

**Department of State Health Services
Agenda Item for State Health Services Council
January 30-31, 2008**

Agenda Item Title: Amend 25 TAC Sections 56.1-56.3 and Sections 56.17-56.19, repeal Sections 56.4-56.16, and new Sections 56.4-56.16 Rules Relating to Family Planning

Agenda Number: 4c

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

Family Planning Services and Genetic Services are within the Division of Family and Community Health.

Family Planning Services provides reproductive and health screening services through various types of contracted agencies to low-income women and men to assist them in planning their families, whether it is to achieve, postpone, or prevent pregnancy. Family Planning Services is funded by federal Titles V, X, and XX for a total of approximately \$44.15 million to 77 DSHS Family Planning contractors in FY08.

Genetic Services provides access to direct health care and population-based services to low-income Texas residents to help diagnose and explain heredity and genetic factors that play a role in causing a disease, birth defect, or health problem. Genetics Services is funded by Federal Title V for a total of approximately \$1.07 million to 11 DSHS Genetics contractors in FY08.

Summary:

25 TAC Chapter 56 allows DSHS to implement the family planning program and the Title XIX family planning genetics program. 25 TAC Sections 56.1- 56.16 apply to DSHS Family Planning contractors and Sections 56.17-56.19 apply to DSHS Genetics contractors. Proposed changes to the rules were made following a four-year rule review as required by §2001.039 of the Government Code.

DSHS proposes amendments to §§56.1-56.3 and §§56.17-56.19, the repeal of §§56.4-56.16, and new §§56.4-56.16 concerning the provision of family planning and genetic services.

Most of the changes to Chapter 56 are to incorporate the current commission, department and program names to be consistent with current terminology. Changes were also made to reflect changes in the law.

Existing rule §56.4 regarding the Family Planning Advisory Committee was abolished in 2003 as authorized by the 78th Legislature. New rule 56.16 regarding establishment of Title X Informational and Educational Committees is already being implemented by contractors because Title X funding requires establishment of such committees for the review and approval of materials produced by and used in family planning projects.

Summary of Input from Stakeholder Groups:

Family Planning Rules: The DSHS conducted a conference call June 11, 2007, with current DSHS Family Planning contractors in regard to the family planning portion of the rules. Approximately 20 representatives from various contractors and stakeholders participated in the conference call. Participants represented a variety of agencies, including the Texas Association of Community Health Centers, seven Federally Qualified Health Centers, two Planned Parenthoods, five local/county health departments, the University of Texas Medical Branch, and two private, non-profit agencies. Participants provided the following feedback:

- more flexibility in contraceptive requirements;
- some contractors wanted the rules to further clarify the number of contraceptive methods required to be offered, while others wanted to have some leeway and liked the broader language as proposed;
- some suggested that the Women's Health Program eligibility be addressed in the rule;
- questions regarding the new Informational and Educational Committee rule were raised.

The participants were also interested in continuing the work of the Family Planning Advisory Committee, which was abolished in 2003 as authorized by the 78th Legislature. No major concerns were raised by the stakeholders. Based on the stakeholder input during the conference call and the responses from DSHS staff regarding the current Family Planning policy manual, no further changes to the rules were made.

Genetics Rules: Amendments to the genetics portion of the section were reviewed and approved by the Interagency Council for Genetic Services through individual phone calls to all seven members, who concurred with the proposed changes. The amended rules were also presented to and approved by the Medical Care Advisory Committee (MCAC) September 13, 2007. The MCAC did not have additional comments to the proposed rule changes.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item #4c.

Agenda Item Approved by Assistant Commissioner/Director: Evelyn Delgado **Date:** 12/18/07
Family & Community Health Services Division

Person Presenting: David Hagerla **Program:** Preventive & Primary Care Unit **Phone No:** 458-7111 ext 2009

Final CAM Reviewed by Consumer Affairs: RMM **Date:** 12/17/07

Title 25. Health Services
Part 1. Department of State Health Services
Chapter 56. Family Planning
Amendments §§56.1-56.3, 56.17-56.19
Repeal §§56.4-56.16
New §§56.4-56.16

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §§56.1-56.3 and §§56.17-56.19, the repeal of §§56.4-56.16, and new §§56.4-56.16 concerning the provision of family planning services in this state.

BACKGROUND AND PURPOSE

The amendments, repeals, and new sections are necessary to assist the department in the implementation of the federal Title X funding regulations.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 56.1-56.19 have been reviewed, and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed. However, the department also has determined that §§56.4-56.16 should be repealed and replaced with new rules.

SECTION-BY-SECTION SUMMARY

Amendments to §§56.1-56.3 incorporate the current department and program names to be consistent with current terminology used by the department.

Amendments to §56.1 provide flexibility in the current department and program policy manual to be used.

Amendments to §56.2 incorporate the current department and program names to be consistent with current terminology used by the department.

The amendment to §56.3 provides increased clarity concerning the purpose of the family planning programs.

Existing §56.4 is repealed because the Family Planning Advisory Committee was abolished by the Executive Commissioner of the Health and Human Services Commission in 2003 as authorized by the 78th Legislature. New §56.4 clarifies that while payment rates for services under Titles V, X, and XX are set by the department, the commission sets fees, charges and rates for family planning services provided under Title XIX (Medicaid).

The proposed new §56.5 allows providers flexibility among available contraceptive methods they are required to keep in stock. This provision also ensures compliance with Title X regulations.

The proposed new §56.6 clarifies that abortion is not considered a method of family planning, and that no state-appropriated funds may be used to pay the direct or indirect cost of abortion procedures.

The proposed new §56.7 clarifies the role of the Health and Human Services Commission in administering the Title XIX Medicaid family planning services program.

The proposed new §56.8 specifies records retention periods and requires that records be accessible by the commission and the department.

The proposed new §56.9 clarifies that Medicaid clients shall be offered family planning services within 30 days of their request for those services.

The proposed new §56.10 clarifies that clients have the right to choose their preferred method and source of family planning service, and may not be subjected to coercion to accept services.

The proposed new §56.11 states that providers must safeguard the confidentiality of clients' family planning information, and that clients must provide written authorization prior to release of personally identifying information except for reports relating to child abuse required by Texas Family Code, Chapter 261.

The proposed new §56.12 and amendments to §§56.17, 56.18, and 56.19 update the current department and program names to be consistent with current terminology used by the department.

The proposed new §56.13 renumbers the section in the chapter and is more concise than the §56.14 being repealed.

The proposed new §56.14 corrects a typo in §56.15 being repealed. The new rule provides increased clarity concerning the type of adult participation encouraged in adolescent family planning.

The proposed new §56.15 clarifies that contractors shall make family planning and genetic services available in compliance with civil rights laws.

The proposed new §56.16 provides increased clarity to Title X contractors concerning federal regulations concerning Informational and Educational Committee(s)

FISCAL NOTE

David Hagerla, Manager, Preventive and Primary Care Unit, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local

governments as a result of administering the sections as proposed. These amendments, repeals, and new sections are intended to clarify, update, and streamline the rules, and are not anticipated to be controversial or have significant fiscal impact to the department or local government.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Hagerla has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed, because neither small businesses nor micro-businesses that are providers of family planning and family planning genetic services will be required to alter their business practices in order to comply with the sections. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Mr. Hagerla has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be continued access to family planning and family planning genetic services for eligible, low-income Texas women.

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 sections 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 Kim Roberts, Mail Code 1923, Community Health Services Section, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189 or by email to kim.roberts@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the 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

The proposed amendments, new rules, and 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 Health and Safety Code, Chapter 1001.

The proposed amendments, new rules and repeals affect Government Code, Chapter 531, and Health and Safety Code, Chapter 1001. Review of the sections implements Government Code, §2001.039.

Sections for repeal.

- §56.4. Family Planning Advisory Committee.
- §56.5. Maximum Rates and Specific Codes.
- §56.6. Range of Methods
- §56.7. Abortion Statement.
- §56.8. Requirements for Reimbursement of Family Planning Services.
- §56.9. Records Retention.
- §56.10. Prompt Service.
- §56.11. Freedom of Choice.
- §56.12. Confidentiality.
- §56.13. Eligibility for Family Planning Services.
- §56.14. Consent.
- §56.15. Family Planning for Adolescents.
- §56.16. Civil Rights.

Legend: (Proposed Amendments)

Single Underline = Proposed new language

[Bold Print and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§56.1. Applicability of Family Planning Requirements. The requirements in each section apply to Titles V, X, XIX (Medicaid), and XX family planning programs unless otherwise specified within the section. Family planning contractors are also required to observe all guidelines and operating procedures outlined in the most recent Family Planning Policy Manual, [Program Policies Manual, February, 2003, and/or Title V Policies and Procedures Manual, September, 2002,] as required by their contracts. In addition to the requirements set out in Chapter 56, Title XIX (Medicaid) providers must comply with the terms and conditions of the Provider Agreement signed by all providers as a condition of participation in the Texas Medical Assistance Program.

§56.2. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings.

[(1) Board--The Texas Board of Health.]

(1)[(2)] Client--Any individuals [individual] seeking assistance from a Department of State Services [Texas Department of Health] contractor or provider to meet their family planning goals.

(2)[(3)] Commission--The Texas Health and Human Services Commission [Committee--The Family Planning Advisory Committee].

(3)[(4)] Contraception--Any United States Food and Drug Administration (FDA)-approved [The] means of pregnancy prevention. Methods include permanent methods and temporary methods.

(4)[(5)] Contractor--Any entity that contracts with the Department of State Health Services [Texas Department of Health] to provide Title V, X, and/or XX family planning services.

(5)[(6)] Department--The Department of State Health Services [Texas Department of Health].

[(7) DHS--The Texas Department of Human Services.]

[(8) Family planning--The process of establishing the preferred number and spacing of one's children, selecting the means to achieve the goals, and effectively using that means.]

(6) [(9)]Family planning services may include:

(A) health history and physical;

(B) counseling and education;

(C) laboratory testing;

(D) provision of a contraceptive method; and

(E) referrals for additional services as needed [--**A public health care system targeting low-income women, men, and adolescents that is designed to enable people voluntarily to limit their family size or to space their children**].

(7)[(10)] Intended pregnancy--Pregnancy a woman reports as [**timed well or**] desired at the time of conception.

(8)[(11)] Medicaid--Title XIX of the Social Security Act.

(9)[(12)] Provider--Any entity that receives Titles V, X, XIX, or XX [**Texas Department of Health**] funding to provide family planning services.

(10)[(13)] Region--Any of the public health service regions established by the Department of State Health Services [**Texas Department of Health**].

(11)[(14)] Title V family planning program--Family [**Grants for the provision of family**] planning services funded by grants under the Maternal and Child Health Act, 42 United States Code §701 *et seq.*

(12)[(15)] Title X family planning program--Family [**Grants for the provision of family**] planning services funded by grants under the Public Health Service Act, 42 United States Code §300 *et seq.*

(13)[(16)] Title XIX family planning program--Family planning services provided under Title XIX (Medicaid) of the Social Security Act, 42 United States Code §1396 *et seq.*

(14)[(17)] Title XX family planning program-- Family [**Grants for the provision of family**] planning services funded by grants [**provided**] under the Social Services Block Grant, 42 United States Code §1397 *et seq.*

§56.3. Purposes. The purposes of family planning services are:

(1) to enable women and men to determine the preferred number and spacing of their children;

(2)[(1)] to affect positively the outcome of future pregnancies;

(3)[(2)] to increase the proportion of intended pregnancies; and

(4)[(3)] to improve the health status of Texas communities.

Legend: (Proposed New Rule)

Regular Print: Proposed new language

§56.4. Maximum Rates and Specific Codes. For payment of purchased counseling, educational, medical, and sterilization family planning services funded by grants under Titles V, X, and XX, maximum rates are established by the department according to specific diagnosis and procedure codes. The Texas Health and Human Services Commission sets fees, charges, and rates for family planning services provided under Title XIX (Medicaid).

§56.5. Range of Methods. A broad range of FDA-approved methods of contraception must be made available to the client, either directly or by referral to another provider of contraceptive services. All brands of the different contraceptive methods need not be made available, but each major contraceptive category must be made available.

§56.6. Abortion Statement. Abortion is not considered a method of family planning and no state funds appropriated to the department shall be used to pay the direct or indirect costs (including overhead, rent, phones, equipment, and utilities) of abortion procedures provided by contractors.

§56.7. Requirements for Reimbursement of Family Planning Services. The commission and the department shall reimburse providers for services provided in compliance with program standards, policies and procedures, and contract requirements unless payment is prohibited by law.

§56.8. Records Retention. Providers shall maintain for the time period specified by the department all records pertaining to client services, contracts, and payments. Title XIX (Medicaid) record retention requirements are found in 1 Texas Administrative Code, §354.1004 (relating to Retention of Records). All records relating to services must be accessible for examination at any reasonable time to representatives of the commission and/or the department and as required by law.

§56.9. Prompt Service. Medicaid clients requesting family planning assistance shall be offered services within 30 days of request.

§56.10. Freedom of Choice. Clients have the right to choose freely family planning methods and sources of services. Clients shall not be subjected to coercion to accept services.

§56.11. Confidentiality. Providers shall safeguard of client family planning information. Clients must provide written authorization prior to the release of any personally identifying information except reports of child abuse required by Texas Family Code, Chapter 261, and as required or authorized by other law. The department may distribute appropriated funds only to contractors that show good faith efforts to comply with all child abuse reporting guidelines and requirements as interpreted by department policy.

(1) Providers shall ensure client confidentiality and provide safeguards for clients against the invasion of personal privacy.

(2) All personnel (both paid and volunteer) must be informed during orientation of the importance of keeping information about a client confidential.

(3) Clients' records must be monitored to ensure access is limited to appropriate staff and to department and/or commission staff or their authorized representatives.

(4) The client's preference of methods of follow-up contact shall be documented in the client's record.

(5) Each client shall receive verbal assurance of confidentiality and an explanation of what confidentiality means.

§56.12. Eligibility for Family Planning Services. Eligibility shall be determined according to the requirements of the most recent Family Planning Policy Manual. Title XIX (Medicaid) eligibility is determined by the guidelines set by the commission. Individuals who receive Medicaid are eligible for family planning medical, counseling, and educational services. Contractors shall not deny family planning services to eligible clients because of their inability to pay for services.

§56.13. Consent. Providers may provide family planning services, including prescription drugs, without the consent of the minor's parent, managing conservator, or guardian only as authorized by Texas Family Code, Chapter 32, or by federal law or regulations. A provider may not require consent for family planning services from the spouse of a married client.

§56.14. Family Planning for Adolescents.

(a) Adolescents age 17 and younger shall be provided individualized family planning counseling and family planning medical services that meet their specific needs within two weeks of request.

(b) The provider shall ensure that:

(1) counseling for adolescents includes encouraging participation of families, parents, and/or legal guardians in their decision to seek family planning services;

(2) counseling for adolescents includes information on use of all medically approved birth control methods including abstinence;

(3) appointment schedules are flexible enough to accommodate access for adolescents requesting services;

(4) full participation in family planning medical services is encouraged but may be deferred for the adolescent electing a non-prescriptive contraceptive method; and

(5) the adolescent is assured that all services are confidential and that any necessary follow-up contact will also protect the client's privacy.

§56.15. Civil Rights. Providers shall make family planning and genetic services available without regard to marital status, parenthood, handicap, age, color, religion, sex, ethnicity, or national origin. The provider must comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352); §504 of the Rehabilitation Act of 1973 (Public Law 93-112); The Americans with Disabilities Act of 1990 (Public Law 101-336), including all amendments to each; and all regulations issued pursuant to these Acts.

§56.16. Title X Informational and Educational Committees. Title X contractors that distribute informational and educational materials to clients and/or the community shall establish Informational and Educational (I&E) committees to review the materials. Contractors should include all target populations in the development of educational materials.

(1) Each Title X contractor must maintain an I&E committee of no fewer than five but not more than nine members who are broadly representative of the population of the community for which the materials are intended in terms of demographic factors such as race, color, national origin, handicapped condition, sex, and age.

(2) Each I&E committee must review and approve all informational and educational materials developed or made available by the contractor prior to their distribution to assure that the materials are suitable for the population and community for which they are intended and to assure their consistency with the purposes of Title X.

(3) Each I&E committee must review the content of the materials to assure that the information is factually correct. The committee may delegate responsibility for the review of the factual, technical, and clinical accuracy to appropriate contractor staff. However, final approval of the informational and educational material rests with the I&E committee.

(4) Each I&E committee shall keep minutes of its meetings and maintain a written record of its determinations.

(5) Materials provided by contractors must be reviewed and approved by each Title X contractor's I&E committee, since community cultures and standards vary across the state.

(6) Each contractor's I&E committee may meet as a group at a specific time and location, or the members may discuss the materials and make their determinations by telephone conference call.

(7) Each I&E committee shall review and approve informational and educational materials before distribution by the contractor, and meetings shall be scheduled whenever new materials come under consideration, or on a regular basis according to an individual contractor's policy. Contractors' I&E committees are not bound to conduct a minimum number of meetings per year.

Legend: (Proposed Amendments)

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§56.17. Contract Requirements for the Title XIX (Medicaid) Family Planning Genetics Program.

(a) A genetic service agency provider may contract with the commission **[department]** for Title XIX reimbursement for family planning genetic diagnostic and counseling services under the following conditions.

(1) The medical director of the genetic services agency provider is a clinical geneticist (MD or DO). The clinical geneticist must be board eligible or board certified in clinical genetics by the American Board of Medical Genetics **[Geneticists]** (ABMG) and licensed by the Texas Medical Board.

(2) A team of professionals provides the genetic diagnostic and counseling services. The team must consist of **[at least]** a clinical geneticist (MD or DO) and at least one of the following: a nurse (RN), **[a genetic associate (MS),]** a social worker (MSW), a medical geneticist (PhD), or a genetic counselor (MS). The members of the team must meet the criteria established by ABMG or work under the direct supervision of a clinical geneticist. Administrative and support staff also may **[also]** be involved.

(3) (No change.)

(4) The agency provider must arrange for full medical referral services since genetic disorders often encompass several health problems. Independent consultant, laboratory, and radiology services must be billed through the genetic services agency provider under contract with the commission **[department]**.

(5) Genetic counseling must be provided face-to-face by a clinical geneticist (MD or DO) or a genetic counselor under the direct supervision of a clinical geneticist.

(6) Services provided by a specialized genetics agency provider must be under a written subcontractual agreement with the prime contractor. The commission **[department]** has the right to approve all subcontractual agreements.

(7) (No change.)

(b) (No change.)

§56.18. Family Planning Genetics Services Provided. Family planning genetics services must be prescribed by a physician (MD or DO) and have implications for reproductive decisions. Services may include the following, based on the client's needs:

- (1) health history and detailed family genetic health history;
- (2) (No change.)
- (3) psychosocial genetic assessment;
- (4) medical genetic [**genetics**] counseling;
- (5) (No change.)
- (6) follow-up genetic counseling;
- (7)-(8) (No change.)

§56.19. Limitations of Family Planning Genetics Services. For the Title XIX Family Planning Genetics Program, the following types of services are not allowed:

- (1) (No change.)
- (2) prenatal diagnosis for sex determination of the fetus alone without implications for genetic disorders [**diseases**].

§56.4. Family Planning Advisory Committee

~~(a) An advisory committee shall be appointed under and governed by this section.~~

~~—(1) The name of the committee shall be the Family Planning Advisory Committee.~~

~~—(2) The committee is established under the Health and Safety Code, §11.016 which allows the board to establish advisory committees.~~

~~—(3) The committee shall comply with the requirements of 42 United States Code §300a-4, 42 Code of Federal Regulations §59.6, and the Title X Program Guidelines for Project Grants for Family Planning Services by appointment of a subcommittee to review and approve informational and educational materials developed or made available under Title X of the Public Health Service Act.~~

~~(b) Applicable law. The committee is subject to the Government Code, Chapter 2110, relating to state agency advisory committees.~~

~~(c) Purpose. The purpose of the committee is to provide advice to the board and program staff in the area of comprehensive family planning services. The committee process affords the opportunity for participation in the development, implementation, and evaluation of the program by persons broadly representative of all significant elements of the population to be served, and by persons in the community knowledgeable about the needs for family planning services.~~

~~(d) Tasks.~~

~~(1) The committee shall evaluate, on an ongoing basis, the family planning needs of the state and the family planning program; make recommendations for the program's improvement; and review and make recommendations regarding proposed rules, policy revision and development.~~

~~—(2) The committee shall advise the board concerning rules relating to the family planning program.~~

~~—(3) The committee shall carry out any other tasks given to the committee by the board.~~

~~(e) Committee abolished. By January 1, 2007, the board will initiate and complete a review of the committee to determine whether the committee should be continued, consolidated with another committee, or abolished. If the committee is not continued or consolidated, the committee shall be abolished on that date.~~

~~(f) Composition. The committee shall be composed of 15 members.~~

~~—(1) The composition of the committee shall include five family planning consumer representatives and ten non-consumer representatives. The composition of the committee shall reflect the diversity of the state's citizens and consumers, with regard to ethnicity, race, age, gender, geographic location, and economic status. Each member shall represent all the citizens of the state in all the committee's deliberations and decisions.~~

~~—(2) The members of the committee shall be appointed by the board as follows:~~

~~—(A) five family planning consumers, with at least one male representative; and~~

~~—(B) ten non-consumer members, including the following:~~

~~—(i) two primary care physicians currently licensed by the Texas State Board of Medical Examiners and currently involved in the delivery of family planning services. One physician must be certified by the American College of Obstetricians and Gynecologists or its equivalent and one physician must have a practice that includes adolescents;~~

~~—(ii) one women's health care nurse practitioner with family planning experience, currently licensed by the Board of Nurse Examiners for the State of Texas;~~

~~—(iii) four family planning provider agency administrators;~~

~~—(iv) one reproductive health educator;~~

- ~~—(v) one presiding officer of the Regional Coordinating Chairpersons' Subcommittee;~~
- ~~—(vi) one representative from the DHS Texas Works Program.~~
- ~~(g) Terms of office. The term of office of each member shall be six years, except for the presiding officer of the Regional Coordinating Chairpersons' Subcommittee, who shall be appointed for a two-year term.~~
 - ~~–(1) Members shall be appointed for staggered terms so that the terms of members shall expire on December 31st of each even-numbered year.~~
 - ~~–(2) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.~~
- ~~(h) Officers. The committee shall select from its members the presiding officer and assistant presiding officer.~~
 - ~~–(1) Each officer shall serve until December 31st of each even-numbered year. Each officer may holdover until his or her replacement is elected.~~
 - ~~–(2) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the board. The presiding officer may serve as an ex officio member of any subcommittee of the committee.~~
 - ~~–(3) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. If the office of presiding officer becomes vacant, the assistant presiding officer will serve until a successor is appointed to complete the unexpired portion of the term of the office of presiding officer.~~
 - ~~–(4) If the office of assistant presiding officer becomes vacant, it may be filled by vote of the committee.~~
 - ~~–(5) A member shall serve no more than two consecutive terms as presiding officer and/or assistant presiding officer.~~
 - ~~–(6) The committee may reference its officers by other terms, such as chairperson and vice-chairperson.~~
- ~~(i) Meetings. The committee shall meet at least semiannually to conduct committee business.~~
 - ~~–(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the committee.~~
 - ~~–(2) Meeting arrangements shall be made by department staff. Department staff shall contact committee members to determine availability for a meeting date and place.~~
 - ~~–(3) The committee is not a "governmental body" as defined in the Open Meetings Act. However, in order to promote public participation, each meeting of the committee shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551, with the exception that the provisions allowing executive sessions shall not apply.~~
 - ~~–(4) Each member of the committee shall be informed of a committee meeting at least five working days before the meeting.~~
 - ~~–(5) A simple majority of the members of the committee shall constitute a quorum for the purpose of transacting official business.~~
 - ~~–(6) The committee is authorized to transact official business only when in a legally constituted meeting with a quorum present.~~
 - ~~–(7) The agenda for each committee meeting shall include an opportunity for any person to address the committee on matters relating to committee business. The presiding officer may establish procedures for such public comment, including a time limit on each comment.~~
- ~~(j) Attendance. Members shall attend committee meetings as scheduled. Members shall attend meetings of subcommittees to which the members are assigned.~~

- ~~–(1) A member shall notify the presiding officer or appropriate department staff if he or she is unable to attend a scheduled meeting.~~
- ~~–(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, or is absent from at least three consecutive committee meetings.~~
- ~~–(3) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.~~
- ~~(k) Staff. Staff support for the committee and its subcommittees shall be provided by the department.~~
- ~~(l) Procedures. Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.~~
- ~~–(1) Any action taken by the committee must be approved by a majority vote of the members present once a quorum is established.~~
- ~~–(2) Each member shall have one vote.~~
- ~~–(3) A member may not authorize another individual to represent the member by proxy.~~
- ~~–(4) The committee shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, gender, religion, national origin, age, physical condition, or economic status.~~
- ~~–(5) Minutes of each committee meeting shall be taken by department staff.~~
- ~~—(A) A draft of the minutes approved by the presiding officer shall be provided to the board and each member of the committee within 30 days of each meeting.~~
- ~~—(B) After approval by the committee, the minutes shall be signed by the presiding officer.~~
- ~~(m) Subcommittees. The committee may establish subcommittees as necessary to assist the committee in carrying out its duties.~~
- ~~–(1) The presiding officer shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer may also appoint nonmembers of the committee to serve on subcommittees.~~
- ~~–(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the committee.~~
- ~~–(3) A subcommittee chairperson shall make regular reports to the advisory committee at each committee meeting or in interim written reports as needed. The reports shall include an executive summary or minutes of each subcommittee meeting.~~
- ~~–(4) The committee shall have a standing subcommittee to coordinate the activities of family planning providers at a regional level. The Regional Coordinating Chairpersons' Subcommittee (RCCS) shall be comprised of chairpersons of the Regional Coordinating Committees (RCC). The regional committees shall be comprised of representatives from the family planning providers in the region.~~
- ~~—(A) The RCCS shall elect a presiding officer (chairperson) and assistant presiding officer from its membership to serve a two-year term to begin serving on January 1 of each odd-numbered year. Each officer shall serve until December 31st of each even-numbered year.~~
- ~~—(B) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint workgroups of the committee as necessary, and cause proper reports to be made to the committee.~~
- ~~—(C) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. If the office of the presiding officer becomes~~

vacant, the assistant presiding officer will serve until a successor is elected to complete the unexpired portion of the term of the office of presiding officer.

—(D) A member shall not serve consecutive terms as presiding officer and/or assistant presiding officer.

—(E) RCCS members are elected from each of the Regional Coordinating Committees to serve two year terms to begin serving on January 1 of each even numbered year. Each member shall serve until December 31st of each even numbered year. A member shall serve no more than two consecutive terms.

—(5) The committee shall appoint a standing subcommittee of five to nine members who are broadly representative of the state to review and approve prior to their distribution, as required by federal law, Title X informational and educational material developed or made available under the project. The subcommittee will be known as the Informational and Educational Subcommittee.

—(A) The Reproductive Health Educator from the committee shall serve as the presiding officer.

—(B) Members will serve two year terms to begin serving on January 1 of each odd numbered year. Each member shall serve until December 31st of each even numbered year.

—(C) A member shall serve no more than two consecutive terms. Any vacancies shall be filled by appointment of the committee.

—(D) The Informational and Educational Subcommittee may delegate responsibility for the review of the factual, technical, and clinical accuracy to appropriate project staff. However, final approval of the Informational and Educational materials rests with the committee.

—(6) The Informational and Educational Subcommittee must:

—(A) consider the educational and cultural backgrounds of the individuals to whom the materials are addressed;

—(B) consider the standards of the population or community to be served with respect to such materials;

—(C) review the content of the material to assure that the information is factually correct;

—(D) determine whether the material is suitable for the population or community to which it is to be made available; and

—(E) establish a written record of its determinations.

(n) Statement by members.

—(1) The board, the department, and the committee shall not be bound in any way by any statement or action on the part of any committee member except when a statement or action is in pursuit of specific instructions from the board, department, or committee.

—(2) The committee and its members may not participate in legislative activity in the name of the board, the department, or the committee except with approval through the department's legislative process. Committee members are not prohibited from representing themselves or other entities in the legislative process.

(3) A committee member should not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(4) A committee member should not disclose confidential information acquired through his or her committee membership.

(5) A committee member should not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of or against another person.

(6) A committee member who has a personal or private interest in a matter pending before the committee shall publicly disclose the fact in a committee meeting and may not vote or otherwise

participate in the matter. The phrase "personal or private interest" means the committee member has a direct pecuniary interest in the matter but does not include the committee member's engagement in a profession, trade, or occupation when the member's interest is the same as all others similarly engaged in the profession, trade, or occupation.

(o) Reports to board. The committee shall file an annual written report with the board.

–(1) The report shall list the meeting dates of the committee and any subcommittees, the attendance records of its members, a brief description of actions taken by the committee, a description of how the committee has accomplished the tasks given to the committee by the board, the status of any rules which were recommended by the committee to the board, and anticipated activities of the committee for the next year.

–(2) The report shall identify the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities and the source of funds used to support the committee's activities.

–(3) The report shall cover the meetings and activities in the immediately preceding 12 months and shall be filed with the board by January 31st of each year. It shall be signed by the presiding officer and appropriate department staff.

(p) Reimbursement for expenses. In accordance with the requirements set forth in the Government Code, Chapter 2110, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business if authorized by the General Appropriations Act or budget execution process and following the department requirements.

–(1) No compensatory per diem shall be paid to committee members unless required by law.

–(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

–(3) A nonmember of the committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from the department.

–(4) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.

–(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by department staff.]

~~§56.5. Maximum Rates and Specific Codes~~

~~For payment of purchased counseling, educational, medical, and sterilization family planning services funded by grants under Titles V, X, and XX, maximum rates are established by the department according to specific diagnosis and procedure codes. The Texas Health and Human Services Commission sets fees, charges, and rates for family planning services provided under Title XIX (Medicaid).]~~

~~§56.6. Range of Methods~~

~~All Federal Drug Administration (FDA) approved methods of contraception must be made available to the client, either directly or by referral to another provider of contraceptive services. All brands of the different contraceptive methods need not be made available, but each major contraceptive category must be made available.]~~

~~§56.7. Abortion Statement~~

~~Abortion is not considered a method of family planning and no state funds appropriated to the department shall be used to pay the direct or indirect costs (including overhead, rent, phones and utilities) of abortion procedures provided by contractors.]~~

~~§56.8. Requirements for Reimbursement of Family Planning Services~~

~~The department shall reimburse Title XIX providers and family planning contractors for services provided in compliance with program standards, policies and procedures, and contract requirements unless payment is prohibited by law.~~

~~§56.9. Records Retention~~

~~Providers must maintain for the time period specified by the department all records pertaining to client services, contracts, and payments. Title XIX (Medicaid) record retention requirements are found in 1 Texas Administrative Code §354.1004 (relating to Retention of Records). The department contractors must follow contract provisions and the department's Retention Schedule for Medical Records. All records relating to services must be accessible for examination at any reasonable time to representatives of the department and as required by law.]~~

~~§56.10. Prompt Service~~

~~Medicaid clients requesting family planning assistance must be offered services within 30 days of request.]~~

~~§56.11. Freedom of Choice~~

~~Clients have the right to freely choose family planning methods and sources for services. Clients must not be subjected to any coercion to receive services.]~~

~~§56.12. Confidentiality~~

~~The department and providers must ensure the safeguarding of client family planning information. Clients must give written permission prior to the release of any personally identifying information except reports of child abuse required by Chapter 261 of the Texas Family Code, and as required or authorized by other law. The department may distribute appropriated funds only to contractors that show good faith efforts to comply with all child abuse reporting guidelines and requirements.~~

~~(1) The provider must ensure client confidentiality and provide safeguards for clients against the invasion of personal privacy.~~

~~(2) All personnel (both paid and volunteer) must be informed during orientation of the importance of keeping information about a client confidential.~~

~~(3) Clients' records must be monitored to ensure access is limited to appropriate staff and to department staff or their authorized representatives.~~

~~(4) The client's preference of methods of follow-up contact must be documented in the client's record.~~

~~(5) Each client must receive verbal assurance of confidentiality and an explanation of what confidentiality means.]~~

~~§56.13. Eligibility for Family Planning Services~~

~~Eligibility is determined following the requirements specified in the Family Planning and Title V Policy Manuals. Title XIX (Medicaid) eligibility is determined by the guidelines set by the Texas Department of Human Services. Individuals who receive Medicaid are eligible for family planning medical, counseling, and educational services. Providers must not deny family planning services to eligible clients because of their inability to pay for services.]~~

~~§56.14. Consent~~

~~The department and providers may provide family planning services, including prescription drugs, without the consent of the minor's parent, managing conservator, or guardian only as authorized by Chapter 32 of the Texas Family Code or by federal law or regulations. A provider may not require consent for family planning services from the spouse of a married client.]~~

~~§56.15. Family Planning for Adolescents~~

~~(a) Adolescents age 17 and younger must be provided individualized family planning counseling and family planning medical services that meet their specific needs within 2 weeks of request.~~

~~(b) he provider must ensure that:~~

~~(1) counseling for adolescents encourages them to discuss their family planning needs with a parent, an adult family member, or other trusted adult;~~

~~(2) counseling for adolescents includes information on use of all medically approved birth control methods including abstinence;~~

~~(3) appointment schedules are flexible enough to accommodate access for adolescents requesting services;~~

~~(4) for the adolescent electing a non-prescriptive method, full participation in family planning medical services is encouraged but may be deferred by the client; and~~

~~(5) the adolescent is assured that all services are confidential and that any necessary follow up contact will also protect the client's privacy.]~~

~~§56.16. Civil Rights~~

~~The department and providers must make family planning and genetic services available without regard to marital status, parenthood, handicap, age, color, religion, sex, ethnicity, or national origin. The provider must comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352); §504 of the Rehabilitation Act of 1973 (Public Law 93-112); The Americans with Disabilities Act of 1990 (Public Law 101-336), including all amendments to each; and all regulations issued pursuant to these Acts.]~~