

for a public hearing must be simultaneously submitted to Janice Hooper, PhD, RN, Lead Nursing Education Consultant, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, or by e-mail to jan.hooper@bon.texas.gov, or faxed to (512) 305-8101. If a hearing is held, written and oral comments presented at the hearing will be considered.

Statutory Authority. The amendments are proposed under the Occupations Code §301.151 and §301.157(b).

Section 301.157(b)(2) provides that the Board prescribe and publish the minimum requirements and standards for a course of study in each program that prepares registered nurses or vocational nurses.

Section 301.157(b)(3) provides that the Board prescribe other rules as necessary to conduct approved schools of nursing and educational programs for the preparation of registered nurses or vocational nurses.

Section 301.157(b)(4) provides that the Board approve schools of nursing and educational programs that meet the Board's requirements.

Section 301.157(b)(6) provides that the Board deny or withdraw approval from a school of nursing or educational program that (i) fails to meet the prescribed course of study or other standard under which it sought approval by the Board; (ii) fails to meet or maintain accreditation with the national nursing accrediting agency selected by the Board under (b)(5) under which it was approved or sought approval by the Board; or (iii) fails to maintain the approval of the state board of nursing of another state and the board under which it was approved.

Section 301.151 authorizes the Board to adopt and enforce rules consistent with Chapter 301 and necessary to: (i) perform its duties and conduct proceedings before the Board; (ii) regulate the practice of professional nursing and vocational nursing; (iii) establish standards of professional conduct for license holders under Chapter 301; and (iv) determine whether an act constitutes the practice of professional nursing or vocational nursing.

Cross Reference to Statute. The following statutes are affected by this proposal: the Occupations Code §301.151 and §301.157(b).

§215.9. *Program of Study.*

(a) - (h) (No change.)

(i) Curriculum changes shall be developed by the faculty according to Board standards and shall include information outlined in the Board Education Guideline 3.7.1.a. Proposals for Curriculum Changes. The two (2) types of curriculum changes are:

(1) (No change.)

(2) Major curriculum changes requiring Board staff approval prior to implementation include:

(A) Changes in program philosophy/mission and objectives/outcomes which result in a reorganization or re-conceptualization of the entire curriculum including, but not limited to, changing from a block to an integrated curriculum or changing the approved delivery method of the curriculum to methods consistent with distance education/learning;

(B) The addition of transition course(s), tracks/alternative programs of study, including MEEP, that provide educational mobility; [øf]

(C) Revisions in program hours; and

(D) Addition/reduction of course(s) in the program of study.

~~[(C) Mobility programs desiring to establish a generic program are treated as a new program and the appropriate proposal should be developed.]~~

(j) - (k) (No change.)

(l) Professional nursing education programs not having full approval status, but proposing a major curriculum change, shall submit a full curriculum change proposal, as outlined in Board Education Guideline 3.7.1.a, to the Board office and meet the requirements as outlined in subsection (i) of this section. Professional nursing education programs not having full approval status are not eligible to request Board Staff approval for the addition of transition course(s) or tracks/alternative programs of study, including MEEP, that provide educational mobility or to submit for Board approval a proposal for a new nursing education program until the program's status has been restored to full approval status by the Board.

(m) (No change.)

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

Filed with the Office of the Secretary of State on May 12, 2014.

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Jena Abel

Assistant General Counsel

Texas Board of Nursing

Earliest possible date of adoption: June 22, 2014

For further information, please call: (512) 305-6822



## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 217. VEHICLE TITLES AND REGISTRATION

##### SUBCHAPTER H. DEPUTIES

###### 43 TAC §§217.111 - 217.116

The Texas Department of Motor Vehicles (department) proposes new Subchapter H, Deputies, §217.111, Purpose and Scope; §217.112, Definitions; §217.113, Full Service Deputies; §217.114, Limited Service Deputies; §217.115, Bonding Requirements; and §217.116, Deputy Fees.

##### EXPLANATION OF PROPOSED NEW SECTIONS

The proposed subchapter implements Transportation Code, §520.0071, as added by House Bill 2741 and House Bill 2202, 83rd Legislature, Regular Session, 2013. Section 520.0071 requires the board by rule to prescribe the classification types of deputies performing titling and registration duties, the duties and obligations of deputies, the type and amount of any bonds that may be required by a county assessor-collector for a deputy to perform titling and registration duties, and the fees that may be charged or retained by deputies.

These bills also repealed Transportation Code, §§520.008, 520.009, 520.0091 and §520.0092, which had governed deputies performing titling and registration duties.

Both of these bills also provided that a deputy appointed under Transportation Code, §520.0091 on or before August 31, 2013, may continue to perform the services authorized under Transportation Code, §§520.008, 520.009, 520.0091, and §520.0092, until the effective date of the rules regarding the types of deputies authorized to perform titling and registration duties under Transportation Code, §520.0071.

The proposed new sections of Subchapter H are intended to fill the void created by the repeal of the former Transportation Code sections describing deputies and their duties and obligations, and to implement the legislative directive to prescribe rules governing deputies performing titling and registration duties. The fees to be adopted under this rulemaking are temporary and will be in place until the completion of a study of the cost to process motor vehicle registration and titling transactions. Once the study is complete and the findings are presented to the board of the department, the board will decide whether to reopen the rule for amendment.

Proposed new §217.111, Purpose and Scope, states the intention to prescribe the classification types, duties and obligations of deputies, the type and amount of bonds that deputies may be required to post, and the additional fees deputies may be authorized to charge, pursuant to Transportation Code, §520.0071.

Proposed new §217.112, Definitions, defines the different types of deputies and provides other definitions to clarify Subchapter H.

Proposed new §217.113, Full Service Deputies, prescribes the duties, obligations and requirements of persons authorized to offer vehicle registration, registration renewal, and titling services in the same manner as a county assessor-collector. This section requires full service deputies to offer and provide titling and registration services to the general public. Full service deputies offer an alternative to obtaining titling and registration services from the county assessor-collectors. Full service deputies may offer services that are more convenient to the public in terms of location or speed of service, and may reduce the titling and registration workload of county assessor-collectors.

Proposed new §217.114, Limited Service Deputies, prescribes the duties, obligations and requirements of persons authorized to accept and process registration renewals, but not offer titling services. Limited service deputies may be authorized to provide registration renewals to the general public; for example, a supermarket business counter where customers may pay utility bills, obtain fishing licenses, or buy concert tickets may also provide registration renewal services. Alternately, limited service deputies may be authorized to provide registration renewal services restricted to itself or its customers only; for example, a business which maintains a large fleet of company vehicles may be authorized to process its own registrations. The scope of any such restriction must be determined when the limited service deputy is authorized. Limited service deputies may provide convenience to the public in terms of location and speed of service, and may reduce county assessor-collector registration workloads.

Proposed new §217.115, Bonding Requirements, provides that the county assessor-collector shall determine the amount of the surety bond that a deputy must post, subject to the minimum and

maximum limits provided by this section. This section also exempts an agency or subdivision of a governmental jurisdiction of the State of Texas from the bonding requirement, unless the county assessor-collector determines that a bond is appropriate. Note that the proposed minimum and maximum limits of the bond may be increased or decreased depending upon comments received after publication of these proposed rules.

Proposed new §217.116, Deputy Fees, provides that a county assessor-collector may allow a deputy to retain an amount not to exceed the fee the assessor-collector would collect for providing the titling or registration service. This section also permits a county assessor-collector to authorize a deputy to charge and retain an additional fee for each titling and registration service performed, up to the limits set by this section. This section prohibits additional fees unless the county allows dealers to participate in the department's electronic title processing system. Note that the proposed maximum limits of the various types of additional fees may be increased or decreased depending upon comments received after publication of these proposed rules.

#### FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the new sections as proposed are in effect, there will be no significant fiscal implications for state or local governments as a result of enforcing or administering the new sections.

Tim Thompson, Interim Director of the Vehicle Titles and Registration Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the new sections.

#### PUBLIC BENEFIT AND COST

Mr. Thompson has also determined that for each year of the first five years the proposed new sections are in effect, the public benefit anticipated as a result of enforcing or administering the sections will be to increase public convenience by increasing the number of locations offering titling and registration services, which may reduce the workloads for county assessor-collectors. For each of the first five years the proposed new sections are in effect, there are no anticipated economic costs for persons required to comply with the new sections as proposed. The cost of the additional fees that deputies may charge is minimal, and the public may choose to avoid these costs by dealing directly with the county assessor-collectors. There will be no adverse economic effect on small businesses or micro-businesses due to the adoption of the new deputies subchapter.

#### TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

#### SUBMITTAL OF COMMENTS

Written comments on the proposed new sections may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to [rules@txdmv.gov](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on June 23, 2014.

#### STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; Transportation Code, §501.0041, which provides the department may adopt rules to administer Chapter 501, Certificate of Title Act; Transportation Code, §502.0021, which provides the department may adopt rules to administer Chapter 502, Registration of Vehicles; Transportation Code, §520.003, which provides the department may adopt rules to administer Chapter 520, Miscellaneous Provisions; and more specifically, Transportation Code, §520.004, which provides the department by rule shall establish standards for uniformity and service quality for counties and dealers, and Transportation Code, §520.0071, which provides the board by rule shall prescribe the classification types of deputies performing titling and registration duties, the duties and obligations of deputies, the type and amount of any bonds that may be required by a county assessor-collector for a deputy to perform titling and registration duties, and the fees that may be charged or retained by deputies.

#### CROSS REFERENCE TO STATUTE

Finance Code, §348.005 and §353.006; Transportation Code, §§501.076, 502.191, 502.1911, 502.197, and §520.007.

#### §217.111. Purpose and Scope.

This subchapter prescribes the classification types, duties and obligations of deputies, the type and amount of any bonds that deputies may be required to post, and the fees that deputies may be authorized to charge or retain.

#### §217.112. Definitions.

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

- (1) Board--Board of the Texas Department of Motor Vehicles.
- (2) Department--Texas Department of Motor Vehicles.
- (3) Deputy--A person appointed to perform, under the provisions of this subchapter, designated motor vehicle titling and registration services as a deputy assessor-collector. The term "deputy" does not include an employee of a county assessor-collector.
- (4) Full Service Deputy--A deputy appointed to provide motor vehicle registration, registration renewal, and title transfer services.
- (5) Limited Service Deputy--A deputy appointed to accept and process motor vehicle registration renewals.
- (6) Person--An individual, business organization, governmental subdivision or agency, or any other legal entity.

#### §217.113. Full Service Deputies.

(a) A county assessor-collector with the approval of the commissioners court of the county may deputize a person to provide motor vehicle titling and registration services in the same manner and with the same authority as though done in the office of the county assessor-collector.

(b) A full service deputy must offer and provide titling and registration services to the general public, and must accept any application for registration, registration renewal, or title transfer that the county assessor-collector may accept.

(c) A person is eligible to serve as a full service deputy if the person:

(1) is trained by the county assessor-collector to perform motor vehicle titling and registration services, or is otherwise deemed competent by the county assessor-collector to perform such services; and

(2) posts a bond payable to the county assessor-collector consistent with §217.115 of this subchapter, with the bond conditioned on the person's proper accounting and remittance of the fees the person collects.

(d) A person applying to be a full service deputy must complete the application process as specified by the county. The application process may include satisfaction of any bonding requirements and completion of any additional required documentation or training before the processing of any title or registration applications may occur.

(e) A full service deputy must provide to the county assessor-collector the physical address at which services will be offered, the mailing address, phone number, and hours of service. This information may be published on the department's website and may be published by the county if the county publishes a list of deputy locations.

(f) A full service deputy must provide to the county assessor-collector a photograph of the store front at which services will be offered.

(g) A full service deputy shall keep a separate account of the fees collected and remitted to the county and a record of daily receipts.

(h) A county assessor-collector may impose additional reasonable obligations or requirements upon a full service deputy.

(i) A full service deputy may charge and retain additional fees consistent with the provisions of §217.116 of this subchapter.

#### §217.114. Limited Service Deputies.

(a) A county assessor-collector with the approval of the commissioners court of the county may deputize a person to provide motor vehicle registration renewal services. A limited service deputy may only process registration renewals and may not prepare or accept an application for title transfer.

(b) A limited service deputy offering registration renewal services to the general public must accept and process any application for registration renewal that the county assessor-collector may accept and process.

(c) A limited service deputy may be authorized by the county assessor-collector to provide registration renewal services only for the members, officers, employees, affiliates and customers of the deputy, and not to the public generally. If a limited service deputy does not provide services to the general public, the scope of the deputy's authority to provide registration renewal services to itself and its members, officers, employees, affiliates and customers must be defined by the county assessor-collector as part of the authorization to act as a limited service deputy.

(d) A person is eligible to be deputized as a limited service deputy if the person:

(1) is trained to accept and process registration renewals by the county assessor-collector, or is otherwise deemed competent by the county assessor-collector to perform such services; and

(2) posts a bond payable to the county assessor-collector with §217.115 of this subchapter, with the bond conditioned on the person's proper accounting and remittance of the fees the person collects.

(e) A person applying to be a limited service deputy must complete the application process as specified by the county. The application process may include satisfaction of any bonding requirements and completion of any additional required documentation or training before the processing of any registration renewals may occur.

(f) If a limited service deputy offers services to the general public, the deputy must provide to the county assessor-collector the physical address at which services will be offered, the mailing address, phone number, and hours of service. This information may be published on the department's website and may be published by the county if the county publishes a list of deputy locations.

(g) A limited service deputy shall keep a separate account of the fees collected and remitted to the county and a record of daily receipts.

(h) A county assessor-collector may impose additional reasonable obligations or requirements upon a limited service deputy.

(i) A limited service deputy may charge and retain additional fees pursuant to §217.116 of this subchapter.

§217.115. Bonding Requirements.

(a) A deputy appointed under this subchapter shall post a surety bond payable to the county assessor-collector in the amount determined by the assessor-collector, provided:

(1) a full service deputy shall post a bond no less than \$20,000 and no greater than \$1,000,000; and

(2) a limited service deputy shall post a bond no less than \$10,000 and no greater than \$50,000.

(b) Notwithstanding the provisions of subsection (a) of this section, a deputy that is an agency or subdivision of a governmental jurisdiction of the State of Texas is not required to post a surety bond unless the county assessor-collector determines that a bond should be required in an amount consistent with subsection (a) of this section.

(c) A deputy is required to post a single bond for a county in which the deputy performs titling or registration services, regardless of the number of locations in that county from which that deputy may provide these services.

§217.116. Deputy Fees.

(a) A county assessor-collector may pay to a deputy, or allow a deputy to retain, an amount not to exceed the fee the assessor-collector could collect for providing each titling or registration service provided by the deputy.

(b) A county assessor-collector may authorize a full service deputy to charge or retain additional fees for providing titling and registration services, with the following limitations:

(1) a full service deputy may not charge or retain an additional fee exceeding \$5 for each motor vehicle title transaction processed by the deputy;

(2) a full service deputy may not charge or retain an additional fee exceeding \$5 for each motor vehicle registration transaction processed by the deputy;

(3) a full service deputy may not charge or retain an additional fee exceeding \$1 for any other transaction or service related to motor vehicle titling and registration; and

(4) if any licensed dealer, as defined by Transportation Code, §503.001(4), requests to participate in the department's available electronic title processing system but is denied authorization to do so by the county assessor-collector, then no deputy in that county may collect the additional fees allowed under paragraph (1) of this subsection.

(c) A county assessor-collector may authorize a limited service deputy to charge or retain an additional fee, not to exceed \$1 for each motor vehicle registration transaction processed by the deputy.

(d) A deputy must prominently post a list of all titling and registration fees, including the additional fees charged and retained by the deputy, at any location where the deputy provides registration and titling services. If the deputy maintains a website advertising or offering titling or registration services, the deputy must also prominently post a list of all titling and registration fees, including the additional fees charged and retained by the deputy, on the website.

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

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David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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For further information, please call: (512) 465-4209

