

Texas Administrative Code  
Title 25. Health Services  
Part 1. Department of State Health Services  
Chapter 37. Maternal and Infant Health Services  
Subchapter G. Spinal Screening Program. (Effective 01/12/15)

§37.141. Purpose.

The purpose of this subchapter is to implement Texas Health and Safety Code, Chapter 37, concerning the detection of abnormal spinal curvature in children.

§37.142. Definitions.

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

(1) Abnormal spinal curvature--An anatomic, structural deviation from the normal spinal curve, such as scoliosis or kyphosis.

(2) American Academy of Orthopaedic Surgeons (AAOS)--A nationally-recognized professional body which develops musculoskeletal health guidelines as part of the organization's research and quality goals.

(3) Certification--The process by which the Department of State Health Services (department) trains individuals to conduct spinal screening as well as to then provide training screening procedures.

(4) Department--The Department of State Health Services.

(5) Forward-bend test--A screening procedure to determine whether a child may have an abnormal spinal curvature.

(6) Licensed professional--An individual who is appropriately licensed under state law, including physicians, chiropractors, physical therapists, and registered nurses, and has completed a course of study in physical assessment.

(7) Professional examination--A diagnostic evaluation performed by an appropriately licensed professional whose expertise addresses the diagnostic needs of the individual identified as having a possible abnormal spinal curvature. A professional examination is one that is performed according to the requirements of this subchapter and of Texas Health and Safety Code, Chapter 37.

(8) School--An educational institution, public or private, that admits children who are five through twenty-one years of age, which includes an individual school campus.

(9) Scoliosis inclinometer--An instrument for measuring the clinical deformity of patients with scoliosis. The brand name "Scoliometer" is sometimes used interchangeably.

(10) Screening--A test or battery of tests for rapidly determining the need for a professional examination.

#### §37.143. Spinal Screening Procedures.

(a) Spinal screening is required, for all children in grades six and nine who attend public and private schools, to detect abnormal spinal curvature. Spinal screening, conducted under this subchapter by a person who is not a licensed professional, as the term is defined in this subchapter, must be conducted following the national standards for screening set by the AAOS currently found at <http://www.aaos.org/news/bulletin/nov07/clinical5.asp>, as they apply to allowable method of screening and age of screening, with the following exceptions.

(1) The use of a scoliosis inclinometer is optional for spinal screening.

(2) If a scoliosis inclinometer is used for spinal screening, a rescreen should be conducted for reading results of 5 to 7 degrees. The rescreen should be conducted within two weeks of the initial screening. A follow-up rescreen should be conducted in six months to one year to determine if the abnormal curvature is increasing.

(3) When using a scoliosis inclinometer, results of 7 degrees or more shall be documented as "abnormal findings."

(4) If a scoliosis inclinometer is not used for spinal screening, a rescreen should be conducted for abnormal findings. The rescreen should be conducted within two weeks of the initial screening. Abnormal findings detected during the rescreen shall be documented in the child's spinal screening record. The school's chief administrator shall inform the child's parent, managing conservator, or guardian, as specified in §37.144(a) of this title (relating to School Requirements; Department Activities).

(5) In accordance with Health and Safety Code, Chapter 37 requirements, children will be screened in grades six and nine instead of the AAOS guidelines.

(b) A person who is not a licensed professional, as that term is defined in this subchapter, who conducts spinal screening must be trained and certified as described in §37.146(a) of this title (relating to Standards and Requirements for Screening Certification and Instructor Training).

(c) The requirements of this section do not apply when the individual is already actively under medical care by an appropriate licensed professional for one or more of the spinal problems for which screening is performed under this section. In order to claim this exception, the individual under the scenarios described in Texas Family Code, §32.003 or, if the individual is a minor, the individual's parent, managing conservator or legal guardian, must submit documentation from the licensed professional to the school. The documentation must be signed and dated by the licensed professional, and must affirmatively state that the individual is under

active, ongoing medical care from the licensed professional for specific spinal problems as referenced in this subsection.

§37.144. School Requirements; Department Activities.

(a) The chief administrator of each school is responsible for the school maintaining a copy of the screening results and the mailing of a copy of the report to the parent, managing conservator, or guardian of the individual screened if an abnormal spinal curvature is suspected, based on §37.143(a) of this title (relating to Spinal Screening Procedures).

(b) The chief administrator of each school shall ensure that each individual admitted to the school complies with the screening requirements of this subchapter, according to the following schedule:

(1) All children enrolled in a public or private school in grades six and nine shall be screened for abnormal spinal curvature before the end of the school year. The screening requirements may also be met by a professional examination as defined in §37.142 of this title (relating to Definitions).

(2) The screening requirements for children entering grades six and nine may be met if the child has been screened for abnormal spinal curvature during the previous year.

(3) If a child is enrolled within 60 days of the date a school closes for the summer, the child's spinal screening must be conducted within 120 days of the beginning of the following school year.

(4) Schools may offer a student enrolling in grades ten, eleven, or twelve the opportunity for spinal screening if the student has no record of having been screened previously.

(c) A child's parent, managing conservator, or legal guardian, or the individual under the scenarios described in Texas Family Code, §32.003, may execute an affidavit stating that a person, other than the individual secured by the school to conduct screenings at the school, shall conduct the screening as soon as is feasible. The school may admit the child on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to the school. The 60-day time period is from November 30 to January 30 of each school year.

(d) A school shall not require a child to be screened if the child's parent, managing conservator, or legal guardian, or the individual under the scenarios described in Texas Family Code, §32.003, submits to the school, on or before the date spinal screening is scheduled, an affidavit in lieu of the screening record(s) stating that the spinal screening conflicts with the tenets and practices of a church or religious denomination of which the affiant is an adherent or member.

(e) Only individuals who have completed high school may serve as volunteer assistants during spinal screenings. It is the responsibility of the certified screener to determine how any

volunteer assistant(s) will be used during the screening process, consistent with all state and federal confidentiality requirements.

#### §37.145. Recordkeeping and Reporting.

(a) Individuals conducting screenings under this subchapter must comply with the following recordkeeping and reporting requirements:

(1) Individuals conducting screenings at the school (and those other than licensed professionals conducting screenings outside of the school) shall document in each child's screening record the specific screening conducted, the date the screening was conducted, observations made during the screening, and the final results of the screening. The individual shall also ensure that the following are included in the documentation: the name of the child and age or birthdate of the child. The documentation required under this subsection must also be signed and dated by the person who conducted the screening. For the purposes of this subchapter, electronic signatures and dates are also acceptable.

(2) Individuals conducting screenings at a school (and those other than licensed professionals conducting screening outside of the school) shall submit the documentation referenced in this subsection to the school at the time of that screening.

(3) Individuals must submit documentation to the department related to certifications and refresher courses, as specified in §37.146 of this title (relating to Standards and Requirements for Screening Certification and Instructor Training).

(b) Schools must comply with the following recordkeeping and reporting requirements:

(1) Each school shall maintain spinal screening records under this section onsite for at least two years.

(2) A school must maintain screening records regarding any individual claiming the exemptions found in §37.143(c) of this title (relating to Spinal Screening Procedures).

(3) Spinal screening records are transferrable between schools if written consent of the individual or, if the individual is a minor, their parent, managing conservator, or legal guardian is obtained.

(4) The recordkeeping required in this section must be made available to the department in a timely manner upon request. The department may, directly or through its authorized representative, enter a school and inspect records maintained relating to spinal screening.

(5) On or before June 30 of each year, each school shall submit to the department a complete and accurate annual report on the spinal screening status of its aggregate population screened during the reporting year. Schools shall report in the manner specified by the

department (currently found at <http://chrstx.dshs.state.tx.us>). Schools are required to report on the following categories:

- (A) grade screened;
- (B) number screened under prior treatment;
- (C) total number screened;
- (D) total number rescreened;
- (E) total number abnormal findings;
- (F) number abnormal findings diagnosed by a physician as “normal;”
- (G) number abnormal findings diagnosed with scoliosis by a physician;
- (H) number abnormal findings diagnosed with kyphosis by a physician;
- (I) number abnormal findings diagnosed with another type of abnormal curvature by a physician;
- (J) number receiving a physician’s treatment plan of observation;
- (K) number receiving a physician’s treatment plan of orthosis bracing;
- (L) number receiving a physician’s treatment plan of surgery;
- (M) number receiving a physician’s treatment plan not indicated in subparagraphs (J) - (L) of this paragraph; and
- (N) number for whom a physician’s treatment plan was unavailable.

(c) All correspondence shall be submitted to the department under this subchapter, with the following contact information (unless otherwise specified): Vision, Hearing and Spinal Screening Program, Mail Code 1978, Department of State Health Services, P.O. Box 149347, Austin, Texas 78714-9347.

#### §37.146. Standards and Requirements for Screening Certification and Instructor Training.

(a) Individuals who conduct spinal screening must be certified under this section unless the screening is conducted by a licensed professional. There are two options for obtaining this certification:

- (1) a certificate issued directly by the department; or

(2) a certificate issued by an instructor who has been trained and authorized by the department to issue certificates.

(b) The department offers certification courses, and issues certificates to those who successfully complete them. To be eligible to take the department's certification course, you must be a high school graduate and sign a written statement to that effect at the beginning of the course. Individuals who successfully complete the course, including passing the associated tests, will be issued a certificate by the department.

(c) The department trains instructors who themselves give screener certification courses, as described in this section. The eligibility requirement to attend such a course is the same as is described in subsection (b) of this section. Individuals who successfully complete the course, including passing the associated tests, will be issued a certificate signed by the authorized instructor. It will have the same validity, and is subject to the same restrictions, as a certificate issued under subsection (b) of this section.

(d) Screening certificates issued under this section are subject to the following requirements.

(1) Individuals who receive a certificate are authorized to conduct spinal screening (as applicable to the course taken, and as listed on the certificate) in accordance with this subchapter. Certified screeners are required to comply with this subchapter, and failure to do so is grounds for the modification, suspension and/or revocation of the certification as provided in this section.

(2) Screening certification under this section allows the individual to screen children for abnormal spinal curvature (as applicable to the course taken, and as listed on the certificate) under this subchapter for a period of five years, with renewals processed as described in paragraph (3) of this subsection.

(3) Screening certification may be renewed by attending a department-approved refresher training course (either offered directly by the department or by an instructor authorized under this section). The refresher training course must be completed during the fifth year of certification from the date the preceding certificate was issued. Once a refresher training course is successfully completed, the five-year cycle begins again. If certification is not renewed within the required time period, the individual must attend the basic certification training course (i.e., a refresher course will not be sufficient).

(4) When the department receives information from any source that indicates a screener has not been following the requirements of this subchapter, the department may modify, suspend, or revoke the certification. The department will send a notice to the affected individual as part of any such action being taken.

(5) The affected individual has 20 days after receiving the notice, referenced in paragraph (4) of this subsection, to request a hearing on the proposed action. It is a rebuttable presumption that a notice is received five days after the date of the notice. Unless the notice

letter specifies an alternative method, a request for a hearing shall be made in writing, and mailed or hand-delivered to the program at the address specified in §37.145(c) of this title (relating to Recordkeeping and Reporting). If an individual who is offered the opportunity for a hearing does not request a hearing within the prescribed time for making such a request, the individual is deemed to have waived the hearing and the action may be taken.

(6) Appeals and administrative hearings will be conducted in accordance with the department's fair hearing rules in §§1.51 - 1.55 of this title (relating to Fair Hearing Procedures).

(e) Individuals who successfully complete a department instructor training course are authorized to conduct screening trainings and issue screening certificates to individuals who successfully complete the screening training (including all associated testing), subject to the requirements of this section. Individuals wishing to take the instructor course must first meet the following qualifications:

(1) have experience conducting trainings to groups of adults; and

(2) be physicians, chiropractors, physical therapists, or registered nurses, and must have the applicable Texas license, current and in good standing under Texas law.

(f) Department authorization for instructors to conduct trainings is valid until December 31st of the fifth year from the date certification was issued. The individual must successfully update their instructor status with the department by submitting an updated instructor application within 30 days of December 31st of the fifth year from the date the preceding certificate was issued. It is the responsibility of the individual to request an instructor application from the department. The department will issue a renewed certification following the receipt of a complete instructor application. Failure to comply with these requirements, by the deadline given, means that the individual must then attend the initial instructor training course. The department will notify spinal screening instructors of new or updated education required by the department and where it is available.

(g) Once authorized by the department to conduct trainings, instructors must do so using training materials obtained from the department.

(h) All proposed screening training sessions must be approved by the department at least 15 working days prior to the training session. The instructor must provide all information sought by the department, by the deadlines given.

(i) Instructors in good standing under this section may teach screening refresher courses as described in subsection (d)(3) of this section. Such refresher courses are subject to the same requirements under this section as those pertaining to initial screening courses.

(j) When a department-authorized instructor issues a certificate of spinal screening, the instructor has 14 days to submit the participant rosters and evaluations to the department. These original documents should be submitted to the program at the address found in §37.145(c) of this title. The instructor should maintain a copy.

(k) When the department receives information from any source that indicates a screening instructor has not been following the requirements of this subchapter, the department may modify, suspend, or revoke the certification. The department will send a notice to the affected individual as part of any such action being taken.

(l) The affected individual has 20 days after receiving the notice, referenced in subsection (k) of this section, to request a hearing on the proposed action. It is a rebuttable presumption that a notice is received five days after the date of the notice. Unless the notice letter specifies an alternative method, a request for a hearing shall be made in writing, and mailed or hand delivered to the program at the address specified in §37.145(c) of this title. If an individual who is offered the opportunity for a hearing does not request a hearing within the prescribed time for making such a request, the individual is deemed to have waived the hearing and the action may be taken.

(m) Appeals and administrative hearings will be conducted in accordance with the department's fair hearing rules in §§1.51 - 1.55 of this title.

#### §37.147. Responsibilities of Parent, Managing Conservator, or Guardian.

When spinal screening indicates possible abnormal spinal curvature, the child's parent, managing conservator, or guardian is responsible for securing the services of a qualified licensed professional to perform a professional examination to diagnose the problem.

#### §37.148. Nondiscrimination Statement.

No person shall be excluded from participation, be denied benefits, or be otherwise subjected to discrimination in the department's Spinal Screening Program on the grounds of race, color, national origin, sex, religion, disability, or age.