Council, or an organization that gives or offers to give a donation to the Council.~~

~~-~~

~~–(4) Employee—A person employed by the Council on a full time or part time basis, including volunteers, for purposes of this section only.~~

~~–(5) Officer—The Council's executive director or the appointed members of the Council.~~

~~–(6) Purpose of the Donation—Description regarding the terms of acceptance and distribution or usage of donation.~~

~~§460.202 Administration and Investment of Funds~~

~~(a) Donated funds shall be deposited into the Council's Biennial Operating Budget and used according to the terms of acceptance of the donation, as stated in §1301.54 (b) of this title (relating to Procedure for Acceptance of Donations).~~

~~(b) Donated property or services shall be used according to the terms of acceptance of the donation, as stated in §1301.54(b) of this title.~~

~~§460.203. Relationships.~~

~~(a) Approved Relationships.~~

~~–(1) An officer or employee may serve as an officer or director of a donor, except as set forth in subsection (b)(2) of this section.~~

~~–(2) An officer or employee may receive compensation for services rendered to a donor, except as set forth in subsection (b)(3) and (4) of this section.~~

~~(b) Disapproved Relationships.~~

~~-(1) No agency employee or property may be used by a donor.~~

~~-(2) No officer or employee who serves as an officer or director of a donor shall vote on or otherwise participate in any measure, proposal, or decision pending before the donor if the Council might reasonably be expected to have an interest in such measure, proposal, or decision.~~

~~-(3) No employee shall accept employment from or engage in any business or professional activity with a donor which the employee might reasonably expect would require or induce the employee to disclose confidential information acquired by reason of the person's official position.~~

~~-(4) No employee shall accept employment or compensation from a donor which could reasonably be expected to impair the employee's independence of judgment in the performance of official duties.~~

~~-(5) No employee shall make personal investments in association with a donor which could reasonably be expected to create a substantial conflict between the employee's private interest and the interest of the Council.~~

~~-(6) No officer or employee shall accept or solicit any donation, gift, favor, or service from a donor that might reasonably tend to influence the exercise of official conduct.~~

~~-(7) No officer or employee shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised official powers on behalf of a donor or for having performed official duties in favor of a donor.~~

~~-(8) The Council shall not solicit or accept a donation from a person required to provide data as written in the Texas Health and Safety Code, Chapter 108 or a person who or a business entity that provides goods or services to the Council for compensation.~~

~~-(9) The Council shall not solicit or accept any donation, gift or benefit from a person whom the Council has litigation pending or contemplated.~~

#### §460.204. Procedure for Acceptance of Donations

~~(a) Donations of a value of \$500 or more shall be accepted by a majority vote of the Council in an open meeting.~~

~~(b) The minutes of the meeting shall reflect the name of the donor, a description of the donation, and the purpose of the donation.~~

~~(c) The Council will issue a certificate of acceptance to the donor stating the date accepted, a description of the donation and the purpose of the donation.~~

~~§460.211. Historically Underutilized Business (HUB) Program.~~

~~The Texas Health Care Information Council adopts the rules of the General Services Commission relating to the Historically Underutilized Business (HUB) Program and codified at 1 Texas Administrative Code, Part V, Chapter 111, Subchapter B, §§111.11-111.16.~~