

**Department of State Health Services
Council Agenda Memo for State Health Services Council
January 22, 2010**

Agenda Item Title: Repeal of rules concerning poison control centers

Agenda Number: 5m

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

The Texas Poison Center Network (TPCN) program is located in the Environmental & Injury Epidemiology and Toxicology Unit in the Prevention and Preparedness Services Division. The program administers the six Texas poison center contracts and provides public health oversight for the TPCN. House Bill (HB) 1093, 81st Legislature, Regular Session, 2009, transfers the contracting and oversight responsibilities for the TPCN to the Commission on State Emergency Communications (CSEC) effective May 1, 2010.

Funding for the program continues without change through April 30, 2010. An agreement will be developed to outline DSHS roles and responsibilities with respect to the poison centers and effective May 1, 2010, a new interagency contract will be enacted to provide for the continued funding of the poison center epidemiologist position and for continued DSHS access to the poison center data. Approximately \$821,542 in federal funding from the Public Health Emergency Preparedness grant continues through July 2010 to conduct real time disease detection activities with the poison centers and the Public Health Emergency Response H1N1 grant will provide approximately \$363,813 in funding to collect data on adverse reactions to the H1N1 vaccines.

Summary:

The purpose of the repeals is to remove rules that will no longer be required due to the transfer of the administrative oversight for the TPCN from DSHS to CSEC. The repeals will remove DSHS from oversight responsibilities and provide the public with the proper agency responsible for the TPCN.

Section 11 of Chapter 347 (HB 1093) requires that any rules in existence before Chapter 347 continue in effect until amended or replaced by CSEC. CSEC is in the process of preparing rules to go into effect on May 1, 2010, which is the date that all program functions and activities are transferred to CSEC. As of May 1, 2010, Sections 5.51 and 5.52 will no longer be required.

Summary of Input from Stakeholder Groups:

On September 15, 2009, CSEC held a workshop to receive stakeholder and public input regarding the implementation of the requirements contained in HB 1093. The transition of the program from DSHS to CSEC was discussed and CSEC presented their proposed rules at this meeting. No significant comments were received and their rules are expected to be passed at their January 12th Commissioners meeting. DSHS will not be soliciting preliminary stakeholder feedback on the repeal of its rules since CSEC is leading this effort.

Proposed Motion: Motion to recommend HHSC approval for publication of rule contained in agenda item #5m

Approved by Assistant Commissioner/Director: Adolfo Valadez, M.D., M.P.H.		Date: 12/15/09
Presenter: John Villanacci, Ph.D., NREMT-I	Program: Director, Environmental & Injury Epidemiology and Toxicology Unit	Phone No.: 458-7111, ext. 6175
Approved by CPCPI:	Carolyn Bivens	Date: 12/15/09

Title 25. Health Services
Part 1. Department of State Health Services
Chapter 5. Poison Control Centers
Repeal §§5.51 - 5.52

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 §§5.51 - 5.52 concerning poison control centers.

BACKGROUND AND PURPOSE

Chapter 347 (House Bill 1093), 81st Legislature, Regular Session, 2009, amends Health and Safety Code, Chapters 771 and 777, and transfers the administrative oversight of the Texas Poison Center Network from the department to the Commission on State Emergency Communications (CSEC). Section 11 of Chapter 347 requires that any rules in existence before Chapter 347 continue in effect until amended or replaced by the CSEC. The CSEC is in the process of preparing rules to go into effect on May 1, 2010, which is the date that all program functions and activities are transferred to CSEC. A stakeholder meeting was held by the CSEC to discuss the transition of the program from the department to CSEC and included a presentation of their proposed rules. The department will not be soliciting preliminary stakeholder feedback on the repeal of its rules since CSEC is leading this effort. As of May 1, 2010, §§5.51 - 5.52 will no longer be required.

SECTION-BY-SECTION SUMMARY

The repeal of §§5.51 - 5.52 is necessary for the transfer of administrative oversight of the Texas Poison Center Network from the department to the CSEC under authorization of Health and Safety Code, Chapters 771 and 777.

FISCAL NOTE

Lucina Suarez, Ph.D., Director, Environmental Epidemiology and Disease Registries Section has determined that for each year of the first five-year period that the sections are no longer in effect, there will be no fiscal implications to state or local governments as a result of the repeal of these sections.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Dr. Suarez has also determined that there is no adverse effect on small businesses, micro-businesses or persons because the rules are no longer necessary and business practices will not be altered in order to comply with the proposed repeal of the sections. There will be no impact on local employment.

PUBLIC BENEFIT

In addition, Dr. Suarez 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 defer proper direction of this program to the CSEC which will be responsible for the administration of the program, as directed by the Legislature.

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 repeal 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, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be directed to John F. Villanacci, Ph.D., NREMT-I, Director, Environmental and Injury Epidemiology and Toxicology Unit, Department of State Health Services, P. O. Box 149347, Austin, Texas 78714-9347, or by email to john.villanacci@dshs.state.tx.us (please include the words “Poison Control Centers” in the subject line). Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

Language in Health and Safety Code, §777.001(b), granting the department and CSEC the authority to “jointly” adopt rules was repealed effective September 1, 2009, by Chapter 347 (House Bill 1093) 81st Legislature, Regular Session, 2009, Section 4. However, §11(c) of that legislation recites: “During the period beginning on September 1, 2009, and ending on April 30, 2010 . . . the Department of State Health Services shall continue to perform functions and activities relating to regional poison control centers under the Health and Safety Code or other law as if the law had not been amended or repealed . . . and the former law is continued in effect

for that purpose.” The Executive Commissioner of the Health and Human Services Commission on behalf of the department is therefore authorized to repeal these rules. The repeal is also authorized by 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 the department and for the administration of Health and Safety Code, Chapter 1001.

The repeal affects the Health and Safety Code, Chapters 777 and 1001; and Government Code, Chapter 531.

Sections for repeal.

§5.51. General Program Information.

§5.52. Funding.

Sections for Repeal:

~~TITLE 25 — HEALTH SERVICES
PART 1 — DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 5 — POISON CONTROL CENTERS~~

~~§5.51 General Program Information~~

~~(a) Authority. Health and Safety Code, Chapter 777, provides the Department of State Health Services (department) and the Commission on State Emergency Communications (commission) with the authority to establish a program to award grants to fund a network of regional poison control centers.~~

~~(b) The commission and the department shall adopt a statewide telecommunications network plan. The plan may establish phased implementation of the network. The plan shall consider the following:~~

- ~~—(1) uniform statewide 800-service availability for community and professional access for poison information and referral;~~
- ~~—(2) direct access from Public Safety Answering Points to Poison Control Answering Points for emergency calls; and~~
- ~~—(3) other features as appropriate and identified by this section.~~

~~(c) The Texas Health and Human Services (HHS) regions shall define the service areas for the Poison Control Answering Points, except where telecommunications network design would greatly increase the cost of routing the system. The regions are as follows:~~

- ~~—(1) The University of Texas Medical Branch at Galveston — HHS Regions 5 and 6;~~
- ~~—(2) The Dallas County Hospital District/North Texas Poison Center — HHS Regions 3 and 4;~~
- ~~—(3) The University of Texas Health Science Center at San Antonio — HHS Regions 8 and 11;~~
- ~~—(4) R.E. Thomason General Hospital, El Paso County Hospital District — HHS Regions 9 and 10;~~
- ~~—(5) Amarillo Hospital District as successor to Northwest Texas Hospital — HHS Regions 1 and 2; and~~
- ~~—(6) Scott and White Memorial Hospital, Temple — HHS Region 7.~~

~~§5.52 Funding~~

~~(a) Eligibility for funding.~~

~~—(1) The entities eligible to request funding are the regional poison control centers for the state, designated under the Health and Safety Code, Chapter 777, as follows:~~

- ~~—(A) University of Texas Medical Branch at Galveston;~~
- ~~—(B) Dallas County Hospital District/North Texas Poison Center;~~
- ~~—(C) University of Texas Health Science Center at San Antonio;~~
- ~~—(D) R.E. Thomason General Hospital, El Paso County Hospital District;~~
- ~~—(E) Amarillo Hospital District as successor to Northwest Texas Hospital; and~~
- ~~—(F) Scott and White Memorial Hospital, Temple.~~

~~—(2) Each poison control center must be certified by the American Association of Poison Control Centers (AAPCC) until a statewide system certification is achieved. The Commission on State Emergency Communications and the Department of State Health Services shall work together with the AAPCC to certify the statewide poison control network and/or individual centers as required.~~

~~(b) Funding criteria. Applicants must meet all of the goals and objectives outlined in the annual Request for Proposals, including:~~

- ~~–(1) the need of the region based on population served for poison control services, and the extent to which the grant would meet the identified need;~~
- ~~–(2) a four-year strategic plan assuring provision of quality service;~~
- ~~–(3) demonstration that the Poison Control Answering Point is working toward achieving and/or maintaining certification as a poison control center with the AAPCC; and~~
- ~~–(4) the availability of other funding sources; the maintenance of effort; and the development or existence of telecommunications systems.~~