



## TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHARLES SMITH  
EXECUTIVE COMMISSIONER

July 20, 2016

The Honorable Donna Howard  
State Representative  
State Capitol Extension, Room E1.420  
Austin, Texas 78701

Dear Representative Howard:

Thank you for your correspondence regarding the proposed rules to amend Texas Administrative Code, Chapter 25, Subchapter K. In response to your request for information on the drafting and content of these rules, the information below discusses the process, as well as the necessity that precipitated the proposed changes related to disposal of fetal tissue.

These rules, which pertain to the treatment and disposition of special waste from health care facilities, have not been updated in more than 20 years. In order to assure that the rules align with best practices and terminology, the Department of State Health Services (DSHS) began to research and analyze needed changes in January.

In line with Governor Abbott's commitment to protect unborn lives, I directed DSHS to evaluate potential changes to portions of the rules that pertain to disposition of fetal remains. The rules currently contain heinous language related to "grinding" of unborn baby parts, and "discharging" them into a "sewer system." I charged DSHS to determine how this language could be amended, within current statutory authority, to better preserve the dignity of these unborn lives.

Legal analysis concluded that, within DSHS' existing scope, the rules were able to be clarified in the following ways:

- update of terminology consistent with current practice and standards;
- amendment of methods of disposition for fetal tissue, which would continue to include burial or cremation;
- removal of language about discharging fetal tissue to a sewer system or landfill; and
- removal of language about grinding, which is an outdated disposal term.

These proposed changes reflect what may be amended under DSHS' current authority. If the Texas Legislature desires a different course, statute changes may be required. This effort will better protect the dignity of human life and is consistent with the Governor's direction for the Health and Human Services Commission, and the best interests of the public health of Texans.

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I appreciate your comments and questions regarding these proposed rules, and they will be considered as the public comment period for the proposed rules continues. Comments may be accepted through Monday, August 1, 2016. I am referring your request for a hearing to DSHS for consideration.

Thank you again for contacting me on these issues. Dr. John Hellerstedt, DSHS Commissioner, serves as the lead staff for this matter and he can be reached at (512) 776-7363 or by e-mail at [John.Hellerstedt@dshs.state.tx.us](mailto:John.Hellerstedt@dshs.state.tx.us).

Sincerely,



Charles Smith