

1 **CHAPTER 852. PURCHASE OF GOODS AND SERVICES BY THE TEXAS**
2 **WORKFORCE COMMISSION - VOCATIONAL REHABILITATION SERVICES**

3
4 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***
5 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
6 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**
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8 **ON APRIL 17, 2018, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**
9 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

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11 Estimated Publication Date of the Proposal in the *Texas Register*: **May 4, 2018**

12 Estimated End of Comment Period: **June 4, 2018**

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14 The Texas Workforce Commission (TWC) proposes the repeal of Chapter 852 in its entirety,
15 relating to the Purchase of Goods and Services by the Texas Workforce Commission -
16 Vocational Rehabilitation Services:

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18 Subchapter A. Purchase of Goods and Services, §852.1

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20 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

21 **PART II. IMPACT STATEMENTS**

22 **PART III. COORDINATION ACTIVITIES**
23

24 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

25 The purpose of the proposed Chapter 852 repeal is to comply with Texas Labor Code §352.101,
26 which required TWC to integrate the two separate Vocational Rehabilitation (VR) programs—VR
27 for individuals with visual impairments (Blind Services) and VR for individuals with other
28 disabilities (Rehabilitation Services) -- into a single VR program. Consistent with §352.101, on
29 October 1, 2017, the VR programs for individuals with visual impairments and for individuals with
30 other disabilities were integrated into a single VR program. The rules to support this integration were
31 effective November 6, 2017.

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33 Currently, TWC's Chapter 852, Purchase of Medical Goods and Services by the Texas Workforce
34 Commission - Vocational Rehabilitation Services, contains a single rule, §852.1, relating to
35 Alternative Purchasing Methods - Rates for Medical Services. To align this purchasing rule with
36 other TWC VR procurement and programmatic operations, this chapter should be repealed. Section
37 852.1 should be adopted as a rule in Chapter 856 and updated to reflect statutory changes.

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39 **PART II. IMPACT STATEMENTS**

40 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five
41 years the repeal is in effect, the following statements will apply:

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43 There are no additional estimated costs to the state and to local governments expected as a result
44 of the repeal.
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1 There are no estimated cost reductions to the state and to local governments as a result of the
2 repeal.

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4 There are no estimated losses or increases in revenue to the state or to local governments as a
5 result of the repeal.

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7 There are no foreseeable implications relating to costs or revenue of the state or local
8 governments as a result of the repeal.

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10 There are no anticipated economic costs to individuals previously required to comply with the
11 rules.

12
13 There is no anticipated adverse economic impact on small or microbusinesses as a result of the
14 repeal.

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16 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
17 that the requirement to repeal or amend a rule, codified at Texas Government Code §2001.0045,
18 does not apply to this rulemaking.

19
20 Government Growth Impact Statement

21 TWC has determined that during the first five years the repeal will be in effect:

22 --the proposed repeal will not create or eliminate a government program;

23 --implementation of the proposed repeal will not require the creation or elimination of employee
24 positions;

25 --implementation of the proposed repeal will not require an increase or decrease in future
26 legislative appropriations to TWC;

27 --the proposed repeal will not require an increase or decrease in fees paid to TWC;

28 --the proposed repeal will not create a new regulation;

29 --the proposed repeal will not expand, limit, or eliminate an existing regulation;

30 --the proposed repeal will not change the number of individuals subject to the rule; and

31 --the proposed repeal will not positively or adversely affect the state's economy.

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33 Economic Impact Statement and Regulatory Flexibility Analysis

34 TWC has determined that the proposed repeal will not have an adverse economic impact on
35 small businesses.

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37 Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no
38 significant negative impact upon employment conditions in the state as a result of the repeal.

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40 Courtney Arbour, Director, Workforce Development Division, has determined that for each year
41 of the first five years the repeal is in effect, the public benefit anticipated as a result of enforcing
42 the proposed repeal will be to comply with statutory requirements, unify and clarify rule
43 language, update terminology, and improve consistency within the VR program.

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45 TWC hereby certifies that the proposed repeal has been reviewed by legal counsel and found to
46 be within TWC's legal authority to adopt.

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PART III. COORDINATION ACTIVITIES

In the development of the proposed repeal for publication and public comment, TWC sought the involvement of Texas' 28 Boards. TWC provided the concept paper regarding this proposed repeal to the Boards for consideration and review on January 16, 2018. TWC also conducted a conference call with Board executive directors and Board staff on January 19, 2018, to discuss the concept paper. During the rulemaking process, TWC considered all information gathered in order to repeal this chapter.

Comments on the proposed repeal may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The repeal is proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

1 ~~CHAPTER 852. PURCHASE OF MEDICAL GOODS AND SERVICES BY THE TEXAS~~
2 ~~WORKFORCE COMMISSION—VOCATIONAL REHABILITATION SERVICES~~

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4 ~~Subchapter A. PURCHASE OF GOODS AND SERVICES~~

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6 ~~§852.1. Alternative Purchasing Methods—Rates for Medical Services.~~

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8 ~~Under Human Resources Code, §117.074, this rule adopts standards governing the~~
9 ~~determination of rates paid for medical services provided by DARS. The rates determined~~
10 ~~under these standards are reevaluated annually.~~

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12 ~~(1) Rates shall be established based on Medicare and Medicaid schedules for~~
13 ~~current procedural terminology (CPT). Where Medicare and Medicaid~~
14 ~~schedules are not applicable, rates that represent best value shall be established~~
15 ~~based on factors that include reasonable and customary industry standards for~~
16 ~~each specific service.~~

17
18 ~~(2) Rates shall be established at a level adequate to ensure availability of qualified~~
19 ~~providers, and in adequate numbers to provide assessment and treatment, and~~
20 ~~within a geographic distribution that mirrors consumer or claimant distribution.~~

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22 ~~(3) Exceptions to established rates may be made on a case by case basis by the DARS~~
23 ~~medical director or optometric consultant.~~