SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 217.3. *Enrollment in a Basic Licensing Course*.
The proposed new rule would be part of a reorganization and simplification of Chapter 217 of the Commission's rules. This rule would contain the enrollment in a basic licensing course requirements.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 217.3. *Inscripción en un curso básico de obtención de licencia.*
La nueva norma propuesta formaría parte de una reorganización y simplificación del Capítulo 217 del reglamento de la Comisión. Esta norma incluiría los requisitos de inscripción en un curso básico de obtención de licencia.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §217.3, Enrollment in a Basic Licensing Course. This proposed new rule is part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Appointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to their own respective rules, and would clarify the language of this chapter. This proposed new rule would contain enrollment processes previously codified in §217.1, Minimum Standards for Enrollment and Initial Licensure, §217.7, Reporting Appointment and Separation of a Licensee, and Texas Occupations Code §1701.451, Preemployment Procedure. Some of these proposed changes were recommended by the Texas Regulatory Efficiency Office within the Office of the Governor.

The proposed new rule would also incorporate current Commission practices, including that: (1) an enrolling entity request and review records from each basic licensing course attended by a prospective enrollee; (2) for a medical examination (L-2), an enrolling entity provide all available records relating to a person's prior failed medical examination to the practitioner; (3) for a psychological examination (L-3), an enrolling entity provide a summary of any records relating to a person's prior failure to complete a basic licensing course and all available records relating to a person's prior failed psychological examination to the practitioner; and (4) for an L-3, the required face-to-face interview may be conducted in person or through video.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:
(1) the proposed rule does not create or eliminate a government program;
(2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
(3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;
(4) the proposed rule does not require an increase or decrease in fees paid to the agency;
(5) the proposed rule does not create a new regulation;
(6) the proposed rule does not limit or repeal an existing regulation, but does expand an existing regulation by requiring enrolling entities to request and review records from each basic licensing course attended by a prospective enrollee;
(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed new rule and information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis, from any person required to comply with the proposed new rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The new rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.306, Psychological and Physical Examination, and Texas Occupations Code §1701.451, Preemployment Procedure. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.306 requires the Commission to adopt rules relating to the medical and psychological examinations required for a person to obtain a license. Texas Occupations Code §1701.451 requires the Commission to establish procedures for the pre-appointment background investigation of a person.

The new rule as proposed affects or implements Texas Occupations Code Chapter 1701, Law Enforcement Officers. No other code, article, or statute is affected by this proposal.

The proposed new rule has been reviewed by legal counsel and has been found to be within the Commission's authority to adopt.

§217.3. Enrollment in a Basic Licensing Course.

(a) Before a person may enroll in a basic licensing course, the enrolling entity must:

(1) verify that the person meets the minimum standards for enrollment and initial licensure; or

(2) obtain proof from a sponsoring law enforcement agency that verified the person meets the minimum standards for enrollment and initial licensure after conducting and documenting a pre-appointment background investigation.

(b) To verify that a person meets the minimum standards for enrollment and initial licensure, the enrolling entity must:

(1) obtain the person's written consent for the enrolling entity to view the person's records;

(2) obtain a complete, signed, and notarized or digitally certified commission-approved Personal History Statement (PHS); and

(3) conduct and document a pre-enrollment background investigation on the person, to include at a minimum:

(A) reviewing the PHS for eligibility for licensure;

(B) obtaining documentation that the person has been fingerprinted and subjected to a search of local, state, and U.S. national records and fingerprint files to disclose any criminal record and is not disqualified based on criminal records discovered;

(C) requesting and reviewing records from each basic licensing course attended, regardless of completion;

(D) for a person who is a military veteran, obtaining the United States Department of Defense Form DD-214 or other military discharge record;

(E) obtaining and reviewing evidence of financial responsibility as required by Texas Transportation Code § 601.051;

(F) obtaining and reviewing information on the person's law enforcement background as available through the national decertification index (NDI);

(G) obtaining proof of United States citizenship or, if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge, proof of legal permanent residence and proof that the person has applied for United States citizenship;

(H) obtaining proof of meeting the minimum educational requirements for licensure;

(I) obtaining a valid Licensee Medical Condition Declaration (L-2) for the person; and

(J) obtaining a valid Licensee Psychological and Emotional Health Declaration (L-3) for the person.

(c) To obtain a valid L-2:

(1) the enrolling entity must select a physician licensed by the Texas Medical Board to conduct a medical examination of the person;

(2) the enrolling entity shall provide the physician with a job description for the type of license sought and all available records relating to any medical examinations previously failed by the person;

(3) the physician must be familiar with the duties appropriate to the type of license sought; and

(4) the physician must examine the person and declare within 180 days of enrollment that the person:

(A) is physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought; and

(B) shows no trace of drug dependency or illegal drug use after a blood test or other medical test.

(d) To obtain a valid L-3:

(1) the enrolling entity must select one of the following practitioners to conduct a psychological examination of the person:

(A) a psychologist licensed by the Texas State Board of Examiners of Psychologists;

(B) a psychiatrist licensed by the Texas Medical Board;

(C) under exceptional circumstances and with prior written approval from the commission, a physician licensed by the Texas Medical Board; or

(D) under exceptional circumstances and with prior written approval from the commission, a qualified person identified by Texas Occupations Code § 501.004;

(2) the enrolling entity shall provide the practitioner with a job description for the type of license sought, the person's PHS, a summary of any records relating to the person's prior failure to complete a basic licensing course, and all available records relating to any psychological examinations previously failed by the person;

(3) the practitioner must be familiar with the duties appropriate to the type of license sought;

(4) the examination must:

(A) consist of at least two instruments, one which measures personality traits and one which measures psychopathology;

(B) consist of a face-to-face interview, either in person or through video, conducted after the instruments have been scored; and

(C) use professionally recognized standards and methods; and

(5) the practitioner must examine the person and declare within 180 days of enrollment that the person is in satisfactory psychological and emotional health to serve as the type of licensee for the license sought.

(e) A law enforcement agency or enrolling entity that is given a signed consent form shall make the person's records available to a prospective enrolling entity.

(f) When a person separates from an enrolling entity, within 30 days of the separation, the enrolling entity shall report the separation to the commission.

(g) An enrolling entity must retain records obtained or created under this section while the person is enrolled and for a minimum of five years after the person's separation from the enrolling entity or completion of the basic licensing course. The records must be maintained under the control of the training coordinator or designee in a physical or electronic format readily accessible to the commission and any prospective enrolling entity or prospective appointing law enforcement agency.

(h) The effective date of this section is January 1, 2027.