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Human Services

Texas prepares for Family First Prevention Services Act

March 12 — Texas is preparing to implement a recent federal law that provides funds for services to prevent children from entering foster care. The law also defines which group home settings qualify for federal funding.

Texas has delayed implementing certain provisions of the law because it does not have a sufficient number of service providers eligible to receive the funds, but the Department of Family and Protective Services (DFPS) is hearing from stakeholders about the provider capacity needed to meet federal requirements. More than half the states have delayed implementation.

Federal law. The federal [Family First Prevention Services Act](#) (FFPSA or Family First Act) allows states to receive funds through Title IV-E of the Social Security Act that previously were available to be spent only on services such as foster care placements, adoption assistance, and guardianship. States now may use the funds for time-limited prevention services for children at imminent risk of entering foster care, for parents or kin caregivers of such children, and for pregnant or parenting youth in foster care. Services may be provided for up to 12 months, with no limit on how many times a child and family may receive prevention services if the child continues to be at risk of entering foster care.

The Family First Act also limits Title IV-E funds for placing foster children in group homes and similar settings. Some say that children placed in group homes, residential treatment centers, and shelters, known as “congregate care” settings, may develop more behavioral issues which could reduce their chance of finding a permanent home. States may only receive funds for two weeks for congregate care placements with the exception of placements in a Qualified Residential Treatment Program (QRTP), a setting specializing in prenatal, post-partum, or parenting support for affected youth, a supervised setting for

children who are at least 18 years old, or high-quality residential care for youth at risk of or victims of human trafficking.

A QRTP is a professionally accredited program using a trauma-informed treatment model for children with serious emotional or behavioral disorders. To receive funds, a QRTP also must have licensed clinical staff onsite, include the child’s family in the child’s treatment plan, and provide discharge planning and family-based aftercare for at least six months.

The Family First Act took effect October 1, 2019, but states may delay implementation through fiscal 2021, in which case they forgo federal reimbursement of time-limited prevention services during the delay.

Delayed provisions. According to [DFPS](#), Texas in November 2018 notified the U.S. Department of Health and Human Services of its decision to delay certain provisions required by the Family First Prevention Services Act, including:

- limits on Title IV-E foster care maintenance payments for placements that are not foster family homes;
- limits on the number of children in a foster family home, which is defined as having six or fewer children, with certain exceptions;
- federal reimbursement of Qualified Residential Treatment Programs; and
- certification that the state would not enact policies that could significantly increase the juvenile justice population in order to receive reimbursement through the Family First Act.

According to DFPS, delay was necessary because Texas does not have enough qualified providers. The state does not have QRTPs to serve the highest-needs kids and draw down federal money. The department also said that Texas does not have

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enough providers that meet federal standards to offer eligible prevention services for mental health, substance abuse treatment, and in-home parenting skills. Eligible prevention services must meet certain general practice requirements, including indicating how a practice produces meaningful improvements in child and parent outcomes. Texas continues to receive guidance from the federal government on what evidence-based services will be acceptable for drawing down federal funds.

State preparation. The state is preparing to implement the Family First Act with two bills enacted last year by the 86th Legislature. [SB 355](#) by West requires DFPS to develop and submit a plan by September 1, 2020, to identify service providers, maximize resources, and apply for funding. [SB 781](#) by Kolkhorst directs DFPS to assess the fiscal implications to the state of developing qualified residential treatment providers that meet federal standards.

In November 2019, the department said in a House committee hearing that it was conducting a cost-benefit analysis and hosting workgroups with stakeholders. Some group home providers noted that they already are seeking accreditation to become Qualified Residential Treatment Programs. DFPS also said it received grants from the U.S. Department of Health and Human Services to better serve kinship caregivers and help create by 2027 an electronic interstate system to exchange data on children placed across state lines.

While Texas and other states prepare for the Family First Prevention Services Act, a 2019 federal spending law that includes the [Family First Transition Act](#) (FFTA) appropriates \$500 million in one-time funding to the Secretary of Health and Human Services to be allotted to states for programs, services, and operational costs associated with transitions needed to implement the act.

— Alison Hern

Coronavirus, Public Education, Higher Education

Texas education agencies offer information on coronavirus response

[March 25](#) — Texas public and higher education agencies are using their websites to relay information about campus closings, online learning, and other updates related to the COVID-19 pandemic.

Gov. Abbott on March 19 [ordered](#) schools to temporarily close, acting under the broad authority of the Texas Disaster Act of 1975, Government Code [ch. 418](#).

The Texas Education Agency (TEA) provides a [site](#) for support and guidance on responding to the coronavirus. The site includes updated information on school closures and directives from the governor and education commissioner about the crisis, including the waiver of state testing requirements for the current school year.

Special education. TEA also is providing local school officials with guidance on special education during classroom disruptions caused by school closures, while emphasizing the priority of health and safety. The provided document outlines legal requirements for students with disabilities to have equal access to educational opportunities when districts provide online education to the general student population. For example, TEA advises local school officials to consider a student's current accommodations in the physical classroom setting and what those supports would look like in a virtual environment. School

officials also are advised to consider ways to use distance technology for committee meetings on a student's individual education plan.

School meals. A new [website](#) launched by TEA lets Texas parents find places nearby where local school systems are offering free school meals for pickup. Parents can type their address into the MealFinder map to find out where to pick up meals. More than 1,000 schools have started meal pick-up locations in areas where more than 50 percent of students are eligible for a free or reduced-price meal, according to TEA.

Higher education. The Texas Higher Education Coordinating Board has information about interruptions to institutions of higher education and other coronavirus [updates](#) on its website. The board also answers [frequently asked questions](#), offering information about course changes and student financial aid.

— Janet Elliott

UPDATE: On March 31, Gov. Abbott issued an [executive order](#) that schools remain temporarily closed to in-person classroom attendance and not recommence before May 4, 2020.

Coronavirus, Public Health, Regulation and Licensing

Governor, agencies waive some state licensing rules in response to COVID-19

March 27 — On March 13, Gov. Abbott issued a proclamation declaring a state of disaster for all Texas counties due to the imminent threat of the ongoing COVID-19 pandemic. Anticipating the need for essential licensed workers to provide critical services, the governor and various state agencies waived certain licensing-related regulations. Under Government Code [sec. 418.016\(a\)](#), the governor may suspend any statute or agency rule that would interfere with the state's response to a declared disaster.

Medical and pharmacy licenses. Citing the urgent need for medical personnel to provide care to Texans affected by COVID-19, both in person and via telemedicine, Gov. Abbott [directed](#) the Texas Medical Board (TMB) and the Texas Board of Nursing (TBN) to expedite temporary licenses for out-of-state physicians, physician assistants, and other relevant personnel. TMB also is encouraging retired physicians who have been on official retired status for fewer than two years to apply for a return to active status, according to a press release from the governor's office.

Under the governor's direction, TMB will [allow](#) out-of-state physicians to receive a Texas limited emergency license or hospital-to-hospital credentialing and [allow](#) doctors to use telemedicine to diagnose, treat, and prescribe to new patients. The granting of emergency medical licenses and credentials during a declared disaster is governed by Texas Administrative Code Title 22, [secs. 172.20](#) and [172.21](#). Emergency licenses and credentials issued under these sections are valid for up to 30 days or until the declaration of disaster ends, whichever time frame is longer.

In addition, the governor waived certain nursing regulations under the Occupations Code and Texas Administrative Code. The waivers [grant](#) a six-month grace period for nurses with expired licenses, allowing them to continue practicing without added fees or penalties. The waivers also [revise](#) certain requirements for students in their final year of nursing school and allow TBN to extend for up to six months temporary permits to practice for graduate nurses and graduate vocational nurses who have yet to take the licensing exam.

The governor also [temporarily waived](#) some inspection requirements for the renewal of certain pharmacy licenses.

Other occupational licenses. On March 23, the Texas Department of Licensing and Regulation ([TDLR](#)) waived continuing education requirements for licenses administered by the department set to expire in March, April, and May 2020. Affected license holders still must submit completed renewal applications, pay required fees, and undergo criminal history background checks.

To ensure that medical facilities with boilers and elevators whose permits are approaching expiration can continue to function during the coming months, TDLR also extended the inspection times for such equipment with permits that expire in March, April, or May 2020. The TDLR website indicates that investigators will remain available to respond to accidents or emergencies involving boilers or elevators.

In addition, testing centers used by TDLR's third-party vendor for occupational licensing examinations have been closed until April 13.

A number of other state licensing boards have announced temporary suspensions or modifications of licensing and continuing education requirements due to COVID-19, including the [State Bar of Texas](#), the [Texas Department of Insurance](#), the [Texas Commission on Environmental Quality](#), and the [Texas State Board of Public Accountancy](#).

— Andrew McNair

UPDATE: On March 28, Gov. Abbott [announced](#) waivers temporarily extending license expiration dates for pharmacies, pharmacy technicians, and pharmacy trainees and suspending pharmacist continuing education requirements. The governor also issued [waivers](#) allowing certain advanced practice registered nurses with expired licenses to reactivate their licenses without having to pay reactivation fees or complete continuing education and current practice requirements.

Coronavirus, Public Health

State moves to expand hospital resources in coronavirus pandemic

[March 31](#) — As the number of COVID-19 cases in Texas has [increased](#), Gov. Abbott has issued multiple executive orders intended to expand hospital bed capacity and make personal protective equipment more available for health care workers.

Under authority of the [Texas Disaster Act of 1975](#), Gov. Abbott on March 13 [declared](#) COVID-19 posed an imminent threat of disaster for all Texas counties. The Texas Department of State Health Services (DSHS) on March 19 [determined](#) that COVID-19 is a public health disaster as defined in Health and Safety Code [ch. 81](#).

Hospital capacity. Gov. Abbott [announced](#) on March 25 the waiving of certain hospital licensing regulations, allowing hospitals to administer and operate additional facilities more than 30 miles away from the primary licensed hospital. Also, certain health care facilities that have pending licenses, as well as previously closed facilities, may operate under the authority of an emergency [rule](#) adopted by the Health and Human Services Commission. With an increased demand for hospital beds in Texas, Gov. Abbott on March 22 [ordered](#) hospitals to postpone all surgeries and procedures that are not medically necessary.

With decreased revenue streams, some rural hospitals have requested additional financial support to cover the costs associated with COVID-19. The commissioner of the Texas Department of Agriculture (TDA) [requested](#) about \$40.8 million in emergency funding for the state's 163 rural hospitals and the

[State Office of Rural Health](#) within TDA also has indicated it is moving to extend grant deadlines and identify aid resources for community hospitals and clinics.

The federal Families First Coronavirus Response Act was enacted on March 18 to assist states with funding. Texas received \$36.9 million under the law from the Centers for Disease Control and Prevention, according to a [press release](#) from the Office of the Governor. Out of those funds, DSHS will distribute \$19.5 million to 43 local health departments for testing and community intervention efforts to slow the spread of COVID-19.

Protective equipment. On March 22, Texas [announced](#) the formation of a Supply Chain Strike Force to work with the federal government and businesses to procure personal protective equipment (PPE) for health care facilities. This equipment, which can include N95 respirator masks, eye shields, gowns, and gloves, is needed to protect workers in close physical contact with patients infected with the coronavirus from being infected themselves. The strike force also is intended to ensure daily resources, including food, are available for medical personnel and first responders. The strike force created an online [portal](#) to streamline distribution of PPE and other supplies and to receive donations. The portal provides links to enable medical professionals, including medical retirees and students, to volunteer their expertise and time.

— Alison Hern