

**SUBCHAPTER LL. REQUIREMENTS FOR SUBMISSION OF INFORMATION AND
DATA TO FACILITATE STUDY BY ADVISORY COMMITTEE ON HEALTH
NETWORK ADEQUACY
28 TAC §§21.4601 – 21.4605**

INTRODUCTION. The Texas Department of Insurance proposes to repeal 28 TAC Chapter 21, Subchapter LL, §§21.4601 – 21.4605, concerning requirements for submission of information and data to facilitate a study by an advisory committee on health network adequacy.

EXPLANATION. Repealing 28 TAC Chapter 21, Subchapter LL is necessary because the rules are obsolete. Senate Bill 1731, 80th Legislature, Regular Session (2007), enacted Insurance Code §1456.0065, which required the commissioner to establish an advisory committee to study facility-based provider network adequacy of health benefit plans. SB 1731, Section 20, also directed the commissioner to adopt rules requiring health benefit plan issuers subject to Chapter 1456 to submit information concerning the use of non-network providers by health benefit plan enrollees and the payments made to those providers. Because the study is complete, and because §1456.0065 automatically abolished the committee on January 1, 2009, Subchapter LL is obsolete and should be repealed. The rule will also repeal Forms LHL608 and LHL609, which were adopted by reference in Subchapter LL.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Judy Wooten, Project Manager for Life and Health Regulatory Initiatives Team, has determined that for each year of the first five years the proposed repeal is in effect, there will be no measurable fiscal impact on state and local governments as a result of the enforcement or administration of this repeal.

Ms. Wooten also does not anticipate any measurable effect on local employment or the local economy as a result of this repeal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed repeal is in effect, Ms. Wooten expects that the proposed repeal will have the public benefit of helping the TAC remain current and less cluttered with obsolete or outdated rules. Removing obsolete or outdated rules makes the TAC easier to read and allows the public to find information more quickly because they do not have to sift through unnecessary or expired text.

Ms. Wooten expects that the proposed repeal will not impose an economic cost on regulated persons. This repeal simply removes outdated rules that required certain insurers to submit information for a one-time study. Repealing these rules and forms will not produce an added cost on regulated persons.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.

TDI has determined that the proposed repeal will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses or on rural communities. The purpose of 28 TAC §§21.4601 – 21.4605 was to implement SB 1731, Section 20, and Insurance Code §1456.0065 by studying facility-based provider network adequacy of health benefit plans and prescribing the requirements on certain insurers to submit information to support the study. The repeal of these rules and forms will remove the outdated requirements and will have no adverse economic impact on small or micro businesses or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons. As stated above, this proposed repeal will remove rules that required insurers to submit information for a one-time study on network adequacy. The required information has been submitted and the study is complete. Removing these rules and forms will not impose a cost on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the proposed rule would be in effect, the rule will repeal an existing regulation. The regulation provided in 28 TAC §§21.4601 – 21.4605 was necessary to implement SB 1731, Section 20, and Insurance Code §1456.0065. Insurance Code §1456.0065 has expired, making the rules implementing the section obsolete. Repealing these rules will not expand government. It simply repeals rules that are no longer necessary.

Neither the repeal nor its implementation will create or eliminate a government program, or require the creation of new employee positions or the elimination of existing employee positions. The proposed repeal will not require an increase or decrease in future legislative

appropriations to the agency, require an increase or decrease in fees paid to the agency, or create a new regulation. In addition, the proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability, nor will it positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposed repeal and that this repeal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposed repeal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. Submit any written comments on the proposal no later than 5 p.m., Central time, on December 26, 2017. Send written comments by mail to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, or by email to chiefclerk@tdi.texas.gov. You must simultaneously submit an additional copy of the comments by mail to Ms. Judy Wooten, Project Manager for Life and Health Regulatory Initiatives Team, Regulatory Policy Division, Mail Code 106-1D, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, or by email to LHLComments@tdi.texas.gov.

To request a public hearing on this proposal, submit a request separate from any comments, to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, or by email to chiefclerk@tdi.texas.gov before the close of the public comment period. If a hearing is held, written comments and public testimony presented at the hearing will be considered.

SUBCHAPTER LL.

28 TAC §§21.4601 – 21.4605

STATUTORY AUTHORITY. TDI proposes the repeal of 28 TAC §§21.4601 – 21.4605 under Insurance Code §36.001. Section 36.001 provides that the commissioner of insurance may adopt

any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The proposed repeal of 28 TAC §§21.4601 – 21.4605 implements Insurance Code §1456.0065, enacted by SB 1731, 80th Legislature, Regular Session (2007).

TEXT.

SUBCHAPTER LL. REQUIREMENTS FOR SUBMISSION OF INFORMATION AND DATA TO FACILITATE STUDY BY ADVISORY COMMITTEE ON HEALTH NETWORK ADEQUACY

§21.4601. Purpose

§21.4602. Applicability


§21.4603. Requirement to Collect Information and Data

§21.4604. Submission of Information and Data

§21.4605. Report Forms

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 6, 2017.


Norma Garcia, General Counsel
Texas Department of Insurance