

SUBCHAPTER P. ADMINISTRATORS
28 TAC §7.1603

INTRODUCTION. The Commissioner of Insurance adopts amendments to 28 TAC §7.1603, relating to the requirements for administrators. The amendments are adopted without changes to the proposed text published in the November 8, 2019, issue of the *Texas Register* (44 TexReg 6699).

REASONED JUSTIFICATION. The amendments are necessary to implement legislation. Senate Bill 1200, 86th Legislature, Regular Session (2019), amended Occupations Code §55.0041 as it addresses authority of military spouses to engage in a business or occupation in this state. These amendments impact TDI's licensing rules, which necessitates revisions to 28 TAC §7.1603, as well as revisions to sections in other chapters of Title 28 of the Texas Administrative Code addressed in separate adoption orders.

Section 7.1603(a). Section 7.1603(a) requires any person acting or holding himself or herself out as an administrator to obtain a certificate authority, as required by Insurance Code Chapter 4151, unless the person meets an exemption described in Insurance Code §§4151.002, 4151.0021, or 4151.004. Section 7.1603(a) clarifies that certain military spouses can engage as administrators by applying for a temporary certificate of authority.

Section 7.1603(c). Section 7.1603(c) establishes an eligibility requirement that military spouses must be licensed in a jurisdiction with substantially equivalent licensing requirements as those described in §7.1604 and in Insurance Code Chapter 4151. Section 7.1603(c) provides that a military spouse licensed in a jurisdiction outside of Texas will only be authorized to engage as an administrator in Texas for the period during which

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the military service member to whom the military spouse is married is stationed at a military installation in Texas, but not to exceed three years from the date the spouse receives the confirmation described by §7.1603(d).

Section 7.1603(d). Section 7.1603(d) states the criteria that must be met for a military spouse to engage as an administrator. It requires the military spouse to submit an application notifying TDI of the military spouse's intent to practice in this state, submit to TDI proof of the spouse's residency in Texas, a copy of the spouse's military identification card, and evidence of good standing in the jurisdiction with substantially equivalent requirements. Section 7.1603(d) also require the military spouse to receive confirmation from TDI that indicates TDI has verified the spouse's license and that the spouse is authorized to engage in the business or occupation in accordance with this section.

Section 7.1603(e). Section 7.1603(e) states that no fees will be assessed in connection with the administrator license.

Section 7.1603(f). Section 7.1603(f) states that a military spouse engaged as an administrator under this authority is bound by all laws and rules applicable to the business and occupation in Texas.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: TDI received one written comment from The Surety & Fidelity Association of America.

Comment on §7.1603.

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A commenter requests clarification on whether certain licensing requirements to furnish surety and fidelity bonds would still be required for military spouses seeking licensure through Occupations Code §55.0041 and the corresponding proposed rules.

Agency Response.

Texas Occupations Code §55.0041 provides the framework and rulemaking authority for this rule. Section 55.0041 authorizes a military spouse to engage in a business or occupation without obtaining an applicable license if the military spouse is currently licensed in a jurisdiction with substantially equivalent licensing requirements, but it also requires the military spouse to comply with all other laws and regulations applicable to the business or occupation. Consistent with §55.0041, the proposed rules do not absolve a military spouse from financial responsibility requirements imposed by law or regulation.

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STATUTORY AUTHORITY. The Commissioner adopts the amendments to 28 TAC §7.1603 under Occupations Code § 55.0041 and Insurance Code §36.001.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule making authority to applicable state agencies

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.**§7.1603. Certificate of Authority Required.**

(a) Unless a person meets an exemption under Insurance Code §§4151.002, 4151.004, or 4151.0021, a person acting as or holding themselves out as an administrator must hold a certificate of authority under Insurance Code Chapter 4151. A military spouse who meets the criteria described in subsection (c) of this section is eligible to apply for a temporary certificate of authority.

(b) An administrator contractor and an administrator subcontractor must hold a certificate of authority under Insurance Code Chapter 4151.

(c) A military spouse who is licensed as an administrator in a state with substantially equivalent requirements as those found in §7.1604 of this title (relating to Application for Certificate of Authority) and Insurance Code Chapter 4151 may engage as an administrator while the military service member to whom the military spouse is married is stationed at a military installation in this state for a period of three years from the date the spouse receives the confirmation described by subsection (d) of this section.

(d) A military spouse seeking to engage as an administrator must:

(1) submit an application notifying TDI of the military spouse's intent to engage as an administrator in Texas;

(2) submit to TDI proof of the spouse's residency in Texas and a copy of the spouse's military identification card; and

(3) show evidence of good standing from a jurisdiction with substantially equivalent requirements as those found in §7.1604 of this title and Insurance Code Chapter 4151.

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(e) Notwithstanding §7.1604 of this title, a military spouse seeking to engage as an administrator will not be assessed any application fees under that section.

(f) A military spouse authorized to engage as an administrator must comply and adhere to all other laws and rules applicable to administrators.

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be within the agency's legal authority to adopt.

Issued at Austin, Texas, on January 17, 2020.

/s/ James Person

James Person, General Counsel
Texas Department of Insurance

The Commissioner adopts amendments to 28 TAC §7.1603.

/s/ Kent C. Sullivan

Kent C. Sullivan
Commissioner of Insurance

Commissioner's Order No. **2020-6197**