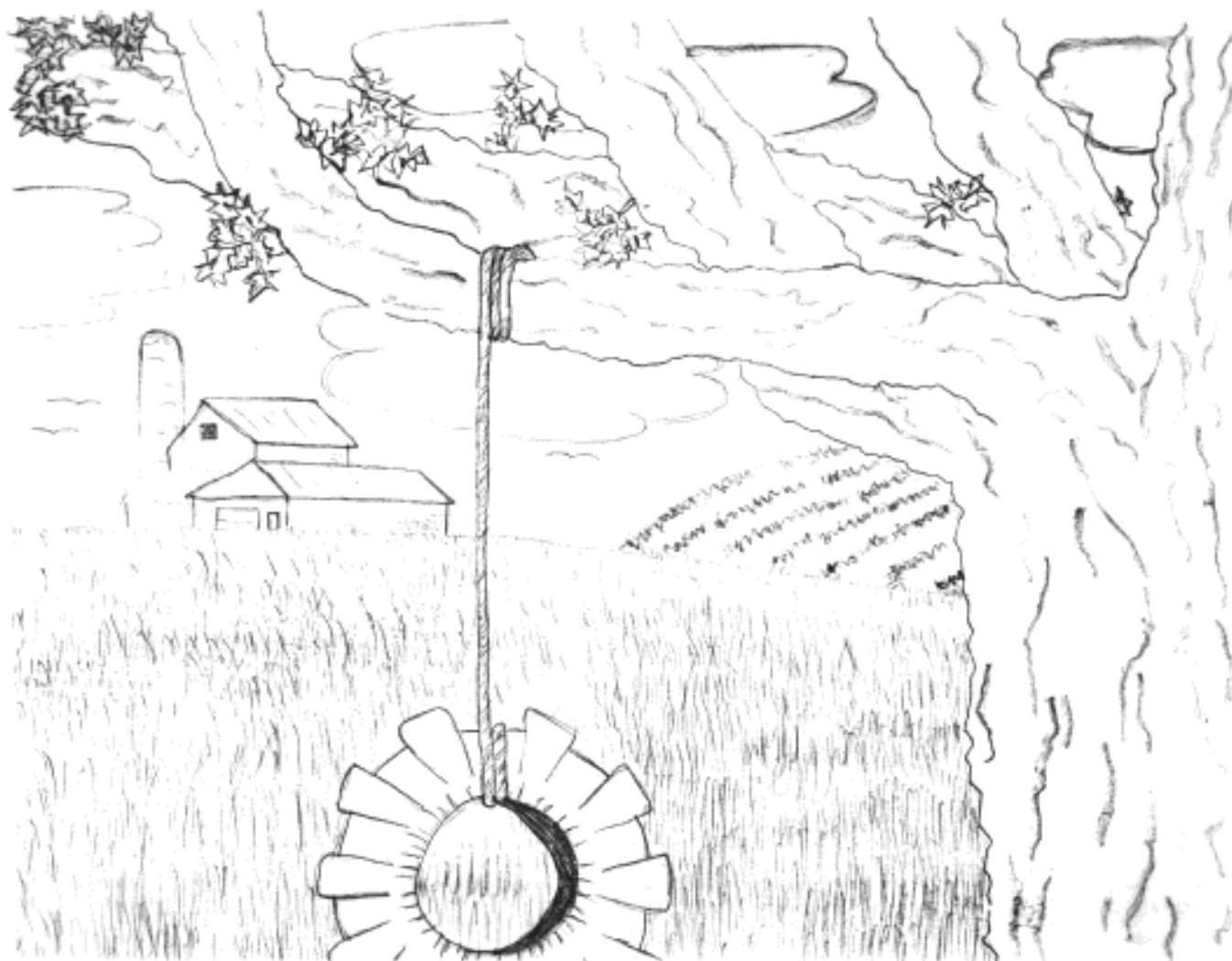


# TEXAS REGISTER

*Volume 23 Number 38 September 18, 1998*

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***Artist: Marilyn Kocurek***

***7th Grade***

***China Spring Middle School***

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# EMERGENCY RULES

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing and remaining in effect no more than 120 days. The emergency action is renewable once for no more than 60 additional days.

**Symbology in amended emergency sections.** New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

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## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 5. Property and Casualty Insurance

##### Subchapter E. Texas Windstorm Insurance Association

##### Division 1. Plan of Operation

###### 28 TAC §5.4008

The Commissioner of Insurance adopts on an emergency basis amendments to §5.4008, concerning building code specifications for windstorm resistant construction in the plan of operation of the Texas Windstorm Insurance Association (TWIA). The amendments are necessary to provide changes to the new coastal Building Code for Windstorm Resistant Construction, as recommended by the Building Code Advisory Committee, which will facilitate compliance by coastal builders with the new coastal Building Code. The amendments are necessary to incorporate additional prescriptive construction methods to be used in the construction, repair and additions of buildings located in the designated catastrophe areas to increase the building options available to the building industry and consumers. Due to the presence of hurricanes in the Atlantic Ocean and the threat of hurricanes on the Texas Gulf Coast which present an imminent peril to the public health, safety, or welfare of residents of the Texas Coast, it is necessary to adopt the amendments on an emergency basis. The imminent peril to the public welfare requires adoption of the section on an emergency basis to ensure that structures built, repaired or to which additions are made are in compliance with the most effective building code standards available to reduce the loss of life and property damage during the 1998 hurricane season for Texas Gulf Coast residents. The new Building Code for Windstorm Resistant Construction, along with these additional prescriptive requirements, provides more stringent wind load and impact resistant requirements for structures, which will result in a reduction in loss of life and injury to the public as well as a reduction in claims for damage to structures in the event of a hurricane. Adopting the amendments on an emergency basis will avert considerable harm to the economic welfare of coastal homebuyers and builders by eliminating uncertainty about how and when to build and averts the possibility of a major shutdown of the construction industry due to the inability of builders and contractors to adequately use the new building code for reconstruction of hurricane damaged property which could be imminent in the next three months. The purpose of the Texas Windstorm Insurance Association (TWIA)

is to provide windstorm and hail insurance coverage to residents in designated catastrophe areas who are unable to obtain such coverage in the voluntary market. The TWIA's plan of operation specifies in §5.4008 the applicable building code standards to qualify for coverage from the TWIA as required by Article 21.49, §6A(f) of the Insurance Code for structures located in designated catastrophe areas which were constructed, repaired, or to which additions are made on and after September 1, 1998, the effective date of the Building Code for Windstorm Resistant Construction.

The amendments are adopted pursuant to the Insurance Code Articles 21.49 and 1.03A. Article 21.49, §6A specifies building code requirements and approval or inspection procedures for windstorm and hail insurance through the Association. Article 21.49, §6A(f), Insurance Code, requires the Commissioner to appoint a Building Code Advisory Committee to advise and make recommendations to the Commissioner on building specifications in the Association's plan of operation for structures to be eligible for windstorm and hail insurance through the Association. Article 21.49, §5(c) of the Insurance Code provides that the Commissioner of Insurance by rule shall adopt the Association's plan of operation with the advice of the Association's board of directors. Article 21.49, §6A(f) and §5(c), by their terms, delegate the foregoing authority to the State Board of Insurance. However, under Article 1.02 of the Insurance Code, a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and function of the Texas Department of Insurance only as authorized by statute.

*§5.4008. Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After June 1, 1998.*

(a) Areas Seaward of the Intracoastal Canal. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas which are seaward of the Intracoastal Canal and constructed, repaired, or to which additions are made on and after September 1, 1998, shall comply with the Building Code for Windstorm Resistant Construction. The Texas Department of Insurance adopts by reference the Building Code for Windstorm Resistant Construction, effective September 1, 1998. Emergency amendments to the Building Code for Windstorm Resistant Construction are adopted by reference to be effective September 3, 1998.

(b) Areas Inland of the Intracoastal Canal and Within Approximately 25 Miles of the Texas Coastline and east of the Specified Boundary Line and Certain Areas in Harris County.

(1) To be eligible for catastrophe property insurance, structures located in designated catastrophe areas specified in paragraphs (2)(A) and (2)(B) of this subsection and constructed, repaired, or to which additions are made on and after September 1, 1998, shall comply with the Building Code for Windstorm Resistant Construction which is adopted by reference in subsection (a) of this section and any applicable emergency amendments adopted by reference to be effective September 3, 1998.

(2) (No change.)

(c)-(d) (No change.)

Filed with the Office of the Secretary of State, on September 3, 1998.

TRD-9814029

Lynda H. Neseholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: September 3, 1998

Expiration date: January 1, 1999

For further information, please call: (512) 463-6327



# PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

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## TITLE 1. ADMINISTRATION

### Part I. Office of the Governor

#### Chapter 3. Criminal Justice Division

##### Subchapter C. General Grant Program Policies

##### Division 1. General Eligibility Requirements

###### 1 TAC §3.2001

The Office of the Governor proposes new §3.2001, concerning nonstandard funding.

Tom Jones, Director of Accounting for the Criminal Justice Division has determined that in general for the first five year period the rule is in effect there will be no fiscal impact on state or local government. The funds remain stable and the method for allocating funds on a regional basis has not changed.

Mr. Jones also has determined that for the first five year period the proposed rule is in effect the public benefit will be clarification of funding sources. There will be no anticipated economic cost to persons or small businesses.

Comments on the proposal may be submitted to Pamela Brown at the Criminal Justice Division of the Governor's Office, P. O. Box 12428, Austin, Texas 78711.

The new rule is proposed under Texas Government Code, Title 7, §772.006 (a) (11), which provides the Office of the Governor, Criminal Justice Division the authority to promulgate rules consistent with the Code.

No other statutes, articles or codes are affected by this proposed rule.

###### §3.2001. Nonstandard Funding.

Information regarding application deadlines listed in this chapter relate to the standard Criminal Justice Division grant cycle. CJD may, however, fund grants outside of this cycle or at amounts higher or lower than those listed in this chapter. Additionally, CJD reserves the right, under rare circumstances, to waive rules within this chapter if CJD determines that such an action is in the best interest of the

state and the rule to be waived is not required by another state or federal rule or statute.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on September 1, 1998.

TRD-9813834

Pete Wassdorf

Deputy General Counsel

Office of the Governor

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 463-1788

## TITLE 22. EXAMINING BOARDS

### Part VIII. Texas Appraiser Licensing and Certification Board

#### Chapter 153. Provisions of the Texas Appraiser Licensing and Certification Act

###### 22 TAC §153.20

The Texas Appraiser Licensing and Certification Board proposes an amendment to §153.20, relating to Guidelines for Revocation, Suspension or Denial of Licensure or Certification. Specifically §153.20(e) is being amended to restore language which was inadvertently deleted during rule revisions in the spring of 1997. The reinstated language deals with requiring written complaints to initiate investigations, not accepting anonymous complaints, and the board's authority to initiate a complaint on its own motion.

Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government.

Mr. Liner also has determined that for each year of the first five years the proposed amendment is in effect the public benefit anticipated as a result of enforcing the sections will be to clarify the process for initiating complaints against appraisers who are certified or licensed by the agency. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under the Powers and Duties of the Board, Texas Appraiser Licensing and Certification Act, §5 (Texas Civil Statutes, Article 6573a.2).

Section 11, Denial of Certificate or License; Appeal; §12, Enforcement Proceedings; §12A, Contested Case Proceedings; and §21, Offenses, Texas Civil Statutes, Article 6573a.2, are affected by the proposal.

§153.20. *Guidelines for Revocation, Suspension or Denial of Licensure or Certification.*

(a)-(d) (No change.)

(e) Notwithstanding any other provision of the Act, there shall be no undercover or covert investigations conducted by authority of the Act. No investigations of licensees or certificate holders or any other actions against licensees or certificate holders shall be initiated on the basis of anonymous complaints whether in writing or otherwise, but shall be initiated only upon the board's own motion or a signed written complaint. Upon the adoption of such a motion by the board or upon receipt of such complaint, the licensee or certificate holder shall be notified promptly and in writing unless the board itself, after due consideration, determines otherwise.

(f) - (h) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on September 2, 1998.

TRD-9813951

Renil C. Liner  
Commissioner

Texas Appraiser Licensing and Certification Board  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 465-3950



## Part IX. Texas State Board of Medical Examiners

### Chapter 161. General Provisions

#### 22 TAC §161.1, §161.4

The Texas State Board of Medical Examiners proposes an amendment to §161.1, concerning Meetings and new §161.4, concerning Rule Changes. The amendment and new rule are necessary to provide updated information regarding the functions of Board committees. Section 189.1 is simultaneously being repealed in this issue of the *Texas Register* and incorporated into §161.4 as a subsection.

Tony Cobos, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be reorganization of the chapters and updated information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The amendment and new rule are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a) and §2.09(i) is affected by the proposed amendment and new rule.

§161.1. *Meetings.*

(a) The board shall meet at least four times a year. It shall consider such ~~conduct examinations for licensure to practice medicine in the State of Texas and consider such other~~ matters as may be necessary.

(b)-(e) (No change.)

(f) At a ~~[the first]~~ meeting of the board ~~[after each biennial appointment]~~, the board shall elect from its membership a ~~[president]~~ vice-president~~[-]~~ and secretary treasurer.

(g) The following are standing and permanent committees of the board, as established by the board in accordance with the Medical Practice Act. The responsibilities and authority of these committees include those duties and powers as set forth below and such other responsibilities and authority which the board may from time to time delegate to these committees.

(1) Executive committee:

(A)-(D) (No change.)

(E) make recommendations concerning reactivation of licenses for physicians on retired status; [temporarily suspend a physician's license as provided for in the Medical Practice Act;]

(F)-(H) (No change.)

(2) Medical school committee:

(A)-(C) (No change.)

(D) develop information in regard to international ~~[foreign]~~ medical schools in the areas of curriculum, faculty, facilities, academic resources, and performance of graduates;

(E) offer assistance to the examination and endorsement ~~[reciprocity]~~ committees in determining eligibility of international ~~[foreign]~~ medical graduates for licensure by endorsement ~~[reciprocity]~~ or examination;

(F) study and make recommendations regarding documentation and verification of records from international [~~foreign~~] medical schools;

(G) coordinate cooperative efforts with the Educational Commission for International [~~Foreign~~] Medical Graduates;

(H) (No change.)

(3)-(5) (No change.)

(6) Standing orders committee:

(A)-(C) (No change.)

(D) make recommendations to the board regarding matters brought to the attention of the standing orders committee; [-]

(E) make recommendations to the board regarding issues concerning or referred by the Board of Acupuncture Examiners or other acupuncture issues.

(7)-(9) (No change.)

(10) Physicians in Training Committee [~~Computer committee~~]:

(A) [~~study and~~] make recommendations to the board regarding licensure and issues concerning physicians in training [~~available computer resources~~];

(B) [~~consider and~~] make recommendations to the board regarding matters brought to the attention of the Physicians in Training Committee. [~~any aspect of board computer resources~~];

~~{(C) make recommendations to the board regarding matters brought to the attention of the computer committee.}~~

(11)-(15) (No change.)

(h)-(j) (No change.)

(k) Meetings of the board and of its committees are open to the public unless such meetings are conducted in executive session pursuant to state law [~~Texas Civil Statutes, Article 6252-17~~] and the Medical Practice Act, Article 4495b. In order that board meetings may be conducted safely, efficiently, and with decorum, members of the public shall refrain at all times from smoking or using tobacco products, eating, or reading newspapers and magazines. Members of the public may not engage in disruptive activity that interferes with board proceedings, including excessive movement within the meeting room, noise or loud talking, and resting of feet on tables and chairs. The public shall remain within those areas of the board's offices designated as open to the public. Members of the public shall not address or question board members during meetings unless recognized by the board's presiding officer pursuant to a published agenda item.

(l) (No change.)

#### §161.4. Rule Changes.

Any suggested changes to the board rules must be submitted to the board at a regular board meeting for discussion and a vote regarding release for initial publication in the *Texas Register*.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814088

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 305-7016



## Chapter 173. Applications

### 22 TAC §173.1

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Medical Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Board of Medical Examiners proposes the repeal of §173.1, concerning Applications. The repeal is necessary because chapters 173 and 175 are being combined to reorganize and update applications and fees. New Chapter 175 is proposed simultaneously in this issue of the *Texas Register*.

Tony Cobos, general counsel, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be updated rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The repeal is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a) is affected by the proposed repeal.

#### *§173.1. Applications.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814090

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

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For further information, please call: (512) 305-7016



## Chapter 175. Schedule of Fees and Penalties

## 22 TAC §§175.1-175.4

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas State Board of Medical Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Board of Medical Examiners proposes the repeal of §§175.1-175.4, concerning Schedule of Fees and Penalties and new §§175.1-175.5, concerning Fees, Penalties, and Applications. Chapter 173 and 175 are being combined to reorganize and update applications and fees. There are no new fees, just updated rules. The repeal of chapter 173 is simultaneously proposed elsewhere in this issue of the *Texas Register*.

Tony Cobos, general counsel, has determined that for the first five-year period the repeal and new sections are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be reorganization of the chapters and updated information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The repeals are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(k) is affected by the proposed repeals.

§175.1. *Fees.*

§175.2. *Penalties.*

§175.3. *Payment of Fees or Penalties.*

§175.4. *Partial Refund.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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TRD-9814091

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

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For further information, please call: (512) 305-7016



## Chapter 175. Fees, Penalties, and Applications

### 22 TAC §§175.1-175.5

The new sections are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(k) is affected by the proposed new sections.

#### §175.1. Fees.

The board shall charge the following fees.

##### (1) Physicians:

(A) processing an application for complete or partial licensure examination (includes one USMLE Step 3 or COMLEX Level 3 and jurisprudence examination fee) - \$800;

(B) processing an application for licensure by endorsement (includes one jurisprudence examination fee) - \$800;

(C) examination fees (required and payable each time applicant is scheduled for examination):

(i) USMLE Step 3 - \$500;

(ii) COMLEX Level 3 - \$500;

(iii) Jurisprudence - \$30;

(D) processing an application for a special purpose license for practice of medicine across state lines (includes one jurisprudence examination fee) - \$800;

##### (E) temporary license:

(i) regular - \$50;

(ii) distinguished professor - \$50;

(iii) state health agency - \$50;

(iv) section 3.0305 - \$50;

(v) rural/underserved areas - \$50;

(vi) continuing medical education - \$50;

##### (F) annual renewal - \$310.

##### (2) Physicians in Training:

(A) institutional permit (began training program prior to 6-1-99) - \$50;

(B) renewal of institutional permit (began training program prior to 6-1-99) - \$35;

(C) visiting professor permit - \$110;

(D) faculty temporary permit - \$110;

(E) temporary postgraduate resident permit - \$50;

(F) postgraduate resident permit (R1) - \$75;

(G) postgraduate resident permit (R2) - \$50;

(H) postgraduate resident permit (R3) - \$50;

(I) postgraduate resident permit (R4) - \$50;

(J) approval of fellowship program - \$150.

##### (3) Physician Assistants:

(A) processing application for licensure as a physician assistant - \$200;

(B) temporary license - \$50;

(C) annual renewal - \$150.

(4) Acupuncturists/Acudetox Specialists:

(A) processing an application for license as an acupuncturist - \$300;

(B) temporary license for an acupuncturist - \$50;

(C) annual renewal for an acupuncturist - \$250;

(D) acupuncturist distinguished professor - \$50;

(E) processing an application for acudetox specialist - \$50;

(F) annual renewal for acudetox specialist - \$25;

(G) review and approval of continuing acupuncture education courses - \$50;

(H) review and approval of continuing acudetox acupuncture education courses - \$50.

(5) Non-Certified Radiologic Technicians:

(A) processing an application - \$50;

(B) annual renewal - \$50.

(6) Certification as a Non-Profit Health Organization:

(A) processing an application for initial certification - \$2,500;

(B) processing an application for biennial recertification - \$500.

(7) Miscellaneous Fees:

(A) duplicate license - \$45.

(B) endorsement - \$40.

(C) reinstatement after cancellation for cause - \$350.

§175.2. Penalties.

The board shall charge the following penalties:

(1) Physicians:

(A) renewal of physician's license expired for 31-90 days - \$55;

(B) renewal of physician's license expired for longer than 90 days but less than one year - \$110.

(2) Physician Assistants:

(A) renewal of physician assistant's license expired for 90 days or less - \$50;

(B) renewal of physician assistant's license expired for longer than 90 days but less than one year - \$100.

(3) Acupuncturists/Acudetox Specialists:

(A) renewal of acupuncturist's license expired for 90 days or less - \$50;

(B) renewal of acupuncturist's license expired for longer than 90 days but less than one year - \$100;

(C) renewal of acudetox specialist certification expired for 90 days or less - \$25;

(D) renewal of acudetox specialist certification expired for longer than 90 days but less than one year - \$50.

(4) Non-Certified Radiologic Technicians. Renewal of non-certified radiologic technician's registration expired for 1-90 days - \$25.

§175.3. Payment of Fees or Penalties.

All licensure fees or penalties must be submitted in the form of a money order or cashier's check payable on or through a United States bank. Fees and penalties cannot be refunded. If a single payment is made for more than one individual permit, it must be made for the same class of permit and a detailed listing, on a form prescribed by the board, must be included with each payment.

§175.4. Partial Refund.

Fees for processing an application for complete or partial licensure examination may be subject to a partial refund equal to the cost of the examination. The applicant must request a refund before April 1, because the applicant has been accepted in an out-of-state training program starting in June or July as a result of the National Matching Program and elects to not take the licensure examination in Texas.

§175.5. Applications.

(a) All information required on applications used by this board will conform to the Medical Practice Act and rules promulgated by this board. The board hereby adopts by reference the following forms:

(1) Physicians:

(A) application for licensure by examination;

(B) application for licensure by endorsement;

(C) application for a special purpose license for practice of medicine across state lines;

(D) application for temporary license;

(E) application for annual renewal of physician's permit.

(2) Physicians in Training:

(A) application for institutional permit (physician began program prior to 5-31-99);

(B) application for renewal of institutional permit (physician began program prior to 5-31-99);

(C) application for postgraduate resident (R1) permit;

(D) application for postgraduate resident (R2) permit;

(E) application for postgraduate resident (R3) permit;

(F) application for postgraduate resident (R4) permit;

(G) application for temporary postgraduate resident permit;

(H) application for faculty temporary permit;

(I) application for visiting professor permit;

(J) application for National Health Service Corps permit.

(3) Physician Assistants:

(A) licensure application;

(B) application for temporary license;

(C) notice of intent to supervise a physician assistant;



- (D) notice of intent to practice as a physician assistant;
- (E) application for annual renewal of license.

(4) Acupuncturists/Acudetox Specialists:

- (A) licensure application for acupuncturist;
- (B) application for acupuncturist temporary license;
- (C) application for acupuncture distinguished professor temporary license;

license;

- (D) application for annual renewal of acupuncturist
- (E) application for acudetox specialist certification;
- (F) application for annual renewal of acudetox specialist certification;

education courses;

- (H) application for approval of continuing acudetox acupuncture education courses.

(5) Non-Certified Radiologic Technicians:

- (A) application for non-certified radiologic technician permit;
- (B) application for annual renewal of non-certified radiologic technician.

(6) Certification as a Non-Profit Health Organization:

- (A) application for initial certification;
- (B) application for biennial recertification.

(7) Miscellaneous Applications:

- (A) application for a duplicate license;
- (B) application for reinstatement of medical license for cause;
- (C) physician designation of prescriptive delegation.

(b) These forms may be examined and copies may be obtained at the offices of the Texas State Board of Medical Examiners, 333 Guadalupe, Tower 3, Suite 610, Austin, Texas.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814092  
 Bruce A. Levy, M.D., J.D.  
 Executive Director  
 Texas State Board of Medical Examiners  
 Earliest possible date of adoption: October 18, 1998  
 For further information, please call: (512) 305-7016



## Chapter 183. Acupuncture

### 22 TAC §183.17

The Texas State Board of Medical Examiners proposes an amendment to §183.17, concerning Acudetox Specialist. The

amendment is necessary to correct an error in citation in subsection (j)(1).

Tony Cobos, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be a correct reference. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The amendment is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, Subchapter F is affected by the proposed amendment.

#### §183.17. Acudetox Specialist.

(a)-(i) (No change.)

(j) Each individual who is certified as an acudetox specialist may annually renew certification by completing and submitting to the Medical Board an approved renewal form together with the following as listed in paragraphs (1)-(3) of this subsection:

(1) documentation that the certification or license as required by subsection (b)(3) [(4)] of this section is still valid;

(2)-(3) (No change.)

(k)-(m) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814087  
 Bruce A. Levy, M.D., J.D.  
 Executive Director  
 Texas State Board of Medical Examiners  
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 For further information, please call: (512) 305-7016



## Chapter 189. Rule Changes

### 22 TAC §189.1

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Medical Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Board of Medical Examiners proposes the repeal of §189.1, concerning Procedure. The repeal is necessary because the language in §189.1 is simultaneously being proposed in new §161.4, elsewhere in this issue of the *Texas Register*.

Tony Cobos, general counsel, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the section as proposed.

Mr. Cobos also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be reorganization of the chapters and updated information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The repeal is proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a) is affected by the proposed repeal.

*§189.1. Procedure.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814089  
Bruce A. Levy, M.D., J.D.  
Executive Director

Texas State Board of Medical Examiners  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 305-7016



## Chapter 197. Emergency Medical Service

The Texas State Board of Medical Examiners proposes the repeal of §§197.2-197.5 and new §§197.2-197.5, concerning Emergency Medical Service. The repeal and replacement of these sections will update the rules to current practice standards.

Tony Cobos, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be updated rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

## 22 TAC §§197.2-197.5

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas State Board of Medical Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeals are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §3.06(d) is affected by the proposed repeals.

*§197.2. Definitions.*

*§197.3. Off-Line Medical Director.*

*§197.4. On-Line Medical Direction.*

*§197.5. Authority for Control of Medical Services at the Scene of a Medical Emergency*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814085  
Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 305-7016



The new sections are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §3.06(d) is affected by the proposed new sections.

*§197.2. Definitions.*

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

(1) Advanced life support - Emergency prehospital care that involves invasive medical interventions including, but not limited to, the delivery or assisted delivery of medications, defibrillation, and advanced airway management. The provision of advanced life support shall be under the medical direction and/or supervision and control of a licensed physician.

(2) Basic life support -Emergency prehospital care that involves noninvasive medical interventions. The provision of basic

life support may be under the medical direction and/or supervision and control of a licensed physician.

(3) Board - The Texas State Board of Medical Examiners.

(4) Delegated practice - Permission given by a physician licensed by the board, either in person or by treatment protocols or standing orders to a specific prehospital provider to provide medical care.

(5) Direct medical control - Immediate and concurrent clinical direction either on-scene or via electronic communication from a physician licensed by the board and designated by the EMS medical director. If an EMS system does not have an EMS Medical Director, then such designation should be by a physician advisor, or in his or her absence, the director of the EMS system.

(6) Emergency medical services personnel - those individuals certified or licensed by the Texas Department of Health (TDH) to provide medical care.

(7) Emergency medical services system (EMSS) - All components needed to provide a continuum of prehospital medical care including, but not limited to, a medical director, transport vehicles, trained personnel, access and dispatch, communications, and receiving medical facilities.

(8) Intervenor physician - A physician licensed by the board, who, without having established a prior physician/patient relationship with the emergency patient, accepts responsibility for the prehospital care, and who shall provide proof of a current medical license when requested.

(9) Medical director - A physician licensed by the board who is responsible for all aspects of the operation of an EMS system concerning provision of medical care. This physician may also be referred to as the off-line medical director.

(10) Prehospital providers - All TDH certified or licensed personnel providing medical care in an out-of-hospital environment.

(11) Protocols - Written instructions providing prehospital personnel with a standardized approach to commonly encountered problems in the out-of-hospital setting, typically in regard to patient care. Protocols may include standing orders to be implemented prior to, or in lieu of, establishing communication with direct medical control.

(12) Standing delegation orders - Instructions or orders provided by the EMS medical director to EMS personnel, directing them to perform certain medical care in the absence of any communication with direct medical control.

§197.3. Off-line Medical Director.

(a) An off-line medical director shall be:

(1) a physician licensed to practice in Texas and shall be registered as an EMS medical director with the Texas Department of Health;

(2) familiar with the design and operation of EMS systems;

(3) experienced in prehospital emergency care of acutely ill or injured patients;

(4) actively involved in:

(A) the emergency management of acutely ill and/or injured patients;

(B) the training and/or continuing education of EMS personnel, under his or her direct supervision, at their respective levels of certification;

(C) the medical audit, review, and critique of the performance of EMS personnel under his or her direct supervision;

(D) the administrative and legislative environments affecting regional and/or state prehospital EMS organizations;

(5) knowledgeable about local multi-casualty plans;

(6) familiar with dispatch and communications operations of prehospital emergency units; and

(7) knowledgeable about laws and regulations affecting local, regional, and state EMS operations.

(b) The medical director shall:

(1) approve the level of prehospital care which may be rendered locally by each of the EMS personnel employed by and/or volunteering with the EMS under the medical director's supervision, regardless of the level of state certification, before the certificant is permitted to provide such care to the public;

(2) establish and monitor compliance with field performance guidelines for EMS personnel;

(3) establish and monitor compliance with training guidelines which meet or exceed the minimum standards set forth in the Texas Department of Health EMS certification regulations;

(4) develop, implement, and revise protocols and/or standing delegation orders, if appropriate, governing prehospital care and medical aspects of patient triage, transport, transfer, dispatch, extrication, rescue, and radio-telephone-telemetry communication by the EMS;

(5) direct an effective system audit and quality assurance program;

(6) determine standards and objectives for all medically related aspects of operation of the EMS including the inspection, evaluation, and approval of the system's performance specifications;

(7) function as the primary liaison between the EMS administration and the local medical community, ascertaining and being responsive to the needs of each;

(8) develop a letter or agreement or contract between the medical director(s) and the EMS administration outlining the specific responsibilities and authority of each. The agreement should describe the process or procedure by which a medical director may withdraw responsibility for EMS personnel for noncompliance with the Emergency Medical Service Act, the Health and Safety Code, Chapter 773, the rules adopted in this chapter, and/or accepted medical standards;

(9) take or recommend appropriate remedial or corrective measures for EMS personnel, in conjunction with local EMS administration, which may include, but are not limited to, counseling, retraining, testing, probation, and/or field preceptorship;

(10) suspend a certified EMS individual from medical care duties for due cause pending review and evaluation;

(11) establish the circumstances under which a patient might not be transported;

(12) establish the circumstances under which a patient may be transported against his or her will in accordance with state

law, including approval of appropriate procedures, forms, and a review process;

(13) establish criteria for selection of a patient's destination; and

(14) develop and implement a comprehensive mechanism for management of patient care incidents, including patient complaints, allegations of substandard care, and deviations from established protocols and patient care standards.

§197.4. On-Line Medical Direction.

(a) The EMS medical director shall assign the prehospital provider under his or her direction to a specific on-line communication resource by a predetermined policy.

(b) Specific local protocols shall define the circumstances under which on-line medical direction is required.

(c) A physician providing or delegating on-line medical direction shall be appropriately trained in the use of prehospital protocols, and shall be familiar with the capabilities of the prehospital providers, as well as local EMS operational policies and regional critical care referral protocols.

(d) A physician providing or delegating on-line medical direction shall have personal expertise in the emergency care of ill and injured patients.

(e) A physician providing or delegating on-line medical direction for particular patients assumes responsibility for the appropriateness of prehospital care provided under his or her direction by EMS personnel.

§197.5. Authority for Control of Medical Services at the scene of a Medical Emergency.

(a) Control at the scene of a medical emergency shall be the responsibility of the individual in attendance who is most appropriately trained and knowledgeable in providing prehospital emergency stabilization and transport.

(b) When any prehospital provider, under medical direction, is requested and dispatched to the scene of an emergency, a physician-patient relationship is thereby established between the patient and the physician designated by the EMS system providing medical direction (either off-line or on-line).

(c) The prehospital provider on the scene is responsible for the management of the patient(s) and acts as the agent of the physician providing medical direction.

(d) If the patient's personal physician is present and assumes responsibility for the patient's care, the prehospital provider should defer to the orders of said physician unless those orders conflict with established protocols. The patient's personal physician shall document in his or her orders in a manner acceptable to the EMS system. The physician providing on-line medical direction shall be notified of the participation of the patient's personal physician.

(e) If the medical orders of the patient's personal physician conflict with system protocols, the personal physician shall be placed in communication with the physician providing on-line medical direction. If the personal physician and the on-line medical director cannot agree on treatment, the personal physician must either continue to provide direct patient care and accompany the patient to the hospital or must defer all remaining care to the on-line medical director.

(f) The system's medical director or on-line medical control shall assume responsibility for directing the activities of prehospital

providers at any time the patient's personal physician is not in attendance.

(g) If an intervenor physician is present at the scene and has been satisfactorily identified as a licensed physician and has expressed his or her willingness to assume responsibility for care of the patient, the on-line physician should be contacted. Once the on-line physician is contacted, he or she is ultimately responsible for the care of the patient unless or until the on-line physician allows the intervenor physician to assume responsibility for the patient.

(h) The on-line physician has the option of managing the case exclusively, working with the intervenor physician, or allowing the intervenor physician to assume complete responsibility for the patient.

(i) If there is any disagreement between the intervenor physician and the on-line physician, the prehospital provider shall be responsible to the on-line physician and shall place the intervenor physician in contact with the on-line physician.

(j) If the intervenor physician is authorized to assume responsibility, all orders to the prehospital provider by the intervenor physician shall also be repeated to medical control for recordkeeping purposes.

(k) The intervenor physician must document his or her intervention in a manner acceptable to the local EMS.

(l) The decision of the intervenor physician not to accompany the patient to the hospital shall be made with the approval of the on-line physician.

(m) Nothing in this section implies that the prehospital provider can be required to deviate from standard protocols.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814086

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 305-7016



## Chapter 200. Standards for Physicians Practicing Integrative and Complementary Medicine

### 22 TAC §§200.1-200.3

The Texas State Board of Medical Examiners proposes new §§200.1-200.3, concerning Standards for Physicians Practicing Integrative and Complementary Medicine. The new chapter will outline the responsibilities of the physician when providing integrative and complementary medical treatment.

Tony Cobos, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Cobos also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be outlined

responsibilities of the physician when providing integrative and complementary medical treatment. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The new sections are proposed under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

The Medical Practice Act, Texas Civil Statutes, Article 4495b, §3.08 is affected by the proposed new sections.

§200.1. Purpose.

The purpose of this chapter is to recognize that physicians should be allowed a reasonable and responsible degree of latitude in the kinds of therapies they offer their patients. The Board also recognizes that patients have a right to seek integrative or complementary therapies.

§200.2. Definitions.

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

(1) Integrative and Complementary Medicine- Those health care methods of diagnosis, treatment, or interventions that are not acknowledged to be conventional but that may be offered by some licensed physicians in addition to, or as an alternative to, conventional medicine, and that provide a reasonable potential for therapeutic gain in a patient's medical condition and that are not reasonably outweighed by the risk of such methods.

(2) Conventional Medicine - Those health care methods of diagnosis, treatment, or interventions that are offered by most licensed physicians as generally accepted methods of routine practice, based upon medical training, experience and review of the peer reviewed scientific literature.

§200.3. Practice Guidelines for the Provision of Integrative and Complementary Medicine.

A licensed physician shall not be found guilty of unprofessional conduct or be found to have committed professional failure to practice medicine in an acceptable manner solely on the basis of employing a health care method of integrative or complementary medicine, unless it can be demonstrated that such method has a safety risk for the patient that is unreasonably greater than the conventional treatment for the patient's medical condition. The Texas State Board of Medical Examiners will use the following guidelines to determine whether a physician's conduct violates the Medical Practice Act, §§3.08(4), 3.08(4)(E), and 3.08(18) in regard to providing complementary and integrative medical treatment.

(1) Prior to offering advice about complementary health care therapies, the physician shall undertake an assessment of the patient. This assessment should include but not be limited to, conventional methods of diagnosis and may include non-conventional methods of diagnosis and shall be documented in the patient's chart. Such assessment shall include the following listed in subparagraphs (A)-(E) of this paragraph:

(A) adequate medical records as defined in §165.1 of this title (relating to Medical Records);

(B) documentation as to whether conventional medical treatment options have been discussed with the patient and referral input, if necessary;

(C) documentation as to whether conventional medical options have been tried, and if so, to what effect or a statement as to whether conventional options have been refused by the patient;

(D) if a treatment is offered which is not considered to be conventional, documentation of at least a verbal informed consent for each treatment plan must be included (including documentation that the risks and benefits of the use of the treatment were discussed with the patient or guardian);

(E) documentation as to whether the complementary health care therapy could interfere with any other ongoing conventional treatment.

(2) The physician may offer the patient complementary and integrative treatment pursuant to a documented treatment plan tailored for the individual needs of the patient by which treatment progress or success can be evaluated with stated objectives such as pain relief and/or improved physical and/or psychosocial function. Such a documented treatment plan shall consider pertinent medical history, previous medical records and physical examination, as well as the need for further testing, consultations, referrals, or the use of other treatment modalities.

(3) The physician may use the treatment subject to documented periodic review of the patient's care by the physician at reasonable intervals in view of the individual circumstances of the patient in regard to progress toward reaching treatment objectives which takes into consideration the treatment prescribed, ordered or administered, as well as any new information about the etiology of the complaint.

(4) Complete and accurate records of the care provided including the elements addressed in paragraph (1)(A)-(E) of this section should be kept.

(5) If the provisions set out in paragraphs (1)-(4) of this section are met, and if all treatment is properly documented, the board will presume such practices are in conformity with the Medical Practice Act, §§3.08(4), 3.08(4)(E), and 3.08(18).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814084

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 305-7016



## Part XXV. Structural Pest Control Board

### Chapter 599. Treatment Standards

#### 22 TAC §599.4

The Structural Pest Control Board proposes an amendment to §599.4 concerning termite treatment disclosure documents. The proposed amendment would require only that a diagram of

areas to be treated, a consumer information sheet and updated label and warranty information be provided for all retreatments for existing customers.

Benny M. Mathis, Executive Director has determined that there will not be fiscal implications as a result of enforcing or administering the rule. There will be no estimated additional cost, estimated reduction in cost or estimated loss or increase in revenue to state or local government for the first five-year period the rule will be in effect.

Roger B. Borgelt, General Counsel has determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be reduced paperwork for licensees. Customers will continue to receive essential information without an undue regulatory burden on businesses.

Comments on the proposal may be submitted to Roger B. Borgelt, General Counsel, Structural Pest Control Board, 1106 Clayton Lane #100LW, Austin, Texas 78723.

The amendment is proposed under Article 135b-6, which provides the Structural Pest Control Board with the authority to license and regulate the provision of structural pest control services.

The following is the (statutes, articles or code) that are affected by this rule:

Rule Number Statute, Article or Code

595.7 Article 135b-6

§599.4. *Termite Treatment Disclosure Documents.*

(a) As part of each estimate submitted and before conducting an initial [any] termite treatment for a customer, the pest control company proposing the treatment shall present the prospective customer or designee with the disclosure documents statement.

(b) Each termite treatment disclosure document shall include, but is not limited to:

(1)-(11) (No change.)

(c) Before conducting an initial [any] termite treatment for the customer, the pest control company proposing the treatment shall present the prospective customer or designees with a graph and description of the structure(s) to be treated including the following:

(1)-(4) (No change.)

(d) For any retreatment of a property for an existing customer, the pest control company shall provide the following before conducting the retreatment:

(1) the label, if different than that used in the preceding treatment(s);

(2) a diagram of the structure showing areas to be treated;

(3) any changes to the warranty information; and

(4) a consumer information sheet as required by §595.7 of this title (relating to Consumer Information Sheet).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 2, 1998.

TRD-9813966

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 451-7200

## TITLE 25. HEALTH SERVICES

### Part XVI. Texas Health Care Information Council

#### Chapter 1301. Health Care Information

##### Subchapter D. Rules and Procedures for Council Officers, Council Employees, Donors and Donations

###### 25 TAC §§1301.51–1301.54

The Texas Health Care Information Council (Council) proposes new §§1301.51-1301.54, concerning Rules and Procedures for Council Officers, Council Employees, Donors and Donations. The Council is authorized to accept gifts of money from a private donor under the Texas Health and Safety Code, §108.006 (b)(4) and §108.015. The new sections are being proposed, in part, to establish standards of conduct governing the relationship between the donor and the agency's officers and employees, and to describe the procedure for the Council to follow for the acceptances of donations with a value of \$500 or more.

Jim Loyd, Executive Director, has determined that for the first five-year period the new rules are in effect there will be no additional cost to local governments. Mr. Loyd estimates that no more than \$200 will be required by the state as a result of enforcing or administering the new sections.

Mr. Loyd also has determined that for each year of the first five-year period the rules are in effect the public benefit will be a reduction in using the Council's budgeted monies. The donations shall be deposited in to the state treasury.

Comments on the proposed new rules may be submitted to Jim Loyd, Executive Director, Texas Health Care Information Council, Brown-Heatly Building, 4900 North Lamar OOL-3407, Austin, Texas 78751-2399 no later than 30 days from the date that these proposed rules are published in the *Texas Register*.

The new rules are proposed under the Texas Health and Safety Code, §108.006 (b)(4) and §108.015, which authorizes the Council to accept gifts of money from a private donor.

No other statutes, articles, or codes are affected by the proposed new rules.

###### §1301.51. *Definitions.*

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

(1) Council-The state agency known as the Texas Health Care Information Council.

(2) Donation-A gift of property, including money, or services to the Council.

(3) Donor—An individual, not an employee or officer of the Council, or an organization that gives or offers to give a donation to the Council.

(4) Employee—A person employed by the Council on a full time or part-time basis, including volunteers, for purposes of this section only.

(5) Officer—The Council's executive director or the appointed members of the Council.

§1301.52. Administration and Investment of Funds.  
Donated funds shall be deposited in the state treasury.

§1301.53. Relationships.

(a) Approved Relationships.

(1) An officer or employee may serve as an officer or director of a donor, except as set forth in subsection (b)(2) of this section.

(2) An officer or employee may receive compensation for services rendered to a donor, except as set forth in subsection (b)(3) and (4) of this section.

(b) Disapproved Relationships.

(1) No agency employee or property may be used by a donor.

(2) No officer or employee who serves as an officer or director of a donor shall vote on or otherwise participate in any measure, proposal, or decision pending before the donor if the Council might reasonably be expected to have an interest in such measure, proposal, or decision.

(3) No officer or employee shall accept employment from or engage in any business or professional activity with a donor which the officer or employee might reasonably expect would require or induce the employee or officer to disclose confidential information acquired by reason of the person's official position.

(4) No officer or employee shall accept employment or compensation from a donor which could reasonably be expected to impair the officer or employee's independence of judgment in the performance of official duties.

(5) No officer or employee shall make personal investments in association with a donor which could reasonably be expected to create a substantial conflict between the officer or employee's private interest and the interest of the Council.

(6) No officer or employee shall accept or solicit any gift, favor, or service from a donor that might reasonably tend to influence the exercise of official conduct.

(7) No officer or employee shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised official powers on behalf of a donor or for having performed official duties in favor of a donor.

(8) The Council shall not accept a donation from a person required to provide data under the Texas Health and Safety Code, Chapter 108 or a person who or a business entity that provides goods or services to the Council for compensation.

§1301.54. Procedure for Acceptance of Certain Gifts.

(a) Gifts of a value of \$500 or more shall be accepted by a majority of the Council in an open meeting.

(b) The minutes of the meeting shall reflect the name of the donor, a description of the gift, and the purpose of the gift.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on September 2, 1998.

TRD-9813954

Jim Loyd

Executive Director

Texas Health Care Information Council

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 424-6492

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## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 15. Surplus Lines Insurance

##### Subchapter A. General Regulation of Surplus Lines Insurance

###### 28 TAC §15.8

The Texas Department of Insurance proposes an amendment to §15.8 concerning the eligibility requirements of surplus lines insurers. The proposed amendment is necessary to implement House Bill 2193 enacted by the 75th Legislature. House Bill 2193 amended Insurance Code, Article 1.14-2, §8(d), which requires alien insurers engaging in surplus lines insurance transactions in Texas to maintain an irrevocable trust fund, to increase the amount of the irrevocable trust fund to \$5.4 million from \$1.5 million.

Jose Montemayor, associate commissioner, financial program, has determined that, for each year of the first five-year period the amendment will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment and there will be no adverse effect on local employment or local economy.

Mr. Montemayor also has determined that for each year of the first five years the amended section will be in effect, the public benefit anticipated as a result of the proposed amendment will be greater protection of the United States policyholders of surplus lines insurers. There is no economic cost associated with the adoption, enforcement, or administration of the proposed amendment. Any other economic costs to surplus lines insurers complying with the amendment each year of the first five years the amendment will be in effect are the result of the legislative amendment of Insurance Code, Article 1.14-2, §8(d). The legislative amendment did not increase the minimum capital and surplus requirement of \$15 million for eligible surplus lines insurers, so an alien insurer can comply with the amendment by a reallocation of assets. Any economic cost to a surplus lines insurer qualifying as a small business under Government Code §2006.001 complying with the amendment for each year of the first five years the amendment is in effect will be the result of the legislative enactment and not as a result of the adoption, enforcement, or administration of the amendment.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Lynda H. Nesenholtz, General Counsel and Chief

Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Jose Montemayor, Associate Commissioner, Financial Program, Mail Code 305-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment to the section is proposed under the Insurance Code, Article 1.14-2, which authorizes the commissioner of insurance to adopt rules to enforce Article 1.14-2 and Article 1.03A, which authorizes the commissioner of insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

Insurance Code, Article 1.14-2, is affected by the amendment.

§ 15.8. *Eligibility Requirements of Surplus Lines Insurers.*

(a) An unauthorized insurer is not eligible to write surplus lines insurance in this state under the following circumstances:

(1)-(5) (No change.)

(6) it is an alien unauthorized insurer and does not provide evidence of an irrevocable trust fund in a Federal Reserve System member bank in the United States in an amount not less than \$5.4 million for the protection of all its policyholders in the United States. Such trust fund must comply with the Insurance Code, Article 1.14-2, § 8(d);

(7) (No change.)

(b)-(i) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on September 3, 1998.

TRD-9814034

Lynda H. Nesenholtz  
General Counsel and Chief Clerk  
Texas Department of Insurance

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 463-6327



## Part IV. State Office of Risk Management

### Chapter 251. State Employees-Workers' Compensation

#### Subchapter E. Workers' Compensation Claims Cost Allocation

##### 28 TAC §§251.500-251.506

The State Office of Risk Management (SORM) proposes the following new §§251.500-251.506 to be contained in 28 Texas Administrative Code, Chapter 251 regarding Workers' Compensation Claims Cost Allocation; SORM proposes new §251.500 concerning Definitions; §251.501 concerning Determination of Allocation Participants; §251.502 concerning Allocation Calculation; §251.503 concerning Quarterly Reports; §251.504 concerning Interagency Contracts; §251.505 concerning Reimbursement to the Claims Fund by State Agencies; and §251.506 Retention of Savings by State Agencies.

The proposed new rules are designed to implement the workers' compensation claims allocation program described in Texas Labor Code, chapter 412, §412.012(c). Section 412.012(c)(2) requires that SORM establish an allocation program for the payment of workers' compensation claims paid from the general revenue that are incurred by state agencies subject to Chapter 501 of the Texas Labor Code.

The proposed new rules describe how funds appropriated by the legislature for the payment of workers' compensation benefits for state employees are to be allocated among the participating agencies. The participating agencies are those that accounted for 90% of the state's general revenue claims for workers' compensation claims costs for the preceding state fiscal biennium. According to §412.012(c)(4), a state agency which is required to participate in the allocation program is rewarded or penalized for its actual performance against expected workers' compensation losses. If an agency exceeds its allocated amount, the agency is required to reimburse SORM for all expenditures in excess of the allocated amount. During the first biennium that the allocation program is in effect, an agency's reimbursement is limited to a maximum of 50% of the original allocation. In addition, if an agency's expenditures for the biennium are less than its allocated amount, the agency is entitled to retain a portion of its savings, subject to SORM's determination of the amount to be retained.

In order to implement the allocation program created by the legislature, SORM is required to establish a formula for allocating the state's workers' compensation costs among the identified agencies. Texas Labor Code, §412.012(c)(3) requires that SORM, in developing its allocation formula, consider an agency's claims experience, administrative costs incurred by SORM in administering the agency's claims, and the agency's claims experience. The proposed rules consider the factors required by statute and establish a system for rewards and penalties based upon an agency's performance.

Proposed new §251.500 provides definitions of terms used in the subsequent portions of the proposed rule. Proposed new §251.501 identifies the basis for participation in the allocation program. The participating agencies for the current biennium are those that accounted for 90% of claims costs during the previous biennium. Proposed new §251.502 bases an agency's claims allocation upon the agency's claims cost per average number of full-time equivalent employees during the prior fiscal biennium and the agency's anticipated number of FTEs for the current biennium and the agency's related administrative costs incurred per average number of FTEs for the current biennium. Section 251.502 also establishes how administrative costs incurred by SORM in administering an agency's claims will be factored into the allocation program. An agency's allocation amount is the total of anticipated claims costs for the fiscal biennium and anticipated administrative costs incurred. Proposed new §251.503 describes the information contained in quarterly reports to be made by SORM to the participating state agencies. Proposed new §251.504 requires that state agencies enter into interagency contracts with SORM in order to facilitate the reimbursement of any funds due under the allocation program or the receipt of any savings from the allocation program. In addition, interagency contracts are required by Texas Labor Code §412.021(c)(6). Proposed new §251.505 describes under what circumstances an agency will be required to reimburse the workers' compensation claims fund and the source of funds for reimbursements. Section 251.506 describes



factors to be considered by SORM in permitting agencies to retain a portion of any savings under the allocation program. Under this Section, if an agency exceeds its allocated amount, the agency is required to reimburse the workers' compensation claims fund, which is administered by SORM. An agency shall reimburse SORM 100% of all claims costs in excess of its allocated amount, subject to the limitation of Texas Labor Code §412.021(c)(6). Reimbursements are to be made from an agency's regularly appropriated funds.

The proposed rules comply with the intent of Texas Labor Code §412.012 because they provide added incentive to state agencies to continue or increase efforts to control workers' compensation costs.

Albert Betts, General Counsel, has determined that for the first five year period these sections are in effect there will be fiscal implications for state government. Those state agencies who are subject to Chapter 501 of the Texas Labor Code, may have to reimburse SORM from their regular appropriated budget if the agency exceeds their allocated amount. At this time, however, SORM is unable to estimate the exact amount of the fiscal impact. There will be no fiscal impact upon local government as a result of implementation of these proposed rules.

Mr. Betts has also determined that for each of the first five years that the proposed new rules are in effect, the public benefit anticipated as a result of enacting the proposed new rules will be that state agencies, in conjunction with SORM, will increase their efforts to control workers' compensation costs through increased risk management efforts, effective return to work programs, and effective claims administration. Increased risk management efforts should result in safer work environments for state employees. This, however, would not in any way prevent state employees who suffer compensable work related injuries from receiving the benefits to which they may be entitled. The proposed new rules would have no effect upon small businesses. SORM anticipates that there will be economic costs to persons required to comply with the rules for each of the first five years. SORM, however, is unable to accurately estimate these costs at this time.

Comments on the proposed rules must be submitted to Michelle Merka, Administrative Assistant, State Office of Risk Management, William P. Clements Building, 300 West 15th Street, 6th Floor, Austin, Texas 78711, fax (512) 472-0234, by 5:00 p.m. on October 13, 1998. A public hearing on these proposed rules is tentatively scheduled for September 29, 1998 at the State Capitol Building, Room E-1.010, Austin, Texas. SORM will post the notice for the Public Hearing in accordance with the requirements of the Texas Open Meetings Act. Those persons interested in attending the public hearing should contact Michelle Merka at (512) 936-1503 to confirm the date, time, and location of the public hearing.

SORM has authority to promulgate the proposed new rules pursuant to Texas Labor Code §§412.012, regarding financing of state workers' compensation benefits and 412.031 which authorizes the SORM Board of Directors to adopt rules necessary for the implementation of Texas Labor Code chapters 412 and 501. In accordance with Texas Labor Code §412.041(i), the Director of SORM will hold a public hearing on these proposed rules prior to their consideration for adoption.

The proposed new rules affect the following statutes: Texas Labor Code §412.012 regarding funding for the State Office of Risk Management; Texas Labor Code §412.031 which autho-

rizes the SORM Board of Directors to adopt rules necessary for the implementation of Texas Labor Code, Chapters 412 and 501; Texas Labor code §412.041 which requires that the Director of SORM prepare and recommend rules for administrative procedures consistent with Chapter 412 and 501 of the Labor Code; Texas Labor code §501.021 regarding compensation to state employees with a compensable injury; Texas Labor Code §501.022 regarding coverage for Texas Tech University employees; and Texas Labor Code §501.024 regarding persons who are excluded from coverage as a state employee.

§251.500. Definitions.

The following words and terms, when used in this section, shall have the following meanings, unless the text clearly indicates otherwise:

(1) Related Administrative Costs Incurred - adjusted loss expenses incurred by the State Office of Risk Management in administering the workers' compensation claims funds for the state agencies subject to Chapter 501 of the Texas Labor Code. Adjusted loss expenses include travel costs associated with attendance at Texas Workers' Compensation Commission benefit dispute resolution proceedings; cost containment services; and costs associated with claims investigations.

(2) Allocation Program - the method of financing for the workers' compensation claims fund as described in chapter 412 of the Texas Labor Code.

(3) Anticipated FTEs - the number of FTEs indicated for an agency in the current Appropriations Act.

(4) Average FTEs - The average number of full-time employees reported by an agency in the Texas State Auditor's Office quarterly report during the prior fiscal biennium.

(5) Biennium - The state of Texas' fiscal biennium.

(6) FTEs - full-time equivalent employees.

(7) SORM - State Office of Risk Management.

§251.501. Determination of Allocation Participants.

(a) Pursuant to Texas Labor Code §412.012(c)(3), SORM shall determine which state agencies accounted for 90% of the state's general revenue claims for workers' compensation claims costs for the preceding state fiscal biennium.

(1) This determination shall be based upon claims payment information contained in SORM's workers' compensation claims database. The agencies identified as accounting for 90% of workers' compensation claims costs are the participants in the allocation program for the current fiscal biennium.

(2) No later than October 1 of the first year of the fiscal biennium, SORM shall send written notification to those agencies identified as participants in the allocation program. The written notification shall include a detailed explanation of the amount allocated to the agency for the payment of workers' compensation claims, and the calculation used to determine the allocation amount.

(3) If an agency wishes to dispute its inclusion in the allocation program or its allocated amount, the agency must notify SORM, in writing, within 30 days of receipt of SORM's notice.

(b) An agency may only dispute inclusion in the allocation program or its allocated amount for the following reasons:

(1) inaccurate claims payment information for the preceding biennium.

(2) inaccurate information regarding FTEs.

(3) SORM shall review all disputes and respond to the disputing agency within 30 days of receipt of the dispute.

(4) SORM shall forward an interagency contract for the payment of any funds due to SORM or any funds to be reimbursed to the participating agency.

(5) The Texas Department of Mental Health and Mental Retardation is not subject to any of the provisions of this chapter but instead is subject to the Appropriations Act provisions for the payment of workers' compensation claims.

§251.502. Allocation Calculation.

(a) At the beginning of each fiscal biennium, SORM shall allocate the money appropriated by the legislature for payment of workers' compensation for state employee among the allocation participants.

(b) In order to determine the amount to be allocated from the appropriated funds to the allocation participants for the current fiscal biennium, SORM shall consider the following:

(1) Related costs incurred by SORM in administering the participating agency's workers compensation claims;

(2) Any anticipated changes in the agency's FTEs for the current biennium; and

(3) The participating agency's claims experience.

(c) Related costs incurred by SORM in administering an agency's claims shall be based upon the following:

(1) Travel expenses associated with SORM's employees' attendance at benefit dispute resolution proceedings before the TWCC;

(2) Costs incurred for medical cost containment services related to the particular agency's workers' compensation claims; and

(3) Costs incurred in conducting investigation of claims.

(4) Any funds paid by a state agency to SORM pursuant to an interagency contract entered into under the authority of Texas Labor Code §412.012(b), relating to administrative costs for risk management services, shall not be considered to be a portion of administrative costs incurred by SORM for purposes of this section.

(d) SORM shall determine an agency's workers' compensation claims cost allocation amount for the fiscal biennium based upon the following calculations:

(1) SORM shall calculate a participating agency's claims cost per average number of FTEs for the prior fiscal biennium by dividing the total amount of workers' compensation benefits paid during the prior fiscal biennium by the agency's average number of FTEs.

(2) The amount determined in paragraph (1) of this subsection shall be multiplied by the agency's anticipated number of FTEs for the current biennium.

(3) SORM shall then calculate a participating agency's related administrative costs incurred per average number of FTEs for the prior fiscal biennium by dividing related costs incurred during the prior fiscal biennium by the agency's average number of FTEs.

(4) The number determined in paragraph (3) of this subsection shall be multiplied by the agency's anticipated number of FTEs for the current biennium.

(5) The total determined in paragraph (2) and (4) of this subsection are to be combined. The combined total represents the

participating agency's allocated workers' compensation claims costs for the current biennium.

§251.503. Quarterly Reports.

SORM shall provide each participating agency with quarterly reports during the fiscal biennium which reflect:

(1) The agency's current workers' compensation claims payments;

(2) The agency's current related administrative costs;

(3) The agency's workers' compensation allocation; and

(4) The agency's current workers' compensation claims payments and related administrative costs in relation to its biennial claims allocation.

§251.504. Interagency Contracts.

(a) No later than December 1 of the first fiscal year of the biennium, SORM shall forward an interagency contract to each agency participating in the allocation program.

(b) Each participating state agency shall enter into an interagency contract with SORM for the payment of any reimbursements due to SORM or receipt of any savings retention due from SORM.

(c) Payment under the interagency contract shall be made no later than 30 days after receipt of notice of any amount due.

(d) The Texas Department of Mental Health and Mental Retardation will not be required to enter into an interagency contract.

§251.505. Reimbursement to the Claims Fund by State Agencies.

(a) If an agency's actual workers' compensation claims costs and related administrative costs exceed its allocated amount for the biennium, the agency shall reimburse SORM for all workers' compensation claims costs incurred during the remainder of the biennium.

(b) Reimbursements for workers' compensation claims costs shall be deposited to the workers' compensation claims fund for the payment of workers' compensation benefits.

(c) An agency which has exceeded its allocation amount shall reimburse SORM through interagency contracts. The amount to be reimbursed is determined by the amount of claims funds expenditures in excess of the agency's allocation and any applicable administrative costs incurred.

(d) SORM shall send an affected agency an Interagency Transaction Voucher and a notification of any amount due for reimbursement to SORM.

(e) The funds to be used by an agency in making any reimbursement to SORM, due to an agency exceeding its allocated amount, shall come from the affected agency's regular appropriated funds.

(1) During the first biennium that the allocation program is in effect, an agency's reimbursement for claims costs and administrative costs incurred is limited to a maximum of 50% of its original allocation amount.

(2) After the first biennium, an agency must reimburse SORM for all claims costs and administrative costs incurred.

(f) An agency's reimbursement to SORM, made pursuant to the provision of the Appropriations Act regarding Workers' Compensation Reimbursements, is not affected by the allocation program. In the event that an agency exceeds its allocation amount, the agency shall reimburse SORM its reimbursement as required

by the Appropriation Act and the additional reimbursement due under the allocation program. In no event shall the agency's total reimbursement to SORM from regularly appropriated funds total more than 100% of claims costs. Any reimbursement for workers' compensation claims costs to the general revenue fund, in accordance with the Appropriation Act, shall not be considered to be a reimbursement to SORM.

§251.506. Retention of Savings by State Agencies.

(a) If an agency's workers' compensation claims expenditures are less than its allocated amount for the biennium, the agency shall be permitted to retain a portion of its savings subject to the discretion of SORM. SORM will review the following factors in order to determine the amount of savings to be retained:

(1) the availability of workers' compensation claims funds for reimbursement; and

(2) the percentage of savings in relation to the agency's allocation amount.

(b) The SORM Executive Director shall determine the amount of savings to be retained by an agency after consideration of the factors listed in subsection (a)(1) and (2) of this section.

(c) SORM shall notify the affected agency of any amount to be retained by the agency. The affected agency shall then forward an Interagency Transaction Voucher to SORM in order to facilitate transfer of any funds.

(d) Any reimbursement to the state agency, as determined by SORM, will be made pursuant to the interagency contract.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on August 31, 1998.

TRD-9813778

Albert Betts, Jr.

General Counsel

State Office of Risk Management

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 936-1503



## TITLE 34. PUBLIC FINANCE

### Part IV. Employees Retirement System of Texas

#### Chapter 63. Board of Trustees

##### 34 TAC §63.4

The Employees Retirement System of Texas (ERS) proposes an amendment to §63.4, concerning the election of trustees and ballot distribution. The amendment is being proposed to clarify the manner by which ballots will be distributed to employees and retirees.

Mr. William S. Nail, Deputy Executive Director and General Counsel of the ERS, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Nail has also determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be clarification of how trustee election ballots will be distributed to employees and retirees. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207 or e-mail Mr. Nail at wnail@ers.state.tx.us.

The amendment is proposed under Government Code §§815.003 and 815.102, which provides authorization for the board to adopt rules necessary to nominate and elect trustees and to carry out other business of the board.

Government Code §815.003 is affected by this proposed amendment.

§63.4. Election of Trustees (Ballot).

(a)-(d) (No change.)

(e) The system/election administrator will, at least 25 calendar days in advance of the return due date established by the trustees, mail ballots to eligible voters in the manner currently used for annual distribution of the summary of benefit [individual system] statements and annuitant correspondence. Each such ballot will contain the printed name of the eligible voter for whose use it is intended. The system/election administrator will, simultaneously, mail 200 ballots without preprinted names to each candidate.

(f)-(i) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on September 2, 1998.

TRD-9813961

Sheila W. Beckett

Executive Director

Employees Retirement System of Texas

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 867-3336



#### Chapter 65. Executive Director

##### 34 TAC §65.3

The Employees Retirement System of Texas (ERS) proposes amendments to §65.3, concerning records of the system. The amendment is being proposed to update the current charges for copies of public information.

Mr. William S. Nail, Deputy Executive Director and General Counsel of the ERS, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Nail has also determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be an accurate price schedule for the cost of copying public information. There will be no effect on

small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendment may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78701-3207, or e-mail Mr. Nail at wnail@ers.state.tx.us.

The amendment is proposed under Government Code §815.102, which provides authorization for the board to adopt rules necessary to carry out other business of the board.

Government Code §815.102 is affected by this proposed amendment.

### §65.3. Records of the System.

(a)-(b) (No change.)

(c) The following guidelines are established for charges to be made for providing public information and copies of public information in the possession of the system.

(1) (No change.)

(2) Nonstandard-size paper copy-

(A) (No change.)

(B) Magnetic tape[~~-\$10.00 each.~~]

*(i)* 4 mm.-\$13.50 each;

*(ii)* 8 mm.-\$12.00 each;

*(iii)* 9-track-\$11.00 each;

(C)-(D) (No change.)

(E) Oversized paper copy - \$.50 each;

~~{(F) Other - actual cost.}~~

(F) Tape Cartridge:

*(i)* 250 MB-\$38.00 each;

*(ii)* 525 MB-\$45.00 each;

(G) Mylar (36-inch, 42-inch, and 48-inch)

*(i)* 3 mil.-\$.85/linear foot;

*(ii)* 4 mil.-\$1.10/linear foot;

*(iii)* 5 mil.-\$1.35/linear foot;

(H) Other - actual cost.

(3) Personnel charge[~~-\$15.00 per hour.~~]

(A) Programming personnel - \$26 per hour;

(B) Other personnel - \$15.00 per hour.

(4)-(6) (No change.)

(7) Computer resource charge-

(A)-(B) (No change.)

(C) Client/server-\$2.20 per hour [minute].

(D) PC or LAN-\$1.00 per hour [minute].

~~{(8) Programming time charge-\$26.00 per hour.}~~

(8) ~~{(9)}~~ Miscellaneous supplies-actual cost.

(9) ~~{(10)}~~ Postage and shipping charge-actual cost.

~~{(11) Fax charge.}~~

~~{(A) Local-\$1.10 per page.}~~

~~{(B) Long distance, same area code-\$0.50 per page.}~~

~~{(C) Long distance, different area code-\$1.00 per page.}~~

(10) ~~{(12)}~~ Access to information in other than standard-size form where no copies are made and the information is not readily available-\$15.00 per hour/personnel cost.

(11) Outsourced/contracted services - actual cost.

(12) No Sales Tax - No Sales Tax shall be applied to copies of public information.

(13) (No change.)

(d)-(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on September 2, 1998.

TRD-9813962

Sheila W. Beckett

Executive Director

Employees Retirement System of Texas

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 867-3336

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part IX. Texas Commission on Jail Standards

#### Chapter 259. New Construction Rules

The Commission on Jail Standards proposes amendment to §259.115 and §259.216 concerning New Construction Rules to amend to delete the requirement for a designated line-up space.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to allow the counties to utilize photo, video, or computerized line-up in lieu of lining inmates up against a wall for identification.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Lynn Weatherby, P.O. Box 12985, Austin, Texas, 78711, 512-463-5505.

#### Subchapter B. New Maximum Security Design, Construction and Furnishing Requirements

##### 37 TAC §259.115

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by this rule is Local Government Code, Chapter 351, 351.002 and 351.015.

§259.115. *Functions.*

Minimum space allocations shall provide for the following:

- (1)-(2) (No change.)
- (3) Support Services:
  - (A)-(M) (No change.)
  - (N) library.
  - ~~[(N) line-up;]~~
  - ~~[(O) library.]~~
- (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 28, 1998.

TRD-9813690  
Jack E. Crump  
Executive Director  
Texas Commission on Jail Standards  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 463-5505



### Subchapter C. New Lockup Design, Construction and Furnishing Requirements

#### 37 TAC §259.216

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by this rule is Local Government Code, Chapter 351, 351.002 and 351.015.

§259.216. *Functions.*

Minimum space allocations shall provide for the following:

- (1)-(2) (No change.)
- (3) Support Services:
  - (A)-(F) (No change.)
  - ~~[(G) line-up;]~~
- (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 28, 1998.

TRD-9813692  
Jack E. Crump  
Executive Director  
Texas Commission on Jail Standards  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 463-5505



### Chapter 261. Existing Construction Rules

The Commission on Jail Standards proposes amendments to §261.115 and §261.215 concerning Existing Construction Rules to amend to delete the requirement for a designated line-up space.

Jack E. Crump, executive director, has determined that for the first five year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Crump also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to allow the counties to utilize photo, video, or computerized line-up in lieu of lining inmates up against a wall for identification.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Lynn Weatherby, P.O. Box 12985, Austin, Texas, 78711, 512-463-5505.

#### Subchapter A. Existing Maximum Security Design, Construction and Furnishing Requirements

##### 37 TAC §261.115

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by this rule is Local Government Code, Chapter 351, 351.002 and 351.015.

§261.115. *Functions.*

Minimum space allocations should provide for, but not be limited to:

- (1)-(2) (No change.)
- (3) Support/Services:
  - (A)-(M) (No change.)
  - (N) library.
  - ~~[(N) line-up;]~~
  - ~~[(O) library.]~~
- (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 28, 1998.

TRD-9813691  
Jack E. Crump

Executive Director  
Texas Commission on Jail Standards  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 463-5505



## Subchapter B. Existing Lockup Design, Construction and Furnishing Requirements

### 37 TAC §261.215

The amendment is proposed under Government Code, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The statutes that are affected by this rule is Local Government Code, Chapter 351, 351.002 and 351.015.

#### §261.215. Functions.

Minimum space allocations should provide for, but not be limited to:

- (1)-(2) (No change.)
- (3) Support/Services:
  - (A)-(F) (No change.)
  - ~~[(G) line-up;]~~
- (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 28, 1998.

TRD-9813693  
Jack E. Crump  
Executive Director  
Texas Commission on Jail Standards  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 463-5505



## Chapter 300. Fees

### Subchapter A. Fees for Designated Services

#### 37 TAC §300.6

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Commission on Jail Standards proposes to repeal §300.6 concerning Fees due to §300.2(4) having been previously added to include performance of technical assistance as designated services which are fee recoverable when provided for applicable facilities.

Jack E. Crump, Executive Director, has determined that for the first five years the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Crump also determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section as proposed will be informing them as to what services the Commission provides and what services the Commission charges a fee for.

There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Lynn Weatherby, P.O. Box 12985, Austin, Texas 78711, 512-463-8089.

The repeal is proposed under Government Code, Chapter 511 which provide the Texas Commission on Jail Standards with the authority to revise, amend, or change rules and procedures if necessary.

The statutes that are affected by this rule are Local Government Code, Chapter 351, 351.002 and 351.015.

#### §300.6. Consultant and Technical Assistance.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 24, 1998.

TRD-9813470  
Jack E. Crump  
Executive Director

Texas Commission on Jail Standards  
Earliest possible date of adoption: October 18, 1998  
For further information, please call: (512) 463-5505



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part XX. Texas Workforce Commission

#### Chapter 800. General Administration

##### Subchapter A. General Provisions

#### 40 TAC §§800.1-800.4

The Texas Workforce Commission (Commission) proposes new §§800.1-800.4 concerning General Provisions pertaining to definitions, Historically Underutilized Businesses and gifts.

The purpose of the rules is to set forth the title and purpose of the subchapter, the definitions applicable to the chapter, the rules pertaining to Historically Underutilized Businesses (HUBs), and the ethics rules applicable to the Commission.

New Subchapter A, General Provisions, is proposed as the location for rules §§800.1 - 800.4.

New §800.1 sets forth the short title and purpose of the rules contained in this subchapter.

New §800.2 sets forth the definitions applicable to this chapter.

New §800.3 sets forth the provisions for assisting HUBs by incorporating by reference the General Services Commission rules regarding HUBs as directed by the 75th Legislature, Regular Session, House Bill 1 (General Appropriations Act) Art. IX, §124(5).

New §800.4 incorporates by reference the Texas Ethics Commission's rules regarding gifts from persons appearing before or regulated by the Commission. The Texas Ethics Commission's rules are incorporated by reference pursuant to Texas Government Code §571.063, which requires each regulatory agency in the executive branch to develop rules limiting the acceptance of gifts or other benefits from persons appearing before or regulated by the agency, which must be at least as restrictive as the rules of the Texas Ethics Commission.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rules will be in effect the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules;

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules;

There are no foreseeable implications relating to costs or revenue of the state or local government as a result of enforcing or administering the rules; and

There are no probable economic costs to persons required to comply with the rules.

John Moore, Assistant General Counsel, has determined that:

There is no anticipated adverse impact on small businesses as a result of enforcing or administering the rules because the rules do not require anything more than that which is already required by statute, the General Services Commission, or the Texas Ethics Commission; and

For each year of the first five years that the rules will be in effect, the public benefit expected as a result of the adoption of the proposed rules is to provide information to the public regarding the general provisions applicable to chapter 800 and to provide information regarding the rules pertaining to Historically Underutilized Businesses and ethics standards regarding gifts.

Comments on the proposed rules may be submitted to John Moore, Assistant General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 614, Austin, Texas, 78778-0001; telephone number (512) 463-3041. Comments may also be submitted via fax to (512) 463-2220 or e-mail at john.moore@twc.state.tx.us. Comments must be received by the Commission no later than thirty days after the date of publication of this proposal in the *Texas Register*.

The new rules are proposed under Texas Labor Code, §301.061 and §302.021, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Commission programs; 75th Legislature, Regular Session, House Bill 1 (General Appropriations Act) Art. IX, §124(5), which requires all state agencies to adopt the General Services

Commission rules regarding HUBs; and Texas Government Code §571.063, which requires each regulatory agency in the executive branch to develop rules limiting the acceptance of gifts or other benefits from persons appearing before or regulated by the agency, which must be at least as restrictive as the rules of the Texas Ethics Commission.

The proposed rules affect Texas Labor Code Title 2 and 4; 1 TAC Chapter 111, relating to the Historically Underutilized Business Certification Program and Texas Government Code Chapter 571 relating to the Texas Ethics Commission.

§800.1. Short Title and Purpose.

These rules may be cited as the General Provisions Rules. The purpose of this subchapter is to set forth the general provisions applicable to the Commission.

§800.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Commission – The Texas Workforce Commission

§800.3. Historically Underutilized Businesses.

(a) The Commission is committed to assisting Historically Underutilized Businesses (HUBs) as defined in Texas Government Code §2161.001, Definitions, in their efforts to participate in contracts to be awarded by the Commission. This includes assisting HUBs to meet or exceed the procurement utilization goals set forth in the Texas Administrative Code at 1 TAC Chapter 111 (relating to Executive Administration Division) incorporated herein by reference. Chapter 111 was promulgated by the General Services Commission and sets out the State's Historically Underutilized Business Certification Program.

(b) The Commission shall take positive steps to inform HUBs of opportunities to provide identified state services that it determines may better be provided through a competitive process.

§800.4. Gifts.

The Commission shall adhere to the Texas Ethics Commission's rules relating to the acceptance of gifts or other benefits from persons appearing before or regulated by the Commission pertaining to the Commission officers and employees and as adopted by the Texas Ethics Commission at 1 TAC Part II.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814065

J. Ferris Duhon

Assistant General Counsel

Texas Workforce Commission

Earliest possible date of adoption: October 18, 1998

For further information, please call: (512) 463-8812



# WITHDRAWN RULES

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An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

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**TITLE 22. EXAMINING BOARDS**

**Part IX. Texas State Board of Medical  
Examiners**

**Chapter 200. Integrative and Complementary  
Medicine**

**22 TAC §§200.1-200.3**

The Texas State Board of Medical Examiners has withdrawn from consideration for permanent adoption the proposed new §§200.1-200.3, which appeared in the July 3, 1998, issue of the *Texas Register* (23 TexReg 6822).

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814083

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: September 4, 1998

For further information, please call: (512) 305-7016



# ADOPTED RULES

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An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

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## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 1. Practice and Procedure

##### Subchapter G. Hearings

###### 16 TAC §1.130

The Railroad Commission of Texas adopts new §1.130, relating to telephonic proceedings, with changes to the proposed version published in the July 17, 1998, issue of the *Texas Register* (23 TexReg 7318). New §1.130 outlines the method to request a telephonic proceeding, how the proceeding shall be conducted, the establishment of the record in such proceedings, and the grounds for a default judgment or a dismissal.

New §1.130 permits a party to request to appear at a commission proceeding by telephone either in the request for a hearing or in a subsequent timely-filed motion. The request must be in writing, filed at the commission, and served on all parties, and must include the pertinent telephone number(s), the scope of the telephonic portion of the proceeding, and the identity of any witnesses that may testify telephonically. If expert witnesses will testify, the request must include their qualifications to testify as experts.

In determining whether it is feasible to conduct all or part of a proceeding telephonically, the hearings examiner must ensure that such proceeding will provide due process and will be fair, and must take into account the following factors: whether a party's request is timely; whether all parties have agreed in writing, and if so, whether the parties have demonstrated how witnesses will be separated, how coaching of witnesses will be prevented, why observing only a witness's oral demeanor is sufficient, how the witnesses' and parties' identities will be established; the number of parties; the number of witnesses; the number and type of exhibits; the distance of the parties or witnesses from Austin; the nature of the hearing; and any other pertinent factors which the examiner believes may affect the proceeding. If the examiner determines that a telephonic proceeding will be held, the examiner must notify the parties, and the parties must file and serve all documentary evidence, other than prefiled written testimony, in advance of the proceeding.

All substantive and procedural rights apply to telephonic proceedings, subject only to the limitations of the physical arrangement. The time and location of telephonic proceedings will be posted, and any person may, by advance request, be present in the room with the hearings examiner. The hearings examiner

will conduct telephonic proceedings using a speaker telephone; either the hearings examiner will make a tape recording of the telephonic proceeding, or the proceeding will be transcribed by a court reporter.

The hearings examiner will initiate the telephonic proceeding, including arranging any necessary conference call. When all parties appearing telephonically are connected, the hearings examiner will affirm the parties' consent to the telephonic proceeding; call the proceeding to order; ask for all parties to identify themselves, their locations, and their witnesses; affirm on the record the prior written agreement from all parties consenting to the telephonic appearance or proceeding; and state whether the proceeding is being memorialized by means of a tape recording or transcription of the proceeding. The hearings examiner will administer the oath to each witness individually, prior to his or her testimony.

If the hearings examiner decides or any party requests not to proceed with the telephonic proceeding at any time, or asserts that the presence of the parties or witnesses in the hearing room is necessary for full disclosure of the facts, the hearings examiner may postpone, continue, or recess the proceeding, as appropriate, until the earliest possible date and time for the proceeding to be reconvened with all participants present in person. The examiner must state on the record or in writing to all parties the reasons for terminating the telephonic proceeding and state the date, time, and location of the reconvened proceeding.

The commission may consider the following events to constitute a failure to appear and grounds for default or dismissal: failure to answer the telephone for more than 10 minutes after the scheduled time for the proceeding; failure to free the telephone for the proceeding for more than 10 minutes after the scheduled time for the proceeding; failure to be ready to proceed with the proceeding within 10 minutes of the scheduled time; and a party's intentional disconnection from the conference call. If the examiner is prevented from connecting all parties (due to technical difficulties, for example), the examiner may postpone, continue, or recess the proceeding, as appropriate, until the earliest possible date and time for the proceeding to be reconvened.

In the event of accidental disconnection of one or more parties to the proceeding, the hearings examiner will immediately recess the hearing and attempt to re-establish the connection or connections. If reconnection is achieved within 30 minutes, the hearings examiner may resume the telephonic hearing, or may postpone, continue, or recess the proceeding, as appropriate, until the earliest possible date and time for the proceeding

to be reconvened. The examiner must state on the record the date, time, and location of the reconvened proceeding. If reconnection cannot be achieved, then the hearings examiner recesses the telephonic proceeding until a date and time certain and at a location specified in a written notice of reconvened hearing.

The commission received two comments on the proposed new section. Lone Star Gas Company agreed generally with the overall aim of the rule. In a late-filed comment, Texas Oil & Gas Association (TxOGA) expressed neither support nor opposition, but raised one issue.

TxOGA's comment pointed out that the Commission had decided that telephonic hearings could be conducted in protested matters only when all parties agree, and observed that the current proposed draft appears to allow an examiner to conduct a telephonic proceeding even if a party objects. TxOGA suggested that the proposed rule be changed to incorporate the Commission's directive that telephonic proceedings may be conducted in a protested matter only when all parties agree.

As published, the proposed rule indeed does incorporate the Commission's directive. Subsection (a) of the proposed rule reads: The hearings examiner, on the timely written motion of a party or on the examiner's own motion and with the consent of all parties to a protested proceeding, may conduct all or part of a prehearing conference or hearing by telephone.

This language requires (1) either a timely motion by a party or the examiner's own motion, and (2) the consent of all parties to a protested proceeding. The factors listed in subsection (c) of the rule are designed to ensure that, even if all parties to a protested matter do agree to a telephonic proceeding, the hearing will provide due process and will be fair. In other words, the fact that the parties agree to a telephonic hearing does not require that the examiner conduct it in that manner.

Lone Star's comment offered minor revisions that it believed would make the rule more flexible. First, Lone Star stated that the determination whether a proceeding would be conducted telephonically should be made more than five days prior to the hearing, in order to allow the parties adequate time either to prepare for it or to confirm plans to attend a proceeding in Austin. Accordingly, Lone Star suggested that the references to "five days" in subsections (c)(2) and (d) should be changed to "ten days."

Second, Lone Star suggested a deadline for filing and serving documentary evidence longer than the three calendar days originally proposed, particularly considering that under §1.48(d), relating to service in protested contested cases, service is completed when a properly-addressed item is placed in an official mail depository. The minimum time Lone Star suggested is three business days, but five business days would be preferable, so that weekends, holidays, or slow mail deliveries do not cause the difficulties that would ensue should the hearing convene without all parties having received the documentary evidence.

Third, Lone Star observed that the deadline stated in subsection (e) should be made subsidiary to any applicable ruling by the hearings examiner, so that the examiner would have the authority to set a different deadline without the formality of a party requesting and having to show good cause for the change.

Finally, Lone Star commented that subsection (e) should exclude from the scope of the term "documentary evidence" pre-

filed written testimony filed pursuant to §1.105, which governs the filing of written testimony.

The commission agrees that the changes suggested by Lone Star provide helpful flexibility in the rule; finds that incorporating such changes in the rule upon adoption comes fairly within the scope of the notice of proposed rulemaking; and adopts the rule as amended by the changes Lone Star proposed.

The commission adopts the new section under the Texas Government Code, §2001.004(1), which requires the commission to adopt rules of practice stating the nature of all available formal and informal procedures.

Texas Government Code, §2001.004(1), is affected by the new section.

*§1.130. Telephonic Proceedings.*

(a) The hearings examiner, on the timely written motion of a party or on the examiner's own motion and with the consent of all parties to a protested proceeding, may conduct all or part of a prehearing conference or hearing by telephone.

(b) A party may request to appear at a prehearing conference or a hearing by telephone.

(1) All motions requesting a telephonic appearance or proceeding shall be in writing, shall be filed at the commission and served on all parties not less than 20 days prior to the proceeding, and shall include the pertinent telephone number(s).

(2) If the request is to conduct only a portion of the proceeding by telephonic means, the requesting party shall specify the part of the proceeding to be conducted telephonically.

(3) If the proceeding involves testimony, the requesting party shall identify the witnesses and, for expert witnesses, their qualifications to testify as experts.

(4) Responses to a request for telephonic appearance shall be made in accordance with §1.28 of this title (relating to Responsive Pleadings and Emergency Action).

(5) Upon agreement of the parties or a finding of good cause, the examiner may modify the times for filing a request for telephonic appearance and/or responses to such a request, and for filing witness information.

(c) In considering whether conducting all or part of a prehearing conference or hearing by telephone is feasible, the hearings examiner shall ensure that the telephonic hearing will provide due process and will be fair, and shall take into account the following factors:

(1) whether a party's request for such is timely;

(2) whether all parties to a protested proceeding have agreed in writing, filed no later than ten days prior to the proceeding, to conducting all or part of the proceeding via telephone;

(3) whether the parties have demonstrated:

(A) how witnesses will be separated;

(B) how coaching of witnesses will be prevented;

(C) why observing a witness's oral demeanor is adequate to make a reliable determination of the truth of the witness's testimony; and

(D) how the witnesses' and parties' identities will be established;

- (4) the number of parties;
- (5) the number of witnesses;
- (6) the number and type of exhibits;
- (7) the distance of the parties or witnesses from Austin;
- (8) the nature of the hearing; and
- (9) any other pertinent factors which the examiner believes may affect the proceeding.

(d) The hearings examiner shall issue a ruling not less than ten days prior to the proceeding stating whether the proceeding will be conducted, in whole or in part, telephonically. In addition, the examiner shall notify all parties by telephone or by facsimile transmission of the ruling. The parties may waive this notice deadline.

(e) Unless otherwise directed by the hearings examiner, the proponent of any documentary evidence other than prefiled written testimony filed pursuant to the provisions of §1.105 of this title (relating to Written Testimony) shall serve copies of that evidence on all parties and the hearings examiner no later than five business days prior to the telephonic proceeding. All documentary evidence shall be clearly labeled with the name of the sponsoring party and a unique document number. With the consent of the hearings examiner, a party may supplement or amend evidence less than three days prior to the proceeding or during the proceeding.

(f) All substantive and procedural rights apply to telephonic proceedings, subject only to the limitations of the physical arrangement.

(g) The time and location of telephonic proceedings shall be properly posted, and any person may, by advance request, be present in the room with the hearings examiner.

(h) The hearings examiner shall conduct telephonic proceedings using a speaker telephone. The hearings examiner shall make a tape recording of the telephonic proceeding, or the proceeding may be recorded by a court reporter by prior arrangement, pursuant to §1.129 of this title (relating to Reporters and Transcripts).

(i) The telephonic proceeding, including arranging the conference call, shall be initiated by the hearings examiner. When all parties appearing telephonically are connected, the hearings examiner shall affirm the parties' consent to the telephonic proceeding.

(1) The hearings examiner shall then call the proceeding to order and ask for all parties to identify themselves, their locations, and their witnesses.

(2) The hearings examiner shall affirm on the record the prior written agreement from all parties consenting to the telephonic appearance or proceeding and shall state whether the proceeding is being memorialized by means of a tape recording or transcription of the proceeding.

(3) The hearings examiner shall administer the oath to each witness individually, prior to his or her testimony.

(j) If the hearings examiner is prevented from establishing the telephonic connection for the proceeding through circumstances which are beyond the control of any party or the examiner; which cannot be attributed to any party's intentional or negligent conduct; and which continue for at least 30 minutes past the time for beginning the hearing, the hearings examiner may postpone, continue, or recess the proceeding, as the hearings examiner deems appropriate, until the earliest possible date and time for the proceeding to be reconvened.

The hearings examiner shall state on the record or in writing to all parties the date, time, and location of the reconvened proceeding.

(k) If the hearings examiner decides or any party requests not to proceed with the telephonic proceeding at any time, or asserts that the presence of one or more of the parties or witnesses in the hearing room is necessary for full disclosure of the facts and states the reasons for such an assertion, the hearings examiner may postpone, continue, or recess the proceeding, as the hearings examiner deems appropriate, until the earliest possible date and time for the proceeding to be reconvened with all participants present in person. The examiner shall state on the record and in writing to all parties the reasons for terminating the telephonic proceeding and the date, time, and location of the reconvened proceeding.

(l) The commission may consider the following events to constitute a failure to appear and grounds for default or dismissal:

(1) failure to answer the telephone for more than 10 minutes after the scheduled time for the proceeding;

(2) failure to free the telephone for the proceeding for more than 10 minutes after the scheduled time for the proceeding;

(3) failure to be ready to proceed with the proceeding within 10 minutes of the scheduled time; and

(4) a party's intentional disconnection from the call.

(m) In the event of accidental disconnection of one or more parties to the proceeding, the hearings examiner shall immediately recess the hearing and attempt to re-establish the connection or connections.

(1) If reconnection is achieved within 30 minutes, the hearings examiner may resume the telephonic hearing, or may postpone, continue, or recess the proceeding, as the hearings examiner deems appropriate, until the earliest possible date and time for the proceeding to be reconvened. The examiner shall state on the record or in writing to all parties the date, time, and location of the reconvened proceeding.

(2) If reconnection cannot be achieved within 30 minutes, then the hearings examiner shall recess the telephonic proceeding until a date and time certain and at a location specified in a written notice of reconvened hearing.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 1, 1998 and filed with the Office of the Secretary of State on September 1, 1998.

TRD-9813852

Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

Effective date: September 21, 1998

Proposal publication date: July 17, 1998

For further information, please call: (512) 463-7008



## Chapter 7. Gas Utilities Division

### Subchapter B. Substantive Rules

#### 16 TAC §7.45

The Railroad Commission of Texas adopts amendments to §7.45, relating to the commission's quality of service rules for gas utilities, without changes to the proposed version published in the July 17, 1998, issue of the *Texas Register* (23 TexReg 7321). Section 7.45 sets forth minimum service standards for gas utility service to residential and small commercial customers.

The amendment implements the provisions of House Bill 670, 73rd Legislature, 1993, later codified in Texas Civil Statutes, Article 1446c-2, and subsequently in Texas Utilities Code, §§182.001-182.005. New paragraph (2)(E) requires gas utilities to permit persons 60 years of age and older to delay payment of gas utility bills without penalty for up to 25 days after the utility bill is issued.

The commission received no comments on the proposed amendment.

The commission adopts the amendment under Texas Utilities Code, §104.001, which authorizes the commission to determine the classification of customers and services and to ensure that gas utilities comply with the obligation of the Code, and §§182.001-182.005, which provide for the delay without penalty of the payment date of gas utility bills by elderly persons.

Texas Utilities Code, §§104.001 and 182.001-182.005, are affected by the amendment.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

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Proposal publication date: July 17, 1998

For further information, please call: (512) 463-7008



## 16 TAC §7.74

The Railroad Commission of Texas adopts the repeal of existing §7.74, relating to school piping testing, and new §7.74, relating to school piping testing, without changes to the version published in the May 29, 1998, issue of the *Texas Register* (23 TexReg 5547).

On November 21, 1997, a representative of Texas local distribution companies filed a petition for rulemaking that proposed modifications to the then recently-adopted §7.74. The commission reviewed the petition and incorporated most of the requested changes in new §7.74, which comprehensively describes the duties and obligations of all parties under the statute that requires the biannual inspection of natural gas piping in school facilities, Texas Civil Statutes, Article 6053-2a, and clarifies definitions, testing procedures, and time lines for compliance. Because the petition also rearranged the portions of existing §7.74 that would be retained, for ease of review the commission proposed the simultaneous repeal of the existing rule and the adoption of the newly-reorganized and amended version.

New §7.74 includes definitions for "school district," "school district facility," "natural gas supplier," "other inspection," and "Act." The commission changed the petition's requested definition of "natural gas supplier" to match that in Texas Civil Statutes, Article 6053-2a, which is a more comprehensive definition.

The commission also modified the petition's requested procedures, found in subsection (c) of this section. As adopted, §7.74(c) requires a natural gas supplier that sells and delivers natural gas to school district facilities to develop procedures for (1) receiving written notice from school districts specifying the date and result of each test; and (2) terminating natural gas service in the event that either a hazardous leak is found during testing or testing is not completed in the required intervals. The gas supplier is also responsible for maintaining a list of school district facilities to which it sells and delivers natural gas, as well as copies of test results for a period of at least two years. New §7.74 outlines who is qualified to conduct testing and when the testing shall be conducted, as well as the procedures for conducting the testing.

New §7.74 includes two provisions not found in the previous version of §7.74, specifically (c)(3) and (4), which outline the limits of responsibilities of natural gas suppliers under this rule, and identify methods of compliance. The commission modified the sections as proposed in the original petition to incorporate the requested changes yet still be consistent with the requirements of Texas Civil Statutes, Article 6053-2a.

The remaining provisions focus on clarifying the types of tests that comply with this rule and labeling the section as "Testing." The commission also added language to clarify that a person conducting testing must be "qualified" and must notify both the school district and the natural gas supplier in the event of a leak. In the event of either failure to test or report of a hazardous leak, the supplier is responsible for terminating service.

The commission received comments from one individual opposed to the testing methods proposed in the rule. The comments suggested that other methods, specifically shut-in tests, be used to perform pressure tests. However, this testing method would not meet the requirements of the Act; therefore no changes were made to the proposed rule.

The commission adopts the repeal under Texas Utilities Code, §§121.201-121.205, which authorize the commission to adopt safety standards and practices applicable to the transportation of gas and to all gas pipeline facilities within Texas to the maximum degree permissible under, and to take any other requisite action in accordance with, 49 U.S.C. §60101, *et seq.* (West 1997), and under Texas Civil Statutes, Article 6053-2a, which directs the Railroad Commission of Texas to enforce the article.

Texas Utilities Code, §§121.201-121.205, and Texas Civil Statutes, Article 6053-2a, are affected by the repeal.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 1, 1998 and filed with the Office of the Secretary of State on September 1, 1998.

TRD-9813854

Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

Effective date: September 21, 1998  
Proposal publication date: May 29, 1998  
For further information, please call: (512) 463-7008



The commission adopts new §7.74 under Texas Utilities Code, §§121.201-121.205, which authorize the commission to adopt safety standards and practices applicable to the transportation of gas and to all gas pipeline facilities within Texas to the maximum degree permissible under, and to take any other requisite action in accordance with, 49 U.S.C. §60101, *et seq.* (West 1997), and under Texas Civil Statutes, Article 6053-2a, which directs the Railroad Commission of Texas to enforce the article.

Texas Utilities Code, §§121.201-121.205, and Texas Civil Statutes, Article 6053-2a, are affected by the new rule.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Mary Ross McDonald  
Deputy General Counsel  
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## TITLE 22. EXAMINING BOARDS

### Part IX. Texas State Board of Medical Examiners

#### Chapter 163. Licensure

##### 22 TAC §163.1

The Texas State Board of Medical Examiners adopts an amendment to §163.1, concerning definitions, without changes to the proposed text as published in the July 3, 1998, issue of the *Texas Register* (23 TexReg 6819) and will not be republished.

The amendment is adopted to ensure continuity with the Medical Practice Act and to be consistent with current terminology. The section amends paragraph (16)(G)(ii) to change the name of American Osteopathic Association to Bureau of Osteopathic Specialists.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814080  
Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Effective date: September 24, 1998  
Proposal publication date: July 3, 1998  
For further information, please call: (512) 305-7016



#### Chapter 183. Acupuncture

##### 22 TAC §183.13

The Texas State Board of Medical Examiners adopts an amendment to §183.13, concerning patient records, without changes to the proposed text as published in the July 3, 1998, issue of the *Texas Register* (23 TexReg 6820) and will not be republished.

The section is amended to clarify the patient's responsibility relating to referral to a physician or chiropractor.

The form contained in subsection (a), paragraph (11) is amended to include the word whether.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9814081  
Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Effective date: September 24, 1998  
Proposal publication date: July 3, 1998  
For further information, please call: (512) 305-7016



#### Chapter 193. Standing Delegation Orders

##### 22 TAC §193.8

The Texas State Board of Medical Examiners adopts new §193.8, concerning delegated administration of immunizations or vaccinations by a pharmacist under written protocol, with nonsubstantive changes (193.8(e)(1)(C)) to the proposed text as published in the July 3, 1998, issue of the *Texas Register* (23 TexReg 6821).

The new section is adopted because it has been mandated by Senate Bill 786, 75th Legislature.

The following comments were received:

Texas Medical Association - This organization commented that proposed §193.8 should be amended to add a new section to encourage or require pharmacists or physicians to coordinate their activities with the Texas Department of Health or other public health authority to relate doses of immunizations provided as well as adverse reactions that may result from such administration of immunizations.

The following are the reasons why the Board disagrees with the submissions and proposals set forth above: The Board believes that since physicians are bound by all state and federal requirements regarding the practice of medicine, a statement to this effect is unnecessary.

Texas Nurses Association- This organization commented that the Pharmacy Act requires that as a condition of a pharmacist's administering immunizations or vaccinations that no licensed health care provider authorized to administer medications be reasonably available to administer the immunization. TNA felt that a physician who knowingly delegated to a pharmacist when such a health care provider was available would constitute inappropriate and illegal delegation. Accordingly, TNA commented that proposed §193.8 should be amended by adding a new subparagraph (G) to subsection (e)(1) relating to what the written protocol should contain:

(G) a statement that the pharmacist may not administer the immunization or vaccination if a licensed health care provider authorized to administer the immunization or vaccination is reasonably available to do so. For purposes of this section, "reasonably available" means a) in a health care facility, including a nursing home and hospital, with licensed health-care providers on staff, those times when such a provider is available to administer the immunization within 24 hours, and b) in other settings, those times when a licensed health-care provider is on site and readily available to administer the immunization without inconveniencing the patient or client.

The following are the reasons why the Board disagrees with the submissions and proposals set forth above: These concerns were considered by the Board of Medical Examiners, however, the Board felt that these concerns would be more appropriately addressed by the Pharmacy Board in their rules regarding the delegated administration of immunizations or vaccinations by a pharmacist under protocol.

The group went on to comment that subsection (e)(1)(C) should be amended to include the following language which has been italicized:

(C) a statement identifying the location(s) at which the pharmacist may administer immunizations or vaccinations *which may not include where the patient resides, except for a licensed nursing home or hospital.*

The following are the reasons why the Board disagrees with the submissions and proposals set forth above: Not applicable. The Board agrees with the comments received and incorporates the suggested change as a nonsubstantive amendment to the published proposal.

Texas Academy of Family Physicians- This group commented that proposed §193.8(d)(2) should be amended to read: "Has

an established physician-patient relationship with each patient under 14 years of age and referred the patient to the pharmacist;

The group felt that this change would convey a pre-existing physician-patient relationship, as opposed to a relationship developed strictly upon a need for immunization.

The group further commented that proposed §193.8 subsection (e)(1)(F) should be amended to read: a statement that describes the content of, and the appropriate mechanisms for the pharmacist to report the administration of immunizations or vaccinations to the physician issuing the written protocol as well as the patient's primary care physician within 24 hours of administering the immunization or vaccination.

The following are the reasons why the Board disagrees with the submissions and proposals set forth above: The Board considered these comments, but felt that these amendments were not necessary because these comments have already been incorporated by the Pharmacy Board in their rules governing the delegation by physicians to pharmacists of the administration of immunizations or vaccinations under protocol.

The new rule is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

*§193.8. Delegated Administration of Immunizations or Vaccinations by a Pharmacist under Written Protocol.*

(a) Purpose. This section is promulgated to promote the efficient administration and regulation of the delegation by physicians to pharmacists of the administration of immunizations or vaccinations under written protocol pursuant to the Medical Practice Act, §3.061 (related to Delegation of Certain Functions).

(b) Delegation. A physician licensed to practice medicine in Texas may delegate to a properly qualified and trained pharmacist acting under adequate supervision the administration of immunizations and vaccinations authorized by the physician through the physician's order, standing medical order, standing delegation order, or other order or protocol as provided for in this section.

(c) Delegated Administration of Immunizations and Vaccinations under Written Protocol. Administration of Immunizations and Vaccinations does not include the selection of drug products not prescribed by the physician unless the drug product is named in the physician initiated protocol.

(d) Supervision. Physician supervision shall be considered adequate for purposes of this section if the delegating physician is in compliance with this section and the physician:

(1) is responsible for the formulation or approval of the physician's order, standing medical order, standing delegation order, or other order or written protocol and periodically reviews the order or protocol and the services provided to the patient under the order or protocol on a schedule defined in the written protocol;

(2) has established a physician-patient relationship with each patient under 14 years of age and referred the patient to the pharmacist;

(3) is geographically located so as to be easily accessible to the pharmacist administering the immunization or vaccination;



(4) receives, on a schedule defined in the written protocol, a periodic status report on the patient, including any problem or complication encountered; and

(5) is available through direct telecommunication for consultation, assistance, and direction.

(e) Written protocol. Written protocols for purposes of this section shall mean a physician's order, standing medical order, standing delegation order, or other written order.

(1) A written protocol must contain at a minimum the following listed in subparagraphs (A)-(F) of this paragraph:

(A) a statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of immunizations or vaccinations;

(B) a statement identifying the individual pharmacist authorized to administer immunizations or vaccinations as delegated by the physician;

(C) a statement identifying the location(s) at which the pharmacist may administer immunizations or vaccinations which may not include where the patient resides, except for a licensed nursing home or hospital;

(D) a statement identifying the immunizations or vaccinations that may be administered by the pharmacist;

(E) a statement identifying the activities the pharmacist shall follow in the course of administering immunizations or vaccinations including procedures to follow in the case of reactions following administration; and

(F) a statement that describes the content of, and the appropriate mechanisms for the pharmacist to report the administration of immunizations or vaccinations to the physician issuing the written protocol within 24 hours of administering the immunization or vaccination.

(2) A standard protocol may be used, or the physician may develop an immunization or vaccination protocol for the individual patient. If a standard protocol is used, the physician shall record, what deviations if any, from the standard protocol are ordered for that patient.

(f) Review and revision of protocols.

(1) At least annually, written protocols shall be reviewed by the physician and, if necessary, revised.

(2) Documentation of the administration of immunizations or vaccinations to the patient by a pharmacist shall be reviewed by the physician on the schedule established in the protocol.

(g) Construction and interpretation. This section shall not be construed or interpreted to restrict the use of a pre-established health care program or restrict a physician from authorizing the provision of patient care by use of a pre-established health care program if the patient is institutionalized and the care is to be delivered in a licensed hospital with an organized medical staff that has authorized standing delegation orders, standing medical orders, or protocols. This section may not be construed to limit, expand, or change any provision of law concerning or relating to therapeutic drug substitution or administration of medication, including the Texas Pharmacy Act, Article 4542a-1, Vernon's Texas Civil Statutes, §17(a)(5).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814082

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: September 24, 1998

Proposal publication date: July 3, 1998

For further information, please call: (512) 305-7016



## Part XV. Texas State Board of Pharmacy

### Chapter 309. Generic Substitution

#### 22 TAC §309.3

The Texas State Board of Pharmacy (Board) adopts an amendment to §309.3, concerning Prescription Drug Orders without changes to the proposed text as published in the July 3, 1998 issue of the *Texas Register* (23 TexReg 6829). This amendment implements the provisions of section 21 of Senate Bill 609 passed by the 75th Legislature which requires the Board to establish, by rule, a list of narrow therapeutic index drugs.

The adopted amendment to the rule incorporates the recommendations of a Task Force composed of representatives from the Texas State Board of Pharmacy, Texas State Board of Medical Examiners, pharmacy and medical associations, and generic and brand name manufacturers. The amendment, as specified in the legislation, requires a pharmacist to notify the patient and the prescribing physician if the pharmacist refills a prescription for a narrow therapeutic index drug with a generically equivalent product different from the product used on the previous refill. The adopted amendment outlines the conditions under which this substitution may occur. The amendment also establishes a list of narrow therapeutic index drugs, which are subject to the provisions of the new section 40(m) of the Texas Pharmacy Act. Narrow therapeutic index drugs are drugs in which a small variance of the drug level in the blood can change the effectiveness or toxicity of the drug. The list contains those drugs that health-care practitioners generally monitor closely through lab tests to ensure that the drug remains at the appropriate blood level for the individual patient. The Texas State Board of Medical Examiners has reviewed the list established by the committee and agrees that the list of drugs in the proposed amendment is appropriate for the purpose of section 40(m) of the Texas Pharmacy Act. In addition, Board staff has reviewed the laws and rules in other states and has determined that this list is consistent with similar lists in at least five states (Arkansas, Florida, Kentucky, North Carolina, and Virginia).

There has been a great deal of confusion and misinformation as to exactly what the new section 40(m) of the Texas Pharmacy Act and the adopted rules say and do. It is important to note that new section 40(m) as passed by the Legislature and the adopted rules do not prohibit or restrict substitution of narrow therapeutic index drugs. In fact, the law and adopted rules do not change any of the procedures and requirements for generic substitution on the initial prescription.

A pharmacist is still allowed to substitute a generically equivalent drug product for a brand name drug product if: (1) the physician authorizes the substitution; (2) the patient does not refuse the substitution; (3) the equivalent drug costs the patient less

than the brand name product; and (4) the pharmacist chooses a generic drug product that is rated as equivalent to the brand name by the federal Food and Drug Administration (FDA) in its publication titled: "Approved Drug Products with Therapeutic Equivalence Evaluations" or the "Orange Book." The fact that a drug product is included on the list in this adopted rule in no way questions the therapeutic equivalence of a generic version of the drug product if FDA has determined the drug product is equivalent to the brand name product.

The law and adopted rules should, more appropriately, be referred to as the "NTI notification requirements." The law and adopted rules simply require that, if a pharmacist cannot refill a prescription on which the physician has authorized generic substitution with the same product used on the previous filling of the prescription, the pharmacist may dispense another generically equivalent drug product, provided the pharmacist notifies: (1) the patient of the change at the time of dispensing; and (2) the prescribing physician of the change within 72 hours after the prescription is dispensed.

The law and adopted rules do not require the pharmacist to "get permission from the physician to use another generically equivalent drug product." The substitution instructions to the pharmacist are included on the initial prescription and, as the rules state in subsection (d)(1), all "refills shall follow the original substitution instructions." The notice requirement in the adopted amendment promotes good communication between the patient, the prescribing practitioner, and the pharmacist, particularly with regard to medications that require frequent monitoring of performance.

The agency received oral comments on the rule at a public hearing on August 4, 1998, and also received numerous written comments. A total of 15 persons commented at the public hearing and 72 letters of written comments were received. Included in these comments were those of nine organizations.

The organizations commenting in favor of the rule included: Texas Academy of Family Physicians, Epilepsy Foundation of Central and South Texas, Epilepsy Foundation of Greater North Texas. Each of these organizations commented that the notification requirement in the rule would provide for better patient care and, therefore, was in the best interest of the patient. In addition to these organizations, several individual comments also expressed this opinion. The agency agrees with these comments.

Organizations commenting against the rule included: Texas Citizens for a Sound Economy; Gray Panthers; Citizens Against Government Waste; National Pharmaceutical Alliance; and National Association of Chain Drug Stores. Each of these organizations expressed concern that the rule would limit the substitution of generic alternatives to brand name products and thus increase the cost of prescription drugs to the consumer. In addition to these organizations, several individual comments also expressed this opinion. The agency disagrees with these comments because the rule does not prohibit the substitution of generic drug products for brand name products. The Texas Society of Health-System Pharmacists commented that FDA should still continue to be the authority in terms of determining the equivalence and substitutability of drugs. The Board agrees with this comment and notes that current rules specify that a pharmacist may only substitute drugs that are rated equivalent to the brand name product by the FDA. This rule does not change this requirement.

A number of comments asked the agency to amend the list of drugs to include only those drugs that are not considered to be therapeutically equivalent to their brand name counterpart by the FDA. The agency disagrees with this proposal because the purpose of the rule is to require notification to the physician and patient if the pharmacist dispenses a different equivalent drug product on a refill. Texas Pharmacy rules specify that a pharmacist can only substitute drug products if the FDA has rated the products equivalent. If the list only included drugs that were not equivalent, it would essentially be a non-list, because none of the products on the list could be used by the pharmacist for substitution.

One comment asked the agency to delete warfarin sodium from the list of drugs. The agency disagrees with this comment because patients taking warfarin sodium are required to be closely monitored by health care professionals when taking this product, whether they are taking the generic or the brand name product. Many factors, including diet and patient compliance, can affect the absorption rate of the drug and subsequent effect of the drug. Therefore, it is important that the physician be informed of any change in the patient's drug regimen, including a change in the drug product dispensed.

Several comments expressed concern that the rule would limit a patient's choice to receive a less expensive generic drug product and thereby increase the cost of prescription drugs to the patient. As mentioned above, the agency disagrees with these comments because the rule does not prohibit or restrict in any way the substitution of a less expensive generic drug product. The rule simply requires notification to the patient and physician when a pharmacist cannot refill a prescription with the same drug product used on the last filling of the prescription.

Several comments asked the Board to support efforts to make sure that, when a physician requests a brand name and specific formulation of NTI drugs, no substitutions occur. The Board does not consider these comments as being for or against the proposed amendment. The Board agrees under Texas law that pharmacists may not substitute a generic equivalent when a physician has not authorized substitution.

The agency also received 12 comments from members of the Texas Legislature. Five were in favor of the rule as proposed, and seven suggested modification of the list.

The amendment is adopted under Sections 4, 16(a), and 40(m) of the Texas Pharmacy Act (Article 4542a-1, Texas Civil Statutes). The Board interprets section 4 as authorizing the agency to adopt rules to protect the public health, safety, and welfare through the effective control and regulation of the practice of pharmacy. The Board interprets section 16(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. The Board interprets section 40(m) as directing the agency to consult with the Board of Medical Examiners and by rule to establish a list of narrow therapeutic index drugs.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 2, 1998.

TRD-9813977

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy  
Effective date: September 22, 1998  
Proposal publication date: July 3, 1998  
For further information, please call: (512) 305-8028

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**TITLE 25. HEALTH SERVICES**

**Part II. Texas Department of Mental Health and Mental Retardation**

**Chapter 403. Other Agencies and the Public**

**Subchapter O. Administrative Hearings of the Department in Contested Cases**

**25 TAC §§403.451-403.463**

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts the repeals of §§403.451 - 403.463 of Chapter 403, Subchapter O, concerning administrative hearings of the department in contested cases, without changes to the proposed text as published in the June 12, 1998, issue of the *Texas Register* (23 TexReg 6126). New §§411.151 - 411.163 of new Chapter 411, Subchapter D, concerning the same, which replace the repealed sections, are contemporaneously adopted in this issue of the *Texas Register*.

The subchapter describes the procedures for all department administrative hearings involving contested cases. The procedures adequately protect the rights of all parties involved; are consistent with due process requirements of the Texas and federal constitutions; and result in fair and expeditious decisions.

No public comment on the proposed repeals was received.

These sections are adopted under the Texas Health and Safety Code, §532.015, which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority, and the Texas Government Code, §2001.004, which requires the department to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814060  
Charles Cooper  
Chairman, Texas MHMR Board  
Texas Department of Mental Health and Mental Retardation  
Effective date: September 28, 1998  
Proposal publication date: June 12, 1998  
For further information, please call: (512) 206-4516

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**Chapter 409. Medicaid Programs**

**Subchapter C. Fraud and Abuse and Recovery of Benefits**

**25 TAC §409.69**

The Texas Department of Mental Health and Mental Retardation (department) adopts new §409.69 of Chapter 409, Subchapter C, concerning fraud, abuse, and recovery of benefits, without changes to the text as proposed in the July 10, 1998, issue of the *Texas Register* (23 TexReg 7172).

The new section is adopted pursuant to Acts 1997, 75th Legislature, Chapter 1153, §2.07, which requires the development of a new provider contract that contains provisions designed to strengthen the department's ability to prevent provider fraud under the state Medicaid program. The department is required to promulgate a rule requiring Medicaid providers to re-enroll in the program under the new contract or modify the provider's existing contract by September 1, 1999.

A public hearing was held Thursday, July 30, 1998, and no oral testimony was given. No written comments were received from the public.

The new section is adopted under the Texas Human Resources Code, §32.021, Texas Government Code, §531.021, Texas Health and Safety Code, §532.015(a), and Acts 1997, 75th Legislature, Chapter 1153, §2.07.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9814062  
Charles Cooper  
Chairman, Texas MHMR Board  
Texas Department of Mental Health and Mental Retardation  
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For further information, please call: (512) 206-4516

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**Chapter 410. Volunteer Services and Public Information**

**Subchapter B. Community Relations**

**25 TAC §§410.51-410.76**

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts the repeals of §§410.51-410.76 of Chapter 410, Subchapter B, concerning community relations, without changes to the proposed text as published in the June 12, 1998, issue of the *Texas Register* (23 TexReg 6126-6127). New §§417.301-417.316 of new Chapter 417, Subchapter G, concerning the same, which replace the repealed sections, are contemporaneously adopted in this issue of the *Texas Register*.

The repeals allow for the adoption of new sections.

No public comment on the proposed repeals was received.

These sections are adopted under the Texas Health and Safety Code, §532.015, which provides the Texas MHMR Board with broad rulemaking authority and the Texas Government Code, Chapter 2255, which authorizes the adoption of rules governing the relationship between certain private organizations and TDMHMR and its employees.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814059

Charles Cooper

Chairman, Texas MHMR Board

Texas Department of Mental Health and Mental Retardation

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For further information, please call: (512) 206-4516



## Chapter 411. State Authority Responsibilities

### Subchapter D. Administrative Hearings of the Department in Contested Cases

#### 25 TAC §§411.151-411.163

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts new §§411.151 - 411.163 of Chapter 411, Subchapter D, concerning administrative hearings of the department in contested cases. Section 411.163 is adopted with changes to the proposed text as published in the June 12, 1998, issue of the *Texas Register* (23 TexReg 6127-6134). Sections 411.151 - 411.162 are adopted without changes and will not be republished. The repeals of §§403.451 - 403.463 of Chapter 403, Subchapter O, concerning the same, which the new sections replace, are contemporaneously adopted in this issue of the *Texas Register*.

The subchapter describes the procedures for all department administrative hearings involving contested cases. The procedures adequately protect the rights of all parties involved; are consistent with due process requirements of the Texas and federal constitutions; and result in fair and expeditious decisions.

Section 411.163, relating to distribution, is updated to reflect current terminology.

Written public comment was received from the Parent Association for the Retarded of Texas (PART), Austin; the parent of a state school resident, Garland, and a mental health consumer advocate, Houston.

Two commenters objected to the language in §411.151(1), which states the rules "provide a simple, efficient, and uniform set of procedures..." The commenters stated that some of the procedures are difficult to understand and that a reader would have to look up the many referenced citations at the library in order to fully comprehend the procedures. The commenters believed that there are portions of the rules that are written for attorneys and not for lay people. The department responds that the rules reference certain regulations in order to be in compliance with law. Incorporating the cited regulations into the rules would be impractical because the regulations are literally hundreds of pages in length and subject to amendment at any time. The department notes that state statutes are available on the Internet at [www.capitol.state.tx.us/statutes/statutes.html](http://www.capitol.state.tx.us/statutes/statutes.html). Regarding portions of the rules that appear to be written for attorneys, the department responds that legal procedures are often difficult to understand. The department notes, however, that it has made a concerted effort to write these rules for a

lay person's understanding without compromising the integrity of the procedures and state and federal statutes.

The same two commenters requested a definition of "legally authorized representative (LAR)." The department responds that a definition is unnecessary because the term is not used in the rules.

The same two commenters objected to the administrative law judge (ALJ) being appointed by the TDMHMR commissioner. The commenters stated that the ALJ should be an impartial hearing officer from the State Office of Administrative Hearings (SOAH) because the ALJ makes determinations regarding every aspect of the proceeding. The commenters stated the belief that the department had an unfair advantage because it selects the ALJ; determines the rules for the hearing; and evaluates evidence. The department responds that having the commissioner appoint the ALJ is not unique to the Texas Department of Mental Health and Mental Retardation - all of the large health and human service agencies in Texas follow this approach. The subchapter was originally adopted to fulfill the requirements of the Administrative Procedures Act (APA), which direct state agencies to adopt rules regarding its administrative hearing procedures. The APA provides specific procedures and language regarding the department's authority when conducting administrative hearings in contested cases. Should the department contract with the SOAH to conduct its hearings, the administrative law judge at SOAH would have the same authority, but no knowledge of mental health and mental retardation issues. ALJs are selected to conduct impartial hearings, not to rule in favor of the department. They are bound by the Texas Rules of Civil Procedure and Texas Rules of Civil Evidence. This means that after each party has provided evidence (e.g., exhibits, oral testimony, cross-examination) to prove his or her case, the ALJ makes a decision based solely on that evidence. The decision must include finding of fact and conclusions of law. This provision prevents the decision from being arbitrary or biased toward the department or any party. The department notes that in most cases a second level of appeal, a judicial review, is available to parties dissatisfied with the decision of an administrative hearing.

Regarding §411.156(m), which states "the ALJ may communicate with other members of the department who have not participated in the proceeding of the contested case for the purpose of utilizing the special skills or knowledge of the department's staff in evaluating evidence...", the two commenters stated that this communication creates a bias because it doesn't allow for the other party to provide its special skills or knowledge in evaluating the evidence. The commenters stated that all information obtained by the ALJ should be obtained in the actual proceeding for official notice of everyone involved. The department responds that the duty of *evaluating* evidence is that of the ALJ, not the parties involved in the contested case. The ALJ can evaluate evidence by communicating with *other members of the department who have not participated in the proceeding of the contested case*. Since this communication does not involve either party, one party does not have an unfair advantage over the other. The department notes that §411.156(d) and (e) states that all parties are given the opportunity to respond to and present evidence and argument on all issues involved and to call witnesses, but the ALJ is responsible for *evaluating* that evidence.

Regarding §411.158(a)(5), which states "[official] notice may be taken of generally recognized facts within the area of the de-

partment's specialized knowledge," the same two commenters questioned why the department can provide such information and not the other party. The commenters believed this information should be discussed only during the hearing. The department responds that the language, which originates in the Administrative Procedures Act, expedites the hearing by eliminating unnecessary procedures when accepting into the record indisputable facts relating to issues of mental health and mental retardation, the area of the department's specialized knowledge. For example, these generally recognized facts may include a statement that state hospitals operate under the Mental Health Facilities Division of the department; that the department's priority population for mental retardation services in 1994-1995 consisted of 73,225 persons; or that department rules governing client-identifying information adopted by the Texas MHMR Board became effective on August 3, 1998. Facts within the area of another party's specialized knowledge are not considered *generally* recognized, but would be officially noticed nevertheless, as evidence submitted by the party during the proceeding. The department notes that language is in place which requires the notification of all parties of material officially noticed and all parties are provided an opportunity to contest it.

Regarding §411.160(g), which states that a party notified by mail of a decision is presumed to have been notified on the date such notice is mailed, the two commenters stated that people do not receive mail on the same day that it is mailed. The commenters suggested changing the language to presume notification *three days after the notice is mailed*. The department responds that it declines to change the language because it is consistent with the Texas Government Code, §2001.142(c).

One commenter stated that department rules are all form and no substance. The department responds that the commenter's concerns are unclear regarding the proposed subchapter governing administrative hearings of the department in contested cases.

These sections are adopted under the Texas Health and Safety Code, §532.015, which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority, and the Texas Government Code, §2001.004, which requires the department to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### §411.163. *Distribution.*

This subchapter governing administrative hearings of the department in contested cases shall be distributed to:

- (1) members of the Texas Board of Mental Health and Mental Retardation;
- (2) executive, management, and program staff at Central Office;
- (3) superintendents/directors of all department facilities;
- (4) persons designated as administrative law judges;
- (5) any party to an administrative hearing conducted under this subchapter; and
- (6) advocacy organizations.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814061

Charles Cooper

Chairman, Texas MHMR Board

Texas Department of Mental Health and Mental Retardation

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For further information, please call: (512) 206-4516



## Chapter 417. Agency and Facility Responsibilities

### Subchapter G. Community Relations

#### 25 TAC §§417.301-417.316

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts new §§417.301-417.316 of new Chapter 417, Subchapter G, concerning community relations. Sections 417.303 - 417.305, 417.307, 417.309, 417.315 are adopted with changes to the proposed text as published in the June 12, 1998, issue of the *Texas Register* (23 TexReg 6134-6141). Sections 417.301, 417.302, 417.306, 417.308, 417.310 - 417.314, and 417.316 are adopted without changes. The repeals of §§410.51-410.76 of Chapter 410, Subchapter B, concerning the same, which the new sections replace, are contemporaneously adopted in this issue of the *Texas Register*.

It is imperative that all department volunteer service programs and non-profit organizations that exist to generate revenue for the department and its facilities be administered with the highest ethical and professional conduct. To this end, TDMHMR promulgates rules for its employees and volunteers that ensure the coordination of activities and efforts of such volunteer service programs and non-profit organizations.

The subchapter describes the requirements for the operation of volunteer programs at facilities of the department; describes requirements by which facilities and their volunteer services councils, which generate resources on a facility's behalf, are to operate; and describes requirements for fundraising activities, soliciting donations, and receiving donations at facilities and state-operated community services.

The definition of "volunteer" in §417.303 is expanded on adoption to include those individuals who provide time and/or services *to the department, a facility, a SOCS, or a VSC*. The information contained in paragraphs (13) and (14) of §417.304(e) are consolidated in paragraph (12). References to rules governing client-identifying information in §417.305(e) and §417.315 are updated. Language is modified in §417.305(d)(5) to clarify that, in addition to attendance at a basic orientation, volunteers must also fulfill any other requirements necessary to successfully perform their assigned duties. Language is modified in §417.307(b) to clarify the VSC board is elected in accordance with its bylaws and subject to approval by the facility CEO. Subsection (f) in §417.307 is expanded to prohibit the VSC from authorizing an employee to use a VSC debit card and to prohibit the VSC from holding monies on behalf of facility employees for non-VSC-sponsored activities. In §417.309(a)(2)(A)(I), the requirement for providing individual pre-numbered cash receipts for each donation is stated without regard to the party responsible for such action.

Written public comment was received from the Parent Association for the Retarded of Texas (PART), Austin; the parent of a state school resident, Garland; and the president of a volunteer services council, Abilene.

Two commenters objected to the language contained in the proposed preamble, in the definitions of "Texas Foundation of Mental Health and Mental Retardation" and "volunteer service councils," §417.312, and Exhibit I, which states that funds generated by volunteer service councils (VSCs) are on behalf of TDMHMR. The commenters preferred the clarifying language contained in §417.307(a), which states funds generated by VSCs are on facilities' behalf "for the needs of persons served, the enhancement of existing facility operations, employee recognition/education projects, and new initiatives for the betterment of quality of life for persons served." The department responds that the absence of the clarifying language in certain sections of the subchapter does not negate the requirement that funds generated by non-profit organizations are ultimately used for the needs of persons served, the enhancement of existing facility operations, employee recognition/education projects, and new initiatives for the betterment of quality of life for persons served.

The same two commenters requested a definition of "legally authorized representative (LAR)." The department responds that a definition is unnecessary because the term is not used in the rules.

Regarding the term "person served," the two commenters requested changing the term to "individual" because "individual" is used in other department policies. The department responds that, without a compelling reason, it declines to change the term. The department notes that in other department policies the terms "client" and "consumer" are also used.

Regarding §417.307(e) and (e)(7), the same two commenters stated that the allowable use of VSC funds for "employee recognition/education projects" seemed to contradict the prohibition of VSC funds as "cash awards or salary supplementation for employees." One commenter asked for an explanation of "employee recognition/education projects." The department responds that employee recognition/education projects are not the same as cash awards or salary supplementation. Employee recognition projects are awards programs for employees that do not provide cash awards and are consistent with state statute regarding awards for state employees. Employee education projects could be a VSC-sponsored educational seminar or educational training opportunity for facility staff.

Regarding §417.307(c)(1), one commenter objected to requiring the volunteer services council's bylaws to include methodology for limiting the terms of officers and board members by number of years. The commenter stated that if the language is intended to assure that new members are regularly elected to VSC boards, then the commenter agrees with the intent. However, the commenter believed that this intent can be accomplished without depriving VSCs of the services of dedicated, active board members. The commenter suggested requiring a specific percentage of board members elected at each election to be new members to that board. If the commenter's suggestion is not incorporated into the adopted rules, the commenter asked if a person can, after having served on a VSC board, be elected again to that board after a period of absence from that board. The department responds that the intent of the requirement is not solely to assure the election of new members. The requirement for VSC bylaws to outline specific methodology for

limiting terms, as well as replacing board members, electing a nominating committee, and joining the VSC, is intended to reflect a generally accepted standard that promotes ethical behavior and accountability while strengthening public trust. Regarding re-election to a VSC board, the department responds that a board's bylaws determine re-election of a previous board member.

These sections are adopted under the Texas Health and Safety Code, §532.015, which provides the Texas MHMR Board with broad rulemaking authority and the Texas Government Code, Chapter 2255, which authorizes the adoption of rules governing the relationship between certain private organizations and TDMHMR and its employees.

§417.303. *Definitions.*

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

- (1) Cash - Currency, checks, drafts, money orders, and other forms of legal tender.
- (2) Chief executive officer (CEO) - The superintendent/director of a state facility or the executive director of a state-operated community services (SOCS).
- (3) Commissioner - The commissioner of the Texas Department of Mental Health and Mental Retardation.
- (4) Community relations staff - The staff who manage the volunteer programs and oversee volunteer fundraising activities at a facility or SOCS.
- (5) Department - The Texas Department of Mental Health and Mental Retardation (TDMHMR).
- (6) Direct contact - An assignment which involves working with persons served.
- (7) Director of community relations - The employee responsible for coordinating the community relations functions and volunteer programs at a facility or SOCS.
- (8) Donation - A contribution of anything of value (e.g., funds or in-kind goods and services) freely given to a VSC, facility, or SOCS.
- (9) Donor - An individual, group, or organization that makes a donation.
- (10) Employee - An individual who is legally employed to perform work and who is paid a salary or wage by a facility, SOCS, or Central Office.
- (11) Facility - A state school, state hospital, or state center of the department.
- (12) 501(c)(3) organization - An organization recognized by the Internal Revenue Service as a nonprofit corporation and granted the right to receive tax deductible contributions under §501(c)(3) of the Internal Revenue Code.
- (13) Long Term Friendship - A personal friendship between an employee and a specific person served which developed over a period of time. The authenticity of the friendship is verified by the appropriate professional, based upon the quality and duration of the relationship.
- (14) Office of Community Relations, Central Office - The Central Office department responsible for providing support

to statewide community relations programs, including volunteer services, nonprofit management, and fundraising.

(15) Person served - A person receiving mental health or mental retardation services from the department.

(16) State-operated community services (SOCS) - Community residential and nonresidential programs operated by the department.

(17) TDMHMR - The Texas Department of Mental Health and Mental Retardation.

(18) Texas Foundation for Mental Health and Mental Retardation - A nonprofit organization which exists to generate resources on behalf of TDMHMR.

(19) Visiting group - A group of varying individuals associated with an organization (e.g., civic, fraternal, corporate, religious, social, service, or education), which is not affiliated with the department, that visits a facility or SOCS (e.g., tours) or participates in a special event and has constant and adequate staff supervision.

(20) Volunteer - An individual who is not part of a visiting group and who provides time and/or services to persons served, the department, a facility, a SOCS, or a VSC without payment. Volunteers include:

(A) community citizens;

(B) family members of persons served when not acting on behalf of the person served;

(C) employees when not acting in the capacity of employment;

(D) persons served when not acting solely on behalf of themselves; and

(E) community restitution volunteers who are required by a court to provide a specified number of hours of volunteer services in lieu of a jail sentence.

(21) Volunteer services council (VSC) - A facility or SOCS's 501(c)(3) organization that is formed for generating resources on behalf of the facility or SOCS.

(22) Volunteer Services State Council (VSSC) - A statewide nonprofit organization serving all volunteer services councils and volunteer groups of state-operated community services (SOCS) and community MHMR centers.

#### §417.304. *Volunteer Programs.*

(a) Value of volunteers and donors. Volunteers and donors of the Texas Department of Mental Health and Mental Retardation are highly valued as an essential component of its functions. Volunteers are recognized and supported in their efforts to provide goods, services, and personal attention for persons served which enhance and enrich the best treatment and habilitation the state can provide. Donors are recognized and supported in their efforts to enhance the fundraising capabilities and revenue development of the department, enabling the department to provide additional services and goods to the people it serves.

(b) Requirement to operate volunteer program. Each facility is responsible for operating a volunteer program with a full-time director. Facility volunteer programs are funded by the department with support from the Office of Community Relations, Central Office.

(c) Insurance. Department funds are used to purchase insurance to protect volunteers and visiting groups in the performance of their services.

(d) Professional ethics in volunteer administration. All volunteer services activities and practices shall be in accordance with the Association for Volunteer Administration's (AVA) *Professional Ethics in Volunteer Services Administration*. A copy of *Professional Ethics in Volunteer Services Administration* can be obtained by contacting the Office of Community Relations, TDMHMR Central Office, P.O. Box 12668, Austin, TX 78711-2668.

(e) Volunteer guidelines.

(1) Volunteers and visiting groups are responsible for complying with all applicable rules, regulations, policies, and procedures of the department and the facility, specifically including, but not limited to:

(A) Chapter 414, Subchapter A of this title, concerning Client-Identifying Information;

(B) Chapter 404, Subchapter E of this title, concerning Rights of Persons Receiving Mental Health Services;

(C) Chapter 405, Subchapter Y of this title, concerning Client Rights - Mental Retardation Services; and

(D) Chapter 417, Subchapter K of this title, concerning Abuse, Neglect, and Exploitation in TDMHMR Facilities.

(2) A volunteer or visiting group may not give money directly to persons served. If a volunteer or visiting group wishes to donate money to a specific person served, then the volunteer or visiting group must consult the director of community relations for the proper procedure for doing so.

(3) Under no circumstances may volunteers or visiting groups take or accept money from persons served.

(4) Keys to state buildings, state vehicles, or state equipment are not issued to volunteers and visiting groups unless determined necessary by the director of community relations, as documented in writing, and approved by the CEO or designee.

(5) Volunteers and visiting groups may use state property only in connection with their assigned duties or in connection with activities of the VSC.

(6) Volunteers and visiting groups are not authorized to use facility letterhead.

(7) Volunteers and visiting groups may not take photographs of persons served without obtaining permission from the community relations staff, who will determine if photographs are necessary, and if so, will ensure the completion of "Consent for Publication" form, referenced as Exhibit A in §417.314 of this title (relating to Exhibits).

(8) All portions of volunteer records which directly or indirectly identify a person served or a person formerly served are confidential. The confidentiality of such portions of the records shall be maintained and may only be disclosed as authorized by state statute and Chapter 414, Subchapter A of this title, concerning Client-Identifying Information.

(9) A facility may:

(A) provide free meals to volunteers if the volunteer is on duty during mealtime; and

(B) reimburse a volunteer for out-of-pocket expenses as determined by the facility's policies and procedures.

(10) Each volunteer shall represent the department's position if identifying him/herself as a volunteer of the department, fa-

cility, program, or council. This does not preclude a volunteer from speaking freely about any matter as a private citizen, provided the volunteer clarifies that such comments are the individual's opinion and are not made on behalf of the department, facility, program, or council.

(11) Volunteers and visiting groups may ride as passengers in state vehicles in connection with their approved volunteer assignment.

(12) Volunteers may drive state and non-state vehicles and transport persons served in such vehicles as permitted by facility policies and procedures.

(f) Current employees as volunteers. Employees may volunteer at a facility if they do so willingly and without coercion.

(1) Except for the situation described in paragraph (2) of this subsection, the functional area and geographic location of an employee's volunteer assignments must be as far removed as possible from his/her regular work assignments and duties.

(2) If an employee and a person served have a long term friendship as defined in §417.303 of this title (relating to Definitions), then, as permitted by facility policies and procedures, the employee may take the person served to his/her home or other location to participate in a special activity (e.g., holiday celebration), provided the special activity allows for quality one-to-one time between the employee and the person served.

(3) Employee volunteers must submit a statement verifying that they are volunteering their time without coercion using the "Employee Volunteer Statement" form, referenced as Exhibit B in §417.314 of this title (relating to Exhibits). A copy of the signed form is kept in the community relations office and in the employee's personnel file.

(g) Former employees as volunteers. Former employees eligible for rehire may apply to volunteer at the same or at a different facility after a waiting period specified by the facility's policies and procedures.

(h) Persons served as volunteers.

(1) A person served may perform services as a volunteer if:

(A) the duties the person will be performing:

(i) do not constitute a job which is or should be the work of a paid employee; and

(ii) are included in the job description of a volunteer assignment;

(B) the person has, willingly and without coercion, expressed a desire to volunteer and understands that the activity is a free-will service which means "without pay";

(C) there are no privileges available to the person that are not also available to persons served who do not volunteer;

(D) appropriate orientation and on-the-job training is provided to enable the person to understand and perform the requirements of the volunteer assignment;

(E) the person understands the boundaries or risks, if any, of the volunteer assignment;

(F) the person's volunteer assignment is compatible with his/her treatment plan; and

(G) the person's volunteer assignment is not on the same unit in which the person resides.

(2) If the person served is also employed by the facility, then the person's volunteer assignment must be as far removed as possible from his/her work assignments and duties.

(3) Persons served who volunteer must submit a statement verifying that they are volunteering their time without coercion using the "Client Volunteer Statement" form, referenced as Exhibit C in §417.314 of this title (relating to Exhibits). A copy of the signed form is kept in the community relations office and in the person's record.

(4) Activities engaged in by persons served for their own benefit as opposed to activities for the common benefit (e.g., gardening/cultivating a plant, as opposed to trimming the shrubs) are not considered volunteered services, and are not subject to the provisions of this subchapter.

(5) A person served who was previously a resident of a facility may become a volunteer at the facility at the discretion of the director of community relations.

(i) Family members as volunteers. A family member of a person served may volunteer provided the family member's volunteer assignment is not on the same unit in which the person served resides.

#### §417.305. Volunteer Program Procedures.

(a) Request for volunteers. Requests for volunteers may come from facility staff and are submitted to the community relations office for processing.

(b) Volunteer assignment job description. Each volunteer assignment has a job description which accurately describes the duties of the assignment. All job descriptions are reviewed periodically and revised as needed to accurately describe the duties actually being performed by the volunteer.

(c) Discrimination prohibited. No volunteer, prospective or assigned, shall be discriminated against based on race, color, national origin, religion, sex, handicap, veteran status, or political affiliation.

(d) Volunteer application and placement process. Persons interested in volunteering at a facility must complete an application for volunteer service using the "Volunteer Application," referenced as Exhibit D in §417.314 of this title (relating to Exhibits), or an appropriate substitute. All volunteer applications are maintained in the community relations office.

(1) All prospective volunteers must be at least 14 years of age.

(A) Facilities may specify a minimum age above 14 years for specific volunteer assignments.

(B) Prospective volunteers ages 14-17 years must have permission from their parent or legal guardian as documented on the "Parental Permission Form - For Volunteers Under the Age of 18," referenced as Exhibit E in §417.314 of this title (relating to Exhibits).

(C) The number of volunteer hours for minors must not exceed the number of hours per week allowed for minors to work under the Fair Labor Standards Act.

(2) All prospective volunteers are subject to a criminal history record check as authorized in the Texas Health and Safety Code, §533.007, and Chapter 414, Subchapter K of this title, concerning Criminal History Clearances. Completion of the criminal history clearance must occur prior to volunteer placement.



(3) All prospective volunteers must complete a confidentiality agreement using the "Confidentiality Agreement for Volunteers" form, referenced as Exhibit F in §417.314 of this title (relating to Exhibits), or an appropriate substitute.

(4) All prospective volunteers must be approved for volunteer assignment by the director of community relations. A prospective volunteer is given a volunteer assignment with the agreement of the supervising staff member.

(5) Before reporting to their volunteer assignment all volunteers are required to complete a basic orientation conducted by the community relations staff. Volunteers must also fulfill any other requirements necessary to successfully perform the duties outlined in the job description of their volunteer assignment.

(A) Community relations staff should consult with and utilize the training resources of the facility's human resources office.

(B) Training should be offered at times which are convenient to volunteers, including weekends and evenings.

(e) Assessment of volunteers' performance. Community relations staff and facility staff who supervise volunteers should make reasonable efforts to periodically review and evaluate volunteers' performance of assigned duties using the "Volunteer Assessment Form," referenced as Exhibit G in §417.314 of this title (relating to Exhibits), or an appropriate substitute. As part of the assessment process, volunteers are given an opportunity to evaluate their volunteer experience.

(f) Separation from volunteer assignment.

(1) The director of community relations may remove a volunteer from his/her assignment if it is determined that the volunteer is unsuited for the assignment. In determining if a volunteer is unsuited for an assignment, consideration is given to previous discussions with the volunteer and the volunteer's staff supervisor regarding the assignment, and the amount of satisfactory services provided by the volunteer. If the volunteer is removed from his/her assignment, the director of community relations may consider the volunteer for another assignment.

(2) A volunteer may decide to leave his/her assignment at any time for any reason. A volunteer who decides to leave his/her assignment shall inform the community relations staff of such decision. If a person served volunteer decides to leave his/her assignment, the community relations staff will notify the person's treatment team.

(g) Exit interviews. Community relations staff should make reasonable efforts to conduct an exit interview with volunteers who are leaving their assignment, using the "Exit Interview Form," referenced as Exhibit H in §417.314 of this title (relating to Exhibits).

(h) Visiting group placement. The director of community relations coordinates with a representative of the visiting group for appropriate placement, orientation, and training. There is no minimum age for members of a visiting group.

#### §417.307. *Volunteer Services Council (VSC).*

(a) Each facility may have a 501(c)(3) organization (i.e., volunteer services council (VSC)) to generate resources on its behalf for the needs of persons served, the enhancement of existing facility operations, employee recognition/education projects, and new initiatives for the betterment of quality of life for persons served. Pre-existing VSCs of consolidated facilities may remain independent or choose to merge into a single 501(c)(3) organization (i.e., VSC). Each VSC must comply with the relevant TDMHMR Board Policies and Procedures, department rules, state laws and regulations, and Internal Revenue Services requirements. Each VSC is responsible

for coordinating its activities with facility administration. The facility CEO has full authority over all functions and projects concerning the facility, including persons served and employees.

(b) A VSC board is elected in accordance with its bylaws and subject to approval by the facility CEO.

(1) The facility CEO and director of community relations have non-voting membership on the VSC board and executive committee.

(2) A facility employee may not be a VSC board member. An employee's spouse and minor children are also prohibited from being a VSC board member.

(c) The VSC bylaws outline specific methodology for:

(1) limiting terms of officers and board members by number of years;

(2) replacing board members;

(3) election of a nominating committee; and

(4) joining the VSC.

(d) A memorandum of understanding (MOU) governs the relationship between the facility and the VSC. A sample MOU is referenced as Exhibit I in §417.314 of this title (relating to Exhibits). The MOU shall:

(1) require the VSC to be in compliance with existing state and federal laws and regulations, and applicable department rules and policies;

(2) specify the relationship between facility staff and the VSC, and include a mechanism for conflict resolution;

(3) specify a method for facility staff to assist the VSC in processing and receipting donations;

(4) specify a mechanism to ensure that:

(A) solicitation is compatible with the mission, vision, and goals of TDMHMR;

(B) solicitation employs all accepted rules of ethical fundraising;

(C) solicitation is an appropriate type of fundraising for the VSC; and

(D) all proceeds, less legitimate expenses, are used for the needs of persons served, the enhancement of existing facility operations, employee recognition/education projects, and new initiatives for the betterment of quality of life for persons served

(5) include limitations and specifics regarding the amount and type of expenditures the VSC has authorized the director of community relations to make on behalf of the VSC;

(6) specify that, in the event the VSC is audited by the Internal Revenue Service, a copy of the audit report is forwarded to the director of community relations for submission to the Office of Community Relations, Central Office; and

(7) assert the right of the department to review and approve all donations of real property and any improvements to existing real property which may be made to the department by the VSC.

(e) Funds generated by a VSC may only be used for the needs of persons served, the enhancement of existing facility operations, employee recognition/education projects, and new initiatives for the

betterment of quality of life for persons served. Funds may not be used for:

(1) gifts for legislators or gifts for individual employees, which are not part of the facility's established award program;

(2) recognition events or receptions for individual employees or legislators;

(3) political contributions or lobbying efforts;

(4) alcoholic beverages, unless used at a fundraising event;

(5) loans, including travel advances;

(6) operating mental health and mental retardation programs, or contracting for mental health and mental retardation programs on behalf of a facility;

(7) cash awards or salary supplementation for employees; and

(8) other purposes determined by the department to be unethical, unlawful, or inappropriate.

(f) A VSC may not:

(1) authorize a facility employee to sign a VSC check, use a VSC debit card, or use a VSC general credit card, such as American Express, VISA, MasterCard, or Discover; or

(2) hold monies on behalf of facility employees for non-VSC-sponsored activities.

(g) The facility provides the VSC with:

(1) fundraising assistance;

(2) clerical and administrative services, (e.g., word processing and accounting assistance);

(3) training for volunteers, board members, and officers;

(4) coordination of activities; and

(5) office space.

(h) The VSC is responsible for providing:

(1) its own postage;

(2) its own printing (including letterhead and newsletters);

(3) its own special event insurance;

(4) bond for its officers and signatory agents; and

(5) a mechanism for recognizing its donors, volunteers, and visiting groups.

(i) A facility's office of community relations may maintain a VSC petty cash fund for its VSC if guidelines regarding the fund's purpose and maximum dollar amount are included in the memorandum of understanding between the facility and the VSC as required by subsection (d) of this section.

(1) The primary custodian of the petty cash fund is responsible for maintaining receipts and accurate documentation of all petty cash funds disbursed, and furnishing such documentation to the treasurer of the VSC.

(2) Documentation of petty cash disbursements are included in the VSC's annual treasurer's report or audit report to the Office of Community Relations, Central Office as required by §417.313(d)(1) of this title (relating to Auditing and Reporting Guidelines).

(3) The primary and alternate custodians of the petty cash fund must complete a signed responsibility statement for the funds.

(4) An officer of the VSC or an individual, who is not the director of community relations or a community relations staff member, will conduct and document cash counts or cash audits of the petty cash fund once every two months.

§417.309. *Donations.*

(a) Acceptance of Donations.

(1) Donations to the VSC. Donations made to the VSC may be processed by facility staff if a method for such assistance is included in the MOU.

(A) Donated funds.

(i) Each facility shall develop written policies and procedures which ensures the separation of duties for:

(I) opening VSC mail;

(II) receiving cash and checks to the VSC;

(III) receipting funds;

(IV) recording funds received (fund receiving log);

(V) depositing funds; and

(VI) reconciling monthly VSC bank statements with the facility's record of funds received.

(ii) All donated funds remain the property of the VSC until they are accepted by the facility.

(B) Donated in-kind goods and services.

(i) The donor determines the value of the in-kind goods and services for tax purposes.

(ii) In-kind goods that cannot be used by the VSC may be:

(I) distributed to other nonprofit agencies that have an appropriate use for them;

(II) sold, with the proceeds retained by the VSC, unless sale of the donation is prohibited by the donor; or

(III) discarded, if appropriate.

(iii) Goods and services are assigned a value in accordance with department recommendations for accounting purposes.

(iv) All donated in-kind goods and services remain the property of the VSC until they are accepted by the facility, or board if applicable.

(2) Donations made directly to a facility/SOCS. All donations made directly to a facility/SOCS are processed by facility/SOCS staff. For SOCS without a community relations office, the CEO appoints an employee who is responsible for the tasks required of community relations staff as described in this section.

(A) Donated funds.

(i) Funds less than \$500 are processed through the facility/SOCS cashier. Accounting staff are responsible for recording the funds, with the appropriate designation, if applicable, and forwarding a copy of the record to the community relations office. An individual pre-numbered cash receipt for each donation must be completed.

(ii) Funds \$500 or more are processed in accordance with the department's operating instructions for Donations Valued at \$500 or More (417-17). Following acceptance by the Texas MHMR Board, accounting staff are responsible for recording the funds, with the appropriate designation, if applicable, and forwarding a copy of the record to the community relations office. Community relations staff are responsible for completing an individual pre-numbered cash receipt for each donation.

(B) Donated goods and services.

(i) The donor determines the value of the goods and services for tax purposes.

(ii) The community relations staff assign a value to goods and services using values recommended by the department for accounting purposes. Goods and services valued at \$500 or more are processed in accordance with the department's operating instructions for Donations Valued at \$500 or More (417-17).

(iii) Donated goods that cannot be used are considered surplus and processed in accordance with the department's operating instruction for Materials Management (407-2).

(b) Acknowledgment of donations.

(1) Donations received by a VSC are acknowledged in accordance with department guidelines.

(2) Donations valued at less than \$500 received by a facility/SOCS are acknowledged in a letter to the donor from the director of community relations. Donations valued at \$500 or more that have been accepted by the Texas MHMR Board are acknowledged in a letter to the donor from the director of community relations.

§417.315. *References.*

Reference is made to the following state and federal statute, and department rules and policies:

- (1) Texas Health and Safety Code, §533.007;
- (2) Chapter 404, Subchapter H of this title, concerning Criminal History Clearances;
- (3) Chapter 410, Subchapter C of this title, concerning Capital Improvements by Citizens Groups;
- (4) Chapter 414, Subchapter A of this title, concerning Disclosure of Client-Identifying Information;
- (5) Chapter 410, Subchapter A of this title, concerning Public Responsibility Committees;
- (6) Chapter 404, Subchapter E of this title, concerning Rights of Persons Receiving Mental Health Services;
- (7) Chapter 405, Subchapter Y of this title, concerning Client Rights - Mental Retardation Services;
- (8) Chapter 417, Subchapter K of this title, concerning Abuse, Neglect, and Exploitation in TDMHMR Facilities;
- (9) Fair Labor Standards Act;
- (10) Donations Valued at \$500 or More Operating Instruction, 417-17;
- (11) Nutrition and Food Service Operating Instruction, 407-1; and
- (12) Materials Management Operating Instruction, 407-2.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 1998.

TRD-9814058

Charles Cooper

Chairman, Texas MHMR Board

Texas Department of Mental Health and Mental Retardation

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For further information, please call: (512) 206-4516

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**TITLE 28. INSURANCE**

**Part I. Texas Department of Insurance**

**Chapter 5. Property and Casualty Insurance**

**Subchapter E. Texas Windstorm Insurance Association**

**28 TAC §5.4603**

The Commissioner of Insurance adopts an amendment to 28 TAC §5.4603 concerning the forms for windstorm inspections. Amended §5.4603 adopts by reference the forms to be used for windstorm inspections to determine compliance with applicable building code requirements in the plan of operation of the Texas Windstorm Insurance Association ("Association"). Amended §5.4603 adds two new forms used by the Texas Department of Insurance Windstorm Inspection Unit in the performance of inspections and certifications of structures located in the designated catastrophe areas, revises four forms used in the performance of inspections and certifications of structures located in the designated catastrophe areas, eliminates seven forms that are no longer used by the Windstorm Inspection Unit for the purposes of performing inspections and certifications of structures located in the designated catastrophe areas, adds one new form used by Texas licensed professional engineers in the design of structures located in the designated catastrophe areas, and revises one form and eliminates one form used by Texas licensed professional engineers in the performance of inspections and certifications of structures located in the designated catastrophe areas. The amendment also re-orders the listing of the forms. Section 5.4603 is adopted with changes to the proposed text as published in the June 26, 1998, issue of the *Texas Register* (23 TexReg 6689) and with changes to the proposed forms which the section adopts by reference, all of which are more particularly described below. The amended section was considered by the Commissioner of Insurance in a public hearing on August 18, 1998, Docket No. 2368.

The amendment concerns the adoption by reference of forms to be used for windstorm inspections. The amended section is necessary to reflect additions of and amendments to forms to be used for windstorm inspections to determine compliance with applicable building code requirements in the plan of operation of the Association. Article 21.49 §6A of the Insurance Code specifies inspection or approval procedures for property to be considered insurable for windstorm and hail insurance through the Association. All structures located in the designated catas-

trophe areas in tier 1 counties that are constructed or repaired or to which additions are made on or after January 1, 1988; and structures located in specified designated catastrophe areas in Harris County that are constructed or repaired or to which additions are made on and after March 1, 1996, for portions of the cities of Seabrook and La Porte; June 1, 1996, for the city of Morgan's Point; and April 1, 1997, for portions of the cities of Shoreacres and Pasadena; must be inspected or approved by the commissioner for compliance with the building specifications in the plan of operation of the Association to be considered insurable property for windstorm and hail insurance from the Association. The commissioner must issue a certificate of compliance that is evidence of insurability of the structure by the Association for each structure that qualifies. The new and revised forms are necessary to incorporate changes in the inspection process and to add new requirements to the inspection process as a result of the adoption by the commissioner under Commissioner Order No. 97-0626, dated June 30, 1997, of new prescriptive building codes applicable to structures located in the designated catastrophe areas. The effective date of the section as published in the proposal was August 1, 1998; however, in order to allow for at least twenty days after filing with the Texas Register for the section to become effective, the effective date of the section has been changed to October 1, 1998. An amendment to Form WPI-2, Building Compliance, was proposed by the Texas Board of Professional Engineers and has been accepted by the department; accordingly, the name of the form has been changed to Form WPI-2, Building Construction Compliance. Additionally, the department has made formatting and editorial changes on Form WPI-1, Application for Windstorm Building Inspection, to clarify the information requested by the submitter of the form and to allow for identification of the submitter's name. The department has also made a change on Forms WPI-2 and WPI-2D clarifying that the engineer's seal be a stamp or ink replica.

The new and revised forms are: Application for Windstorm Building Inspection, Form WPI-1; Building Construction Compliance, Form WPI-2; Building Design Compliance, Form WPI-2D; Field Form, Form WPI-7; Certificate of Compliance, Form WPI-8; Texas Department of Insurance Application Acknowledgment - No Fee Required, Form WPI-9; Texas Department of Insurance Application Acknowledgment for Engineered Structure - No Fee Required, Form WPI-9E; and Texas Department of Insurance Application Acknowledgment - Fee Required, Form WPI-9F. These forms will improve the efficiency of the windstorm inspection process and the operations of the windstorm unit. They are more comprehensive and user-friendly, and will provide the public, insurance industry and engineers more expedient service from the windstorm inspection staff. The information contained on the new forms will also provide an improved data history on structures, which will be available to the public, industry and engineers. The changes to the forms will reduce the number of forms used in the inspection and certification process from 13 to 8.

Amended §5.4603 adopts by reference the forms to be used for windstorm inspections to determine compliance with applicable building code requirements in the plan of operation of the Association. The new Texas Department of Insurance Application Acknowledgment for Engineered Structure - No Fee Required, Form WPI-9E, is to acknowledge receipt of the application for a windstorm building inspection of an engineered structure, assign an application identification number, and acknowledge that a Texas licensed professional engineer will be responsible for

the inspection and notification of compliance of the structure. The new Texas Department of Insurance Application Acknowledgment - Fee Required, Form WPI-9F, is to acknowledge receipt of the application for a windstorm building inspection of structures inspected by the department, includes specific information such as the field office location, telephone number, application identification number, and types of inspections requested, and also stipulates the required fee for inspections of new structures and additions to existing structures.

The revised forms for use by the department's windstorm inspectors, licensed professional engineers, and department staff are as follows: Application for Windstorm Building Inspection, Form WPI-1, which is the initial step in the inspection process, has been revised to provide comprehensive information on the structure to be inspected, including but not limited to the type of building, type of construction, type of building materials, and the manufacturer and type of specific products used on the building. The information on the application permits immediate determination if the structure should be inspected by a windstorm inspector or a Texas licensed professional engineer. Field Form, Form WPI-7, is completed by the windstorm inspector for each inspection requested; it represents the results of an inspection at any given time, and a copy is left at the job site with the original placed in the inspection file. This form incorporates information contained on the deleted forms WPI-3, 4, 5, 6 and 11, and addresses the type of inspection conducted, inspection status, and comment on a structure's foundation, framing, roof, and mechanical equipment. This form will reduce the amount of paperwork associated with separate forms for each type of inspection and will provide a mechanism to track the progress of a structure on one document. Texas Department of Insurance Application Acknowledgment - No Fee Required, Form WPI-9, is used to acknowledge receipt of the application for a windstorm building inspection of structures inspected by the department. The name of the form has been changed from Inspection Acknowledgment to Texas Department of Insurance Application Acknowledgment - No Fee Required and includes specific information such as the application identification number, field office location, telephone number, and type of inspections requested. The WPI-9 also states that a fee is not required for alterations, repairs and mechanical inspections. Certificate of Compliance, Form WPI-8, indicates insurability for windstorm and hail insurance through the Association. The WPI-8 is issued by the department certifying that a structure was erected, altered, and/or repaired to comply with the wind load provisions of ASCE 7-93, Minimum Design Loads for Buildings and Other Structures (a national consensus standard), or the Southern Standard Building Code, as amended May 8, 1973, or the TCPIA Windstorm Resistant Construction Code. Form WPI-8 was revised to include the designated catastrophe area (Inland I, Inland II or Seaward) for the structure being certified.

The revision of Field Form, Form WPI-7, has resulted in the deletion of the following forms: Foundation Inspection, Form WPI-3; Rough Framing Inspection, Form WPI-4; Final Framing Inspection, Form WPI-5; Mechanical Equipment Inspection, Form WPI-6; and Re-Roofing Application, Form WPI-11. Two other forms that have been deleted are the Mobile Home Tie Down Survey, Form WPI-MH-1, which was completed as a service to the Association and was not considered a mandatory service and has been discontinued by the department due to the increased workload of the windstorm inspectors, and the Metal Building Certificate, Form WPI-2M, which has been

incorporated into the new form Building Design Compliance, Form WPI-2D.

The new and revised forms for use by Texas licensed professional engineers are as follows: The new Building Design Compliance, Form WPI-2D, is for use by Texas licensed professional engineers to notify the department that a structure, including a metal building, has been designed to comply with the wind load provisions of ASCE 7-93, Minimum Design Loads for Buildings and Other Structures, in the Seaward and Inland I areas, or the Southern Standard Building Code, as amended May 8, 1973, for structures located in the Inland II areas, particularly for construction methods and materials that are not specified in the existing guide or the new code. The revised Building Construction Compliance, Form WPI-2, is for use by Texas licensed professional engineers to notify that they have inspected the structure and the structure was erected, altered and/or repaired to comply with the wind load provisions of ASCE 7-93, Minimum Design Loads for Buildings and Other Structures, for structures located in the Seaward and Inland I areas, or the Southern Standard Building Code, as amended May 8, 1973, for structures located in the Inland II areas. For structures not previously inspected and certified which were erected, altered and/or repaired from January 1, 1988, through August 31, 1998, Form WPI-2 requires notification by Texas licensed professional engineers that the structures meet the wind load provisions of the Southern Standard Building Code, as amended May 8, 1973, applicable to structures located inland of the intracoastal canal or the TCPIA Windstorm Resistant Construction Code, applicable to structures located seaward of the intracoastal canal. The submission of the Building Construction Compliance form to the department with the seal of the Texas licensed professional engineer and the department's acceptance will generate a certificate of compliance for the insured.

Foundation Certificate, Form WPI-10, used by Texas licensed professional engineers to certify foundations only, has been deleted as this information will now be incorporated into the revised Building Construction Compliance, Form WPI-2.

Comment: A commenter requested that the use of the word "certification" on Form WPI-2 be amended to "statement of compliance" stating that their professional liability insurance coverage excludes liability created by the effect of a certification clause. The commenter believes that if an engineer certifies his services, he is assuming a level of responsibility far beyond the normal standard of care and that liability for services beyond the standard of care is not insurable.

Agency Response: The department has amended the form and rule; however, the department notes that the language used and the seal of the engineer clearly places accountability and responsibility of compliance of the structure with the engineer.

Comment: A commenter requested that the use of the word "inspect" be removed from the WPI-2, Building Compliance. The commenter stated that the courts have defined "inspect" to mean superintend, oversee, control, manage, direct, restrict, regulate, govern and administer. The commenter further stated that the engineer's standard services by no means allow him this level of responsibility.

Agency Response: The department does not agree to change this language. Article 21.49, Section 6A, stipulates that all structures, to be considered insurable property for windstorm and hail insurance from the Association, must be inspected or approved by the Commissioner for compliance with building

specifications. It is the department's belief that the engineer will be held to the level of responsibility that the term "inspect" implies.

Comment: A commenter stated that the title of the Form WPI-2, Building Compliance, was confusing as some building codes use the term "building compliance" to indicate that only the design is in compliance. The commenter recommended using "Building Construction Compliance" to avoid confusion.

Agency Response: The department agrees and has amended the language as recommended.

Comment: A commenter recommended that language on form WPI-2 be altered to allow the certifying engineer to better identify the specific role that he/she might perform.

Agency Response: The department disagrees. In accordance with the Windstorm Inspection Manual, 28 TAC §5.4602, an engineer is required to notify the department of compliance of a structure; therefore, it is only necessary for the department to know that an engineer has ultimately sealed the Building Compliance Form, WPI-2. It is not necessary for the department to know what services any other engineer has performed.

For: Texas Board of Professional Engineers and the Structural Engineers Association of Texas.

The amended section is adopted pursuant to the Insurance Code Articles 21.49 and 1.03A. Article 21.49 §6A of the Insurance Code specifies inspection or approval procedures for property to be considered insurable for windstorm and hail insurance through the Texas Windstorm Insurance Association. All structures located in the designated catastrophe areas in tier 1 counties that are constructed or repaired or to which additions are made on or after January 1, 1988; and structures located in specified designated catastrophe areas in Harris County that are constructed or repaired or to which additions are made on and after March 1, 1996, for portions of the cities of Seabrook and La Porte; June 1, 1996, for the city of Morgan's Point; and April 1, 1997, for portions of the cities of Shoreacres and Pasadena; must be inspected or approved by the commissioner for compliance with the building specifications in the plan of operation of the Association to be considered insurable property for windstorm and hail insurance from the Association. Article 21.49 §6A requires the commissioner to issue a certificate of compliance that is evidence of insurability of the structure by the Association and to promulgate rules and forms to effect the provisions of this section. Article 1.03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

*§5.4603. Forms for Windstorm Inspections.*

(a) The Texas Department of Insurance adopts by reference the following forms for use in windstorm inspection:

- (1) Application for Windstorm Building Inspection, Form WPI-1, as amended October 1, 1998;
- (2) Building Construction Compliance, Form WPI-2, as amended October 1, 1998;
- (3) Building Design Compliance, Form WPI-2D, effective October 1, 1998;
- (4) Field Form, Form WPI-7, as amended October 1, 1998;

(5) Certificate of Compliance, Form WPI-8, as amended October 1, 1998;

(6) Texas Department of Insurance Application Acknowledgment - No Fee Required, Form WPI-9, as amended October 1, 1998;

(7) Texas Department of Insurance Application Acknowledgment for Engineered Structure - No Fee Required, Form WPI-9E, effective October 1, 1998;

(8) Texas Department of Insurance Application Acknowledgment - Fee Required, Form WPI-9F, effective October 1, 1998.

(b) These forms are published by and available from the Texas Department of Insurance. Copies of these forms may be obtained from the Windstorm Inspections Section of the Inspections Division, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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## Chapter 19. Agent's Licensing

### Subchapter U. Utilization Reviews for Health Care Provided Under Workers' Compensation Insurance Coverage

#### 28 TAC §§19.2001-19.2021

The Commissioner of Insurance adopts new §§19.2001-19.2021, concerning utilization reviews for health care provided under workers' compensation insurance coverage. The new subchapter is adopted with changes to the title of the subchapter, and with changes to the proposed text of §§19.2003, 19.2006, 19.2008, 19.2011 and 19.2016 as published in the May 22, 1998, issue of the *Texas Register* (23 TexReg 5317). Sections 19.2001, 19.2002, 19.2004, 19.2005, 19.2007, 19.2009, 19.2010, 19.2012-19.2015, 19.2017-19.2021 is adopted without changes and will not be republished.

This subchapter implements the provisions of Insurance Code Article 21.58A, §14(c), which was amended by House Bill 3197 in 1997, 75th Legislature, Chapter 903. The amendment was effective September 1, 1997, but applies only to utilization reviews for health care provided under workers' compensation insurance coverage after January 1, 1998. House Bill 3197 amended §14(c) such that, except as otherwise provided, Insurance Code Article 21.58A applies to utilization review of health care provided to persons eligible for workers' compensation medical benefits under Title 5, Labor Code. It further provided that the Commissioner of Insurance shall regulate, in the manner provided for by Insurance Code Article 21.58A, a

person who performs review of health care and medical benefits provided for under Chapter 408, Labor Code, but that Article 21.58A, §14(c), does not affect the Texas Workers' Compensation Commission's authority to exercise the powers granted to it under Title 5, Labor Code. It also provided that, in the event of a conflict between Insurance Code Article 21.58A and Title 5, Labor Code, the latter prevails, and that the department and the Texas Workers' Compensation Commission (TWCC) may adopt rules and enter into memorandum of understanding as necessary to implement amended Insurance Code Article 21.58A. Development of these rules was a collaborative effort between the Department, TWCC, and a utilization review advisory committee which consisted of representatives of the insurance industry, health care providers, consumers, an employer, and a utilization review agent. In addition, the Department and TWCC entered into a memorandum of understanding setting forth those areas of regulation of utilization review agents and processes specific to workers' compensation that are controlled and regulated by TWCC pursuant to the Texas Workers' Compensation Act (Texas Labor Code Title 5, Subtitle A), and TWCC rules and procedures, and those which are subject to regulation by the Department pursuant to Art. 21.58A and the Department's rules and procedures (22 Tex. Reg. 11140, November 14, 1997). It is upon this authority that the department adopts these rules.

The title of the subchapter, as well as the statutory basis in adopted §19.2001(a), is amended from the published rule to refer to utilization review for health care rather than utilization review for medical benefits. The term "medical benefits" in workers' compensation cases has a specific definition that relates to payment for health care, rather than review if health care is medically reasonable and necessary. The more appropriate title for this subchapter is embodied in the term "health care," the approval or denial of which constitutes utilization review. Adopted §19.2003(4), the definition of adverse determination, is revised for the same reason, to replace "medical benefits" with the more appropriate "health care." This same definition is also revised by replacing "are" with "is", for subject/verb agreement. Adopted §19.2003(28), is revised to clarify that the Texas Workers' Compensation Act applies to the provision of health care to an injured employee, rather than the determination of medically reasonable and necessary. Adopted §19.2003(33), definition of utilization review, was slightly altered by adding the word "alone" after the word "preauthorization", and adding the word "both" before the phrase "preauthorization and retrospective review." This additional language is necessary to clarify that the definition refers to either a system for preauthorization or a system of preauthorization and retrospective review.

Adopted §19.2003(36), definition of working day, was revised based on comments to specify that a legal holiday is not considered a working day. The list of excepted days in the proposed rule was under-inclusive. This amendment was made in response to two comments.

Adopted §19.2006(e) was changed based on comments to clarify that utilization review of dental health care by a dentist is mandated only in the case of denial based upon medical necessity, i.e. an adverse determination. Adopted §19.2008(b) was revised to delete the word "either" from the second sentence of the subsection. A comment indicated that the word was unnecessary and potentially confusing. Adopted §19.2008(d)(2) is revised to reference review by an appropriate doctor or other health care provider in response to a comment,

and for consistency with Insurance Code Article 21.58A Section 4(i).

Adopted §19.2011 was revised based on comments to clarify that the reviewing doctor or provider is the person with whom the referring provider must be given a reasonable opportunity to discuss an adverse determination.

Adopted §19.2016(b) was revised based on comment to clarify the reporting requirements under these rules. The revision makes it clear that separate reports for complaints and adverse determinations must be filed, and specifies the requirements for such reports.

Section 19.2001 contains general provisions regarding this chapter, including the statutory basis, severability provisions and a designation of the purpose of the rules. Section 19.2002 contains limitations on applicability and assures that the subchapter does not affect the authority of the Texas Workers' Compensation Commission under Title 5, Labor Code. Section 19.2003 defines certain terms used in this subchapter. Section 19.2004 contains information regarding the certification of utilization review agents to perform review of health care provided for under Title 5, Labor Code. The section states where to obtain and file an application for certification, and includes a list of information required to be submitted by the applicant. Requirements for filing revisions to the application during the review process are set forth, as well as the applicable time frames and certain duties of the applicant and the department during the application process. Requirements that an applicant must prove have been met prior to obtaining certification of registration are also listed. The section provides that a utilization review agent registered pursuant to this subchapter must apply for renewal of such registration every two years, and sets forth renewal requirements and procedures. The section also sets forth the process for appeal if an application or renewal is denied. Section 19.2005 contains the general standards of utilization review of health care provided for under Chapter 408 of Title 5, Labor Code, and requires that the plan be reviewed by a physician and conducted in accordance with standards developed with input from other appropriate health care providers. The section also requires a description of the elements of review which must be provided, and requires written procedures for various operational aspects of the utilization review agent. The section requires use of written medically acceptable screening criteria, and allows delegation of review under certain circumstances. Section 19.2006 addresses qualification of personnel and required reporting thereon, and certain prohibitions regarding treatment of personnel. It requires that utilization review of health care be provided under the direction of a physician and that utilization review of dental health care be reviewed by a dentist. Section 19.2007 contains information regarding the prohibition of certain activities of utilization review agents. A utilization review agent's contact with and receipt of information from health care providers is governed by §19.2008. Section 19.2009 contains information regarding on-site review by a utilization review agent, generally prohibiting the utilization review agent from being present at an injured employee's examination or treatment without consent, and requiring certain identification protocol for utilization review staff during on-site visits. Section 19.2010 contains information regarding requirements of notice of determinations made by utilization review agents, excluding retrospective review. Requirements affording a health care provider a reasonable opportunity to discuss a proposed plan of treatment which is being questioned are addressed in

§19.2011. Section 19.2012 states that appeals from an adverse determination made by a utilization review agent certified pursuant to this subchapter shall be governed by the Texas Workers' Compensation Act and applicable rules. Section 19.2013 deals with requirements of a utilization review agent's telephone accessibility. Confidentiality requirements with regard to utilization review are set forth in §19.2014. Section 19.2015 describes various aspects of retrospective review of medical necessity. Requirements regarding a utilization review agent's complaint system, complaints to the department, and required reporting to the department are set forth in §19.2016. Also set forth in this section are authority and procedures for on-site review of the operations of utilization review agents by the department. Section 19.2017 contains the regulations for enforcement of the standards of utilization review and any other requirements under this subchapter. Section 19.2018 makes it a criminal offense to perform utilization review pursuant to this subchapter without a certificate of registration. Section 19.2019 contains information regarding insurance companies that perform utilization review. Utilization review agents performing only specialty review are addressed in §19.2020. Section 19.2021 states that adverse determinations pursuant to this subchapter are not subject to independent review as set forth in Chapter 12 of this title (relating to Independent Review Organizations).

General comments.

COMMENT: A commenter believes the rules are not reasonable and require further clarification. The commenter feels the rules are restrictive and will result in higher costs for medical care in the workers' compensation industry, will be a "nightmare" for insurance companies and agents to administer, and are written in the providers' favor. The commenter contends the costs of performing utilization review (UR) will skyrocket, and will have a significant impact on the day to day costs to insurance companies and utilization review agents (URAs). The commenter believes the increased costs will arise from (1) increased physician advisor/consultant charges due to the additional time required for contacting the treating physician for every adverse determination; (2) additional staff to meet administrative requirements; and (3) cost of certification process and licensing fee are extremely high. Furthermore, the commenter asserts the rules restrict the utility of UR for curbing unnecessary medical services in the workers' compensation arena.

RESPONSE: The department disagrees. The rules are reasonable and include appropriate modifications of the utilization review agent rules governing group health URAs, 28 TAC §19.1701 et seq. The rules reflect the legislative intent that utilization review agents in the workers' compensation area are subject to regulation. The department disagrees that the rules are written in the health care providers' favor. The rules are written to implement Insurance Code Article 21.58A to regulate URAs and insurance carriers. The department recognizes that these requirements may increase costs, but the increased cost area identified by the commenter results from the statute, not the rules. In addition, the cost for initial certification has been reduced from \$2,157 to \$2,150, and more significantly, the cost for renewal of certification has been reduced from \$2,076 to \$545. See, 28 TAC §19.802. The department disagrees that the rules curb the utility of utilization review to restrict unnecessary medical services. The rules reflect the legislative intent of Insurance Code Article 21.58A and the Texas Workers' Compensation Act that UR provided in the workers' compensation area be subject to the same standards and requirements as

UR in general except where there would be a conflict with the Workers' Compensation Act.

COMMENT: A commenter poses the following questions regarding application of the rules: Will payment reductions/denials based on documentation failing to support the level of service, charges appearing unrelated to the injury, or provider billing services normally included in the global rate be considered adverse determinations? Shouldn't the provider be responsible for submitting necessary documentation to support charges without the insurance company or URA having to involve a physician advisor when the documentation is not provided?

RESPONSE: The answers to these two questions are related. The reductions/denials specified in the first question appear to be clarifications of coverage or TWCC fee disputes rather than adverse determinations. Adverse determinations are limited to denials based on unnecessary care or lack of medical necessity. The specific instances identified by the commenter do not appear to be adverse determinations. Denials based on global fees or unrelatedness are not considered adverse determinations and should not be couched as such. Conversely, determinations based upon medical necessity should not be couched in other terms in an effort to avoid UR. As to the second question, the department believes that the health care provider should be responsible for submitting documentation to support the medical necessity of services provided. The department believes that denial of "charges" based on lack of documentation for the level of services provided, or where documentation of procedure is required, is not UR and would not require a physician advisor.

COMMENT: A commenter questions whether software for tracking and reporting complaints is available through TDI.

RESPONSE: There is no requirement for a specific method of tracking complaints; therefore, there is no specific software available through or required by TDI. The rules provide flexibility for URAs to determine what method of tracking and reporting best suits that URA's operations.

COMMENT: A commenter asks if an insurance company or URA has to provide proof that an employee was notified of an adverse determination, i.e. through certified mail receipts, etc.

RESPONSE: A copy of the adverse determination letter is sufficient proof of notification to the injured employee. The required use of certified mail would or could place an undue financial burden on the URA.

COMMENT: A commenter questions why the biographical affidavit form requires employment and residences for the past 20 years and why the applicant has to indicate whether past and current employers may be contacted.

RESPONSE: The information required on the biographical affidavit form is standardized and is required biographical information from all regulated entities. The request for approval to contact employers allows the department to investigate applicants for determination of worthiness for licensure, and is not unlike requirements for applicants for other forms of licensure, including other URAs.

COMMENT: A commenter suggests that the TWCC Mental Health Treatment Guideline (TWCC Rule 134.1000) on confidentiality should either be incorporated by reference or restated in the rules.

RESPONSE: The department disagrees that this is necessary. The confidentiality protections are already referenced in §19.2014(h), and include the TWCC Mental Health Treatment Guideline. In addition, TWCC treatment guidelines are referenced in the definition of screening criteria, §19.2003(29).

COMMENT: Numerous commenters suggested that TDI accept accreditation of workers' compensation utilization management programs by AHAC/URAC as evidence of substantial compliance with these rules.

RESPONSE: The department disagrees. Insurance Code Article 21.58A does not allow TDI to delegate accreditation functions to a commercial accrediting association.

§19.2003.

COMMENT: A commenter suggests adding a definition for "Qualified Mental Health Provider."

RESPONSE: The department disagrees that the suggested definition is necessary. The definition of Health Care in §19.2003(13)(c) includes provision for psychological services that are prescribed by a doctor. The definition of a doctor is based on §401.011(17) of the Texas Labor Code. The regulation, where appropriate, already refers to other health care providers.

§19.2003(4).

COMMENT: A commenter suggests revising the definition to delete the reasonableness requirement and add a medical necessity requirement.

RESPONSE: The department disagrees. The language in the rule is consistent with the definition of health care in the Texas Labor Code §401.011(19). Moreover, the reasonable and necessary requirement is consistent throughout the rules.

§19.2003(5).

COMMENT: Two commenters stated their agreement with the appeal process set forth in the rules, and two other commenters advocated the addition of an internal appeal process within the URA prior to submission of an appeal to TWCC.

One commenter notes that the group health utilization review rules contain provisions requiring an internal appeal of an adverse determination by the UR agent, and contends that this procedure should not have been deleted from these proposed rules. The commenter contends that no conflict exists between this procedure and the workers' compensation statute and rules which provide for medical dispute resolution. The commenter further contends that the proposed rules create a difference between the group health and workers' compensation utilization review rules to the detriment of injured workers, and suggests that addition of an internal appeals process through the URA, prior to invoking the TWCC medical dispute resolution process, would alleviate this difference. Another commenter contends that addition of an internal approval process will be less burdensome on TWCC.

RESPONSE: The department disagrees. Art 21.58A Sec. 14(c) provides that in the event of a conflict between that section and Title 5, Labor Code (the workers' compensation statute), the latter prevails. The appeal procedures in the Labor Code are different from those in the Insurance Code. Labor Code Sec. 413.031 establishes a medical dispute appeal process administered by the TWCC, which has been further implemented by TWCC rules. The department believes



that the latter provisions take precedence, and TWCC has stated its agreement. See also the TDI-TWCC memorandum of understanding referenced in the preamble. The utilization review advisory committee also specifically voted not to include an internal appeal process in the proposed rule.

At the same time, the department notes that TWCC Rule 133.305, which requires that a request for review include documentation indicating that efforts have been made to attempt to resolve the dispute, allows a health care provider or injured worker to obtain an informal review of an initial denial prior to a request for dispute resolution. While these proposed rules do not mandate a particular internal appeal process, they also do not prohibit this type of review. As one commenter noted, his company, which performs workers' compensation utilization review, has always offered parties an internal appeal option. These rules would not prohibit that option.

§19.2003(9).

COMMENT: Concern was expressed that complaints do not have to be submitted in writing. One commenter supported the definition of complaint.

RESPONSE: The department acknowledges this concern, but points out that oral complaints are specifically allowed for by Insurance Code Article 21.58A, Section 4(m).

§19.2003(13)(A).

COMMENT: A suggestion was made that reference to osteopathic services be added to the definition of health care.

RESPONSE: The department disagrees. There are specific treatments that are designed for the use of osteopathic physicians; however, the definition of "health care" is verbatim from Texas Labor Code §401.011(19).

§19.2003(22).

COMMENT: Concern was expressed that the use of the term "compensable injury" may cause confusion in cases where a claim has been disputed and dispute resolution is pending and suggested instead the term "claimed injury."

RESPONSE: The department disagrees. The definition of "compensable injury" in these rules is based upon the definition in the Texas Labor Code §419.011(8). There is no similar definition in the Texas Labor Code for "claimed injury." §19.2003(26).

COMMENT: For consistency with the definition of doctor, it was suggested that the definition of physician should refer to licensed doctor of osteopathic medicine rather than doctor of osteopathy.

RESPONSE: The department disagrees. While the commenter's point may have merit, the term "doctor of osteopathy" is statutory, Insurance Code Article 21.58A Sec. 2(18). For purposes of the rules, the department will consider the term "doctor of osteopathy" to be consistent with "doctor of osteopathic medicine."

§19.2003(28).

COMMENT: A commenter suggested that the definition of retrospective review be expanded to include whether the treatment is causally related to the compensable injury. The commenter also states that the proposed rules are unclear on whether the routine review of medical bills submitted for payment constitutes retrospective utilization review if charges are disallowed on the basis of medical necessity, and asks whether, if that is

the case, the provider notification provisions must be followed on each medical bill. Finally, the commenter asks on what basis the department includes a definition of retrospective review, contending that HB 3197 expanded the coverage of Art. 21.58A to include workers' compensation, but not to include retrospective utilization review.

RESPONSE: The department disagrees that the definition should be expanded as the commenter suggests. Causal relationship is an issue of compensability, which is addressed in Chapter 410 of the Labor Code and is determined by TWCC's dispute resolution process and not its medical dispute resolution process; as such, it is not a proper subject for utilization review. If charges are denied on the basis of medical necessity, this constitutes an adverse determination subject to these rules and notification to the appropriate parties, including the injured employee, is required pursuant to TWCC Rule 133.300.

The rule contains a definition of retrospective review in deference to the TWCC medical dispute resolution statute and rules, which provide for review of more than just prospective review. See the TDI-TWCC memorandum of understanding. However, the definition should not be interpreted as an intent to expand the department's regulatory authority beyond the bounds of Art. 21.58A.

The use of the terms "preauthorization" and "preauthorization and retrospective review" was intended to make clear that the department's regulatory authority over URAs is limited to those entities that perform preauthorization alone or both preauthorization and retrospective review. This is consistent with the department's historic practice with respect to URAs regulated pursuant to Art. 21.58A since its enactment in 1991. However, the definition should not in any respect be construed as limiting the scope of medical dispute review performed by TWCC pursuant to the Labor Code and TWCC rules and guidelines.

§19.2003(29).

COMMENT: A commenter suggests that TWCC Treatment Guidelines should be referenced as "examples of" recommended treatment parameters, rather than "tools that identify" recommended treatment parameters.

RESPONSE: The department disagrees. The language within the ground rules of the TWCC treatment guidelines describes the guidelines as tools.

§19.2003(33).

COMMENT: One commenter recommends that the definition of "utilization review" be revised to track the language of Art. 21.58A concerning "prospective and concurrent" review, but recommends that the exception for spinal surgery be retained. Another commenter expresses concern that the definition's phrase "a system for preauthorization, or preauthorization and retrospective review..." may be viewed as limiting the rules' applicability to retrospective review only when the matter under review was also subject to preauthorization. That commenter suggests that alternative phrases, such as "a system for preauthorization and retrospective review" or "a system for preauthorization and/or retrospective review" would include both processes. Finally, two commenters suggested that prospective review (preauthorization) not be limited to those procedures authorized by TWCC Rule 134.600.

RESPONSE: The department agrees in part and disagrees in part. The terms "prospective" and "concurrent" are not used in the definition in order to be consistent with Labor Code Sec. 413.014, which speaks specifically to "preauthorization" and which limits preauthorization only to those treatments and services authorized by TWCC rules. See also TDI-TWCC memorandum of understanding. The department agrees with retaining the exception for spinal surgery.

The use of the terms "preauthorization" and "preauthorization and retrospective review" was intended to make clear that the department's regulatory authority over URAs is limited to those entities that perform preauthorization alone or both preauthorization and retrospective review. This is consistent with the department's historic practice with respect to URAs regulated pursuant to Art. 21.58A since its enactment in 1991. However, the definition should not in any respect be construed as limiting the scope of medical dispute review performed by TWCC pursuant to the Labor Code and TWCC rules and guidelines.

§19.2003(36).

COMMENT: Two commenters pointed out that the specific holidays listed as not being working days did not comport with the TWCC definition of legal holiday.

RESPONSE: The department agrees and the definition has been revised to reference legal holiday.

§19.2004(c)(6).

COMMENT: Opposition was expressed to the requirement that URAs submit names of individuals performing UR. It was suggested that either requiring the URA to submit a certification signed by the officers that the individuals conducting UR do not have a conflict of interest, or requiring only the names of the medical director and other physician/providers involved in non-certification recommendations would be sufficient.

RESPONSE: The department disagrees. URAs are accountable for which individuals have been credentialed. It is not an unreasonable burden to require a URA to monitor the individuals that have been credentialed to perform UR.

§19.2004(f)(1).

COMMENT: A commenter questions if "timely manner" means according to TWCC preauthorization and payment time guidelines and suggests that "timely manner" be defined.

RESPONSE: The department disagrees. "Timely manner" includes the most reasonably prompt action possible and may differ with each fact situation. In addition, such action must comply with any time frame set forth or referenced by the rules.

§19.2005.

COMMENT: A commenter recommends that the word "physician" be replaced with "doctor," and that the words "and approved by a physician" be deleted from the first sentence of this section. It is the commenter's position that as worded now, medical doctors and doctors of osteopathy would oversee doctors of chiropractic, violating the intent of the Texas Workers' Compensation Act which provides for identical rights and privileges for doctors of chiropractic, osteopathy, and medicine, within each doctors' scope of practice, and would threaten to interfere with or impair the legal rights and privileges of licensed doctors of chiropractic under the Texas Workers' Compensation Act.

RESPONSE: The department disagrees. This section requires that a physician review the UR plan pursuant to Texas Insurance Code Article 21.58A, but allows oversight of a chiropractor's treatment decisions to be reviewed by a chiropractor in the event of an adverse determination. The rules do not impair or interfere with any rights or privileges that may arise under the Texas Workers' Compensation Act.

§19.2005(2)(A).

COMMENT: A commenter recommends that the word "identification" be replaced with "application of screening criteria that includes consideration of" and elimination of the phrase "who may require flexibility in the application of screening criteria through utilization review decisions" because a URA may not be provided with information needed to identify individuals with special circumstances.

RESPONSE: The department disagrees. Individuals with special circumstances must be identified by the URA, and their requirements for flexibility need to be taken into consideration.

§19.2005(2)(I).

COMMENT: A commenter suggests inserting the phrase "Except when published for the agent's internal use only" at the beginning of this paragraph.

RESPONSE: The department disagrees, as this confidentiality is adequately addressed by §19.2014(f).

§19.2005(3).

COMMENT: Two comments suggest revisions referring denials to a "physician or dentist" rather than a doctor. A commenter suggests removing the term "other health care provider." Another commenter recommends replacing the reasonably and necessary standard with a medically necessary standard.

RESPONSE: The department disagrees. Use of the term "doctor" in this section is consistent with the Texas Labor Code. Review of denials by other health care providers is contemplated by the Insurance Code Article 21.58A, Section 4(i). The use of reasonable and necessary standard is consistent with the definition of health care under the Texas Labor Code §401.011(19).

§19.2006(a).

COMMENT: A commenter suggests adding a provision that information other than medical records received from doctors or health care providers shall be received by nurses, physician assistants, registered records administrators, or accredited records technicians.

RESPONSE: The department disagrees. Registered records administrators and accredited records technicians were deleted from the statute during the 75th Legislative Session. The rule is consistent with Insurance Code Article 21.58A Sec. 4(c).

§19.2006(a).

COMMENT: One comment supports the language stating that individuals obtaining information and conducting reviews need not only be doctors or nurses, but may also be "health care providers qualified to provide the service requested by the provider." The commenter suggests that this practice be extended throughout the rule to allow "like providers" to perform UR of other providers in their specialties. Another commenter suggests revising the provision to require doctor and provider licensure by the appropriate Texas entity.

RESPONSE: The department disagrees. It is not consistent with the language or intent of Insurance Code Article 21.58A to require that all UR functions be performed only by like health care providers. Such a requirement would be burdensome and costly to URAs, and would likely delay the UR process. Insurance Code Article 21.58A does not require a Texas license to perform UR. The screening criteria and UR plan require plan development be done by a physician and denials by an appropriate doctor or hcp, but the actual performance of UR does not require Texas licensure.

§19.2006(d).

COMMENT: A commenter suggested revising (d) to read "utilization review conducted by a utilization review agent shall be under the direction of a doctor currently licensed by a Texas state licensing agency to practice medicine, osteopathic medicine, optometry, podiatry, or chiropractic. Such doctor may be employed by or under contract to the utilization review agent."

RESPONSE: The department disagrees. The term "physician" has been used in this section of the rule because the statute requires physicians, as opposed to doctors, to provide direction of the URA. The rules apply to the regulation of URAs, not the doctors who might be performing UR. Further, UR doctors are not required to be licensed in Texas under Texas Insurance Code Article 21.58A.

§19.2006(e).

COMMENT: A commenter requested clarification that review by a dentist is necessary only to support a denial, a nurse could approve a request based on screening criteria.

RESPONSE: The department agrees that clarification is necessary, and has revised Subsection (e).

§19.2006.

COMMENT: A commenter recommends adding new subsection (f) which would read "Mental and behavioral health services shall be reviewed by a qualified mental health provider currently licensed by a state licensing agency in the United States. Utilization review of psychological or neuropsychological testing shall be reviewed by a psychologist currently licensed by a state licensing agency in the United States."

RESPONSE: The department disagrees. Distinctions are not made in the Insurance Code Article 21.58A for UR by other non-doctor health care providers.

§19.2007(a).

COMMENT: A commenter seeks clarification of what constitutes "unnecessary or unreasonably repetitive" contacts, and what conditions may require additional contacts.

RESPONSE: The department does not believe that any further definition of these terms is either necessary or desirable. The rules are to be used with flexibility according to the circumstances. A URA should be capable of exercising some judgment, and its behavior determined on a case-by-case basis.

§19.2008(b).

COMMENT: Concern is expressed that this section sets costs of copying by TWCC rules, but the Texas State Board of Medical Examiners also establishes rules that determine the cost of copying medical records when done by a licensed physician. The question is posed as to what happens if the two rates differ.

RESPONSE: The department does not believe any revision is necessary since the Insurance Code Article 21.58A Sec. 4(l) specifically vests authority to set rates in the TWCC. The language of the rule does not set a minimum rate, only a maximum rate.

§19.2008(b)

COMMENT: One comment supported this subsection, but recommended deletion of the word "either" towards the end of the subsection.

RESPONSE: The department agrees and the subsection has been revised.

§19.2008(c).

COMMENT: A commenter suggests amending the last sentence to read: "The required information should be supplied by the treating doctor or designated representative, unless the utilization review agent has already been supplied the information by another source."

RESPONSE: The department disagrees. A URA needs information from the most direct source, and the treating doctor may not necessarily be the requesting party or the doctor whose treatment is under review.

§19.2008(c)(1).

COMMENT: Numerous commenters expressed concern about the prohibition against URAs requiring codes from providers. It was also asserted that the rules were inconsistent in that URAs are prohibited from requiring codes from providers, but they may ask providers for the codes, and they are required to report the codes to TDI in §19.2015.

RESPONSE: The department does not believe there is any inconsistency. The rule is not meant to prohibit requesting codes from doctors, but instead prohibits conditioning approval of treatment upon receipt of the codes. A treatment may not be denied simply because the doctor did not provide the code. The department recognizes that cooperation between providers and URAs is desirable. This recognition is evidenced by the second sentence of this provision that allows URAs to request the coding information from the providers.

§19.2008(d)(1).

COMMENT: A commenter suggests adding the introductory phrase "has reviewed the TWCC Advisories and the TWCC Medical Fee Guideline and."

RESPONSE: The department disagrees. The requested language is contemplated in the definition of screening criteria, §19.2003(29). Additionally, some requested services may not be published in TWCC publications, and the requested language would be limiting.

§19.2008(d)(2).

COMMENT: A commenter suggests adding "or other healthcare provider" to the end of this paragraph.

RESPONSE: The department agrees, and the provision has been changed to incorporate the suggested language.

§19.2008(d)(3).

COMMENT: A commenter requests clarification of how many attempts to talk to the health care provider must be made.

RESPONSE: The department does not believe that any further clarification is necessary. The rules are meant to be used with flexibility according to the circumstances. A URA should be capable of exercising some judgment, and its behavior determined on a case-by-case basis.

§19.2008(e).

COMMENT: A commenter requests clarification of whether this subsection requires insurance carriers to share pertinent clinical and demographic information on individual injured employees with its URAs.

RESPONSE: This subsection does require that insurance carriers share this information with its URAs.

§19.2008(f).

COMMENT: A commenter suggests adding "or other information from the mental health provider to substantiate the need for the treatment in review" to the end of this subsection.

RESPONSE: The department disagrees and believes the requested information is already provided in §19.2008(c).

§19.2008(f).

COMMENT: One comment strongly supports this subsection, but recommends adding: "Healthcare providers requesting mental health services shall submit initial evaluation reports and interim progress reports as required by the Mental Health Treatment Guidelines."

RESPONSE: The department believes that this concern is already addressed by the definition of screening criteria and these rules address the information required in §19.2008(c).

§19.2010.

COMMENT: A commenter suggests that subsection (a) is inconsistent with Insurance Code Art. 21.58A, Sec. 5(a), which provides that a URA may notify the patient, patient's representative, or patient's provider, but this section requires notice to all. The commenter recommends that URAs should be required to notify the provider, and the provider should notify the patient.

RESPONSE: The department disagrees. Notification requirements are specified in 28 TAC, Chapter 134, Subchapter G (TWCC Rules). The requested revision would put these rules in conflict with the language in the TWCC rules implementing the Texas Labor Code.

§19.2011.

COMMENT: A commenter requests specification of what is considered a reasonable opportunity to discuss an adverse determination before an adverse determination is issued. Another commenter contends the requirement that the requesting healthcare practitioner be able to speak directly to the reviewer prior to an adverse determination is unworkable, especially given TWCC's 3-day turnaround on preauthorization request. As long as the clinical rationale required by §19.2010 is provided, the verbal discussion could occur after the determination but prior to appeal. Another commenter suggests adding a provision for a time extension past TWCC's 3-day deadline in the event the treating physician is unavailable to discuss a request with the reviewing physician.

RESPONSE: The department disagrees that any further clarification is necessary. The rules are meant to be used with flexi-

bility according to the circumstances. A URA should be capable of exercising some judgment, and its behavior determined on a case-by-case basis. The intent of the rules is to allow a reasonable opportunity to discuss an adverse determination before an adverse determination is issued. The department disagrees with the request for a time extension. A reasonable opportunity is all that is required; no extension of time is necessary.

§19.2011.

COMMENT: A commenter requests clarification that the URA must give the referring health care provider a reasonable opportunity to speak to the reviewing physician, doctor, or dentist. Another commenter suggests adding "or other health care provider" to the list of reviewing providers.

RESPONSE: The department agrees and the section has been changed.

§19.2014(b)(2).

COMMENT: A commenter suggests requiring the notarized signature of the individual who is the subject to the personal information.

RESPONSE: The department disagrees. Requiring the signature to be notarized could be unduly burdensome on the injured individual and the department does not believe it is necessary to impose such a requirement.

§19.2014(d)(2).

COMMENT: A commenter recommends adding the requirement that an individual be allowed to view personal information in person "at a location in Texas nearest to the individual's home."

RESPONSE: The department believes this would be unnecessarily burdensome and costly to URAs. The provision for review by mail addresses this concern and does not impose unnecessary requirements on the URAs.

§19.2014(f).

COMMENT: A commenter suggests adding the requirement that a health care provider give written approval for release of performance tracking data.

RESPONSE: The department disagrees, as this would impose an additional restriction to Insurance Code Article 21.58A, Sec. 8(f).

§19.2014(i).

COMMENT: A commenter recommends that "upon request" be inserted after "must" to be consistent with §19.2014(j).

RESPONSE: The department disagrees. There is no inconsistency between (i) and (j), and the existing language is important to maintain confidentiality.

§19.2014.

COMMENT: A commenter suggests revising this section to not interfere with existing business practices sanctioned by Texas. The commenter contends that requiring a signed release from injured workers before sharing medical information between legitimate business partners could add significant cost and delay UR efforts, and undermine the ability to monitor system performance.

RESPONSE: The department disagrees. Prior written consent of the patient is required by Insurance Code Article 21.58A, Sec. 8(b).

§19.2015.

COMMENT: One commenter states that this entire section should be deleted because it is in violation of Art. 21.58A, and specifically the statutory definition of utilization review as "a system of prospective and concurrent review..." The commenter does not believe that the department has the statutory authority to expand or amend the definition to include retrospective review. In the alternative, it says, should the department determine that it has such authority, it should place a time limit on how far back retrospective review could be conducted (i.e., six months, or one year).

RESPONSE: The department disagrees. This section parallels language in Art. 21.58A Sec. 11 and in the department's utilization review rules for group health and HMOs. With regard to allegedly expanding statutory definitions, see responses to comments on 19.2003(28) and (33), above. Once again, these rules are not intended to expand the scope of the department's authority over that provided for in Art. 21.58A, but of necessity must reference the workers' compensation statutes and rules which are specifically preserved by Art. 21.58A. As to time limits on retrospective review, TWCC Rule 133.305 provides that a request for review of medical services and dispute resolution must be submitted to TWCC no later than one calendar year after the date(s) of service in dispute.

§19.2016(b)(2).

COMMENT: A commenter suggests adding language regarding reporting of adverse determinations "as determined by the TWCC's list of preauthorized health care treatments and services adopted under TWCC Rule 134.600(h)(1-16)."

RESPONSE: The department disagrees. The information included in the suggested language is already required by these rules under §§19.2010(b) and 19.2012, both referencing the Texas Labor Code, Chapter 134, Subchapter G.

§19.2016(b).

COMMENT: A commenter requests verification that URAs will not have to report codes if not provided by the health care provider. A commenter questions why the burden for supplying correct codes has shifted from the provider to the URA.

RESPONSE: The department cannot verify the comment because URAs will have to provide codes even if providers do not provide them. The department does not believe that the burden has been shifted. It is the URA's responsibility to provide codes in required reports.

COMMENT: Numerous comments indicated confusion about what specific reports had to be made, and whether separate complaint and adverse determination reports were required.

RESPONSE: The department has revised subsection (b) to clarify the reports to be made and whether separate complaint and adverse determination reports are required.

§19.2019.

COMMENT: A commenter questions how insurers who are exempted from certain application requirements for URAs should comply with the URA requirements to which they are subject.

RESPONSE: Insurers performing their own UR are exempted not only from fees, per §19.2004(j), but from the requirements as designated in §19.2004(a), (b), (c)(11-12), (e), (f), (g), (h)

and (i) as well. Said insurers must still comply with other URA requirements.

For, with changes: Texas Osteopathic Medical Association, Texas Workers' Compensation Insurance Fund, Liberty Mutual, Texas Chiropractic Association, Kyle Babick, Ph.D. & Assoc., P.C., First Health, Hammerman & Gainer Inc., American Insurance Association, American Accreditation Healthcare Commission/URAC. Against: PRNA Services, Forte Managed Care.

This subchapter is adopted under Insurance Code Articles 21.58A, §14(c) and 1.03A. The Insurance Code Article 21.58A, §14(c) provides that the department may promulgate standards and rules for the certification and operation of utilization review agents to review health care services provided to persons eligible for workers' compensation medical benefits under Title 5, Labor Code. The Insurance Code Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance as authorized by statute.

§19.2003. *Definitions.*

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

(1) Act—Insurance Code Article 21.58A, entitled "Health Care Utilization Review Agents."

(2) Active practice—A minimum of 20 hours per week in the examination, diagnosis and/or treatment of patients.

(3) Administrative Procedure Act—Government Code Chapter 2001.

(4) Adverse determination—A determination by a utilization review agent that the health care furnished or proposed to be furnished to an injured employee is not reasonable and necessary.

(5) Appeal process—The processes outlined in the Texas Workers' Compensation Act, including but not limited to Texas Labor Code §413.031 and Chapter 134, Subchapter G of this title (relating to Treatments and Services Requiring Preauthorization), Chapter 133, Subchapter D of this title, (relating to Dispute and Audit of Bills by Insurance Carriers).

(6) Certificate—A certificate of registration granted by the commissioner to a utilization review agent.

(7) Commissioner—The Commissioner of Insurance.

(8) Compensable injury—An injury that arises out of and in the course and scope of employment for which compensation is payable under the Texas Workers' Compensation Act.

(9) Complaint—An oral or written expression of dissatisfaction with a utilization review agent concerning the utilization review agent's process. A complaint is not an expression of dissatisfaction with a specific adverse determination, a misunderstanding or misinformation that is resolved promptly by supplying the appropriate information or clearing up the misunderstanding to the satisfaction of the complaining party.

(10) Department—Texas Department of Insurance.

(11) Dentist—A licensed doctor of dentistry, holding either a D.D.S. or a D.M.D. degree.

(12) Doctor—A doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice.

(13) Health care—Includes all reasonable and necessary medical aid, medical examinations, medical treatments, medical diagnoses, medical evaluations, and medical services. The term does not include vocational rehabilitation. The term includes:

(A) medical, surgical, chiropractic, podiatric, optometric, dental, nursing, and physical therapy services provided by or at the direction of a doctor;

(B) physical rehabilitation services performed by a licensed occupational therapist provided by or at the direction of a doctor;

(C) psychological services prescribed by a doctor;

(D) the services of a hospital or other health care facility;

(E) a prescription drug, medicine, or other remedy; and

(F) a medical or surgical supply, appliance, brace, artificial member, or prosthesis, including training in the use of the appliance, brace, member, or prosthesis.

(14) Health care facility—A hospital, emergency clinic, outpatient clinic, or other facility providing health care.

(15) Health care provider—Any person, corporation, facility, or institution licensed by a state to provide or otherwise lawfully providing health care that is eligible for independent reimbursement for those services.

(16) Injured employee—An employee with a compensable injury under the Texas Workers' Compensation Act.

(17) Inquiry—A request for information or assistance from a utilization review agent.

(18) Insurance carrier—

(A) an insurance company;

(B) a certified self-insurer for workers' compensation insurance; or

(C) a governmental entity that self-insures, either individually or collectively.

(19) Insurance company—A person authorized and admitted by the Texas Department of Insurance to do insurance business in this state under a certificate of authority that includes authorization to write workers' compensation insurance.

(20) Life-threatening—A disease or condition resulting from a compensable injury, for which the likelihood of death is probable unless the course of the disease or condition is interrupted.

(21) Medical benefit—Payment for health care reasonably required by the nature of a compensable injury and intended to:

(A) cure or relieve the effects naturally resulting from the compensable injury, including reasonable expenses incurred by the injured employee for necessary treatment to cure and relieve the injured employee from the effects of an occupational disease before and after the injured employee knew or should have known the nature of the disability and its relationship to the employment;

(B) promote recovery; or

(C) enhance the ability of the injured employee to return to or retain employment.

(22) Medical records—The entire history of diagnosis and treatment for a compensable injury, including but not limited to medical, dental, and other health care records from all disciplines rendering care to an injured employee.

(23) Nurse—A professional or registered nurse, a licensed vocational nurse, or a licensed practical nurse.

(24) Open records law—Government Code, Chapter 552.

(25) Person—An individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

(26) Physician—A licensed doctor of medicine or a doctor of osteopathy.

(27) Preauthorization—The process of a doctor, other health care provider or health care facility requesting approval to provide a specific treatment or service prior to rendering the treatment or service as delineated in Chapter 134, subchapter G of this title (relating to Treatments and Services Requiring Preauthorization.)

(28) Retrospective review—The process of reviewing health care which has been provided to injured employees under the Texas Workers' Compensation Act to determine if the health care was medically reasonable and necessary.

(29) Screening criteria—The written policies, decision rules, medical protocols, TWCC fee and treatment guidelines, and TWCC rules and advisories used by the utilization review agent as part of the utilization review process (e.g., appropriateness evaluation protocol (AEP), and intensity of service, severity of illness, discharge, and appropriateness screens (ISD-A)). The TWCC Treatment Guidelines are tools that identify recommended treatment parameters and typical courses of intervention, whose purpose is to clarify those services that are reasonable and medically necessary. The guidelines are not to be used as fixed treatment protocols by either the health care provider or insurance carrier and shall not be viewed as prescriptive or the sole basis for approval or denial of proposed services. There may be injured employees who will require more or less treatment than is recommended in the guidelines. Treatment falling outside the parameters of the guidelines will be subject to more careful scrutiny and may require additional documentation of special circumstances to justify the need for treatment. Each guideline includes specific ground rules which establish the use of the guideline.

(30) Texas Workers' Compensation Act—Texas Labor Code, Title 5.

(31) Treating doctor—The doctor primarily responsible for treating the injured employee's compensable injury as defined in the Texas Labor Code §401.011(42).

(32) TWCC—Texas Workers' Compensation Commission.

(33) Utilization review—A system for preauthorization alone, or both preauthorization and retrospective review, to determine if health care proposed to be provided, being provided, or which has been provided to an injured employee is medically reasonable and necessary. Utilization review shall not include the spinal surgery second opinion process as delineated in Chapter 133, subchapter C of this title (relating to Second Opinions for Spinal Surgery), or elective requests for clarification of coverage or prepayment guarantee.

(34) Utilization review agent—An insurance carrier, the carriers' agent(s), and/or any entity contracted or subcontracted to provide utilization review.

(35) Utilization review plan—The screening criteria and utilization review procedures of a utilization review agent.

(36) Working day—A weekday, excluding a legal holiday.

(37) Workers' compensation insurance coverage:

(A) an approved insurance policy, pursuant to Article 5.56 of the Insurance Code, to secure the payment of compensation under the Texas Workers' Compensation Act;

(B) coverage to secure the payment of compensation through self-insurance as provided by the Texas Workers' Compensation Act; or

(C) coverage provided by a governmental entity to secure the payment of compensation under the Texas Workers' Compensation Act.

*§19.2006. Personnel.*

(a) Personnel employed by or under contract with the utilization review agent to perform utilization review shall be appropriately trained and qualified and, if applicable, currently licensed. Personnel who obtain information regarding an injured employee's specific medical condition, diagnosis and treatment options or protocols directly from the doctor or other health care provider, either orally or in writing, and who are not doctors shall be nurses, physicians assistants, or health care providers qualified to provide the service requested by the provider. This provision shall not be interpreted to require such qualifications for personnel who perform clerical or administrative tasks.

(b) A utilization review agent may not permit or provide compensation or any thing of value to its employees or agents, condition employment or its employee or agent evaluations, or set its employee or agent performance standards, based on: the amount or volume of adverse determinations; reductions or limitations on lengths of stay, duration of treatment, medical benefits, services, or charges; or the number or frequency of telephone calls or other contacts with health care providers or injured employees, which are inconsistent with the provisions of this subchapter.

(c) The utilization review agent is required to provide the name, number, type, and minimum qualification or qualifications of the personnel either employed or under contract to perform the utilization review to the commissioner. Utilization review agents shall be required to adopt written procedures used to determine if doctors or other health care providers utilized by the utilization review agent are licensed, qualified, and appropriately trained, and must maintain records on such.

(d) Utilization review conducted by a utilization review agent shall be under the direction of a physician currently licensed to practice medicine by a state licensing agency in the United States. Such physician may be employed by or under contract to the utilization review agent.

(e) Utilization review of dental health care shall be reviewed by a dentist currently licensed by a state licensing agency in the United States prior to issuance of an adverse determination.

*§19.2008. Utilization Review Agent Contact with and Receipt of Information from Health Care Providers.*

(a) A health care provider may designate one or more individuals as the initial contact or contacts for utilization review agents seeking routine information or data. In no event shall the designation of such an individual or individuals preclude a utilization review agent or medical advisor from contacting a health care provider or others in his or her employ where a review might

otherwise be unreasonably delayed or where the designated individual is unable to provide the necessary information or data requested by the utilization review agent.

(b) Unless precluded or modified by contract, the workers' compensation insurance carrier shall reimburse health care providers for the reasonable costs of providing written medical information, including copying and transmitting any requested injured employee records or other documents pursuant to Chapter 133, Subchapter B of this title, (relating to Required Reports). A health care provider's charge for providing medical information to a utilization review agent shall not exceed the cost of copying records set by rules of the Texas Workers' Compensation Commission and may not include any costs that are otherwise specified in TWCC rules and/or guidelines as not reimbursed separately or are recouped as a part of the charge for health care.

(c) When conducting utilization review the utilization review agent shall require only the information necessary to complete the review. This information may include identifying information about the injured employee, the treating health care provider, and facilities rendering care. It may also include clinical information regarding the diagnoses of the injured employee and the medical history of the injured employee relevant to the diagnoses and the compensable injury, the injured employee's prognosis, and the treatment plan prescribed by the treating health care provider along with the provider's justification for the treatment plan. It must include the medical information to substantiate the medical necessity for the specific treatment in review. These items shall only be requested when relevant to the utilization review in question, and be requested as appropriate from the health care provider or health care facility. The required information should be obtained from the appropriate source since no one source will have all of this information.

(1) Utilization review agents shall not routinely require hospitals and doctors to supply numerically codified diagnoses or procedures. Utilization review agents may ask for such coding, since if it is known, its inclusion in the data collected increases the effectiveness of the communication.

(2) Utilization review agents shall not routinely request copies of medical records on all injured employees reviewed. During utilization review, copies of medical records should only be required when a difficulty develops in determining whether the health care is medically reasonable and necessary. In those cases, only the necessary or pertinent sections of the record should be required.

(d) Information in addition to that described in this section may be requested by the utilization review agent or voluntarily submitted by the health care provider when there is significant lack of agreement between the utilization review agent and health care provider regarding the appropriateness of health care during the review process. "Significant lack of agreement" means that the utilization review agent:

(1) has tentatively determined, through its professional staff, that a service cannot be authorized to be provided or reimbursed;

(2) has referred the case to an appropriate doctor or other health care provider for review; and

(3) has talked to or attempted to talk to the health care provider for further information.

(e) The utilization review agent shall share all pertinent clinical and demographic information on individual injured employees among its various divisions (e.g., preauthorization, return to work

planning, case management) to avoid duplicate requests for information from injured employees or health care providers.

(f) Notwithstanding any other provision of this subchapter, a utilization review agent may not require as a condition of treatment approval, or for any other reason, the observation of a psychotherapy session or the submission or review of a mental health therapist's process or progress notes. This does not preclude the utilization review agent from requiring submission of an injured employee's medical record.

*§19.2011. Requirements Prior to Adverse Determination.*

Subject to the notice requirements of §19.2010 of this title (relating to Notice of Determinations Made By Utilization Review Agents, Excluding Retrospective Review), in any instance where the utilization review agent is questioning whether the health care is medically reasonable and necessary, the health care provider who ordered the services shall be afforded a reasonable opportunity to discuss the plan of treatment for the injured employee and the clinical basis for the utilization review agent's decision with the appropriate doctor or health care provider performing the review, prior to issuance of an adverse determination. The utilization review agent shall have written procedures describing how the opportunity is afforded.

*§19.2016. Complaints and Reporting Requirements.*

(a) Utilization review agent's complaint system. A utilization review agent shall establish and maintain a complaint system that provides reasonable procedures for the resolution of oral or written complaints initiated by injured employees, their representatives, or health care providers, concerning the utilization review process, and shall maintain records of such complaints for three years from the time the complaints are filed. The complaint procedure shall include a written response to the complainant by the agent within 30 days of the agent's receipt of the complaint.

(b) Utilization review agent's complaint reporting requirements to the department. By March 1, of each year, the utilization review agent shall submit to the commissioner or his or her delegated representative a summary report of all complaints involving workers' compensation at such times and in such form as the commissioner may require, and shall permit the commissioner to examine the complaints and all relevant documents at any time. To be disclosed in the report is the subject matter of the complaint categorized as follows:

- (1) administration (e.g., copies of medical records not paid for, too many calls or written requests for information from provider, too much information requested from provider);
- (2) qualifications of utilization review agent's personnel;
- (3) complaint process (e.g., treating doctor has not been afforded the opportunity to discuss plan of treatment with utilization review physician, no notice of adverse determination, no notice of clinical basis for adverse determination, written procedures for appeal to TWCC not provided).

(c) Utilization review agent's adverse determination reporting requirements to the department. The summary report also covers reviews performed by the utilization review agent during the preceding calendar year and includes:

- (1) the total number of written notices of adverse determinations;
- (2) a listing of adverse determinations for preauthorization, by the medical condition and treatment using primary ICD-9 (physical diagnosis) or DSM-IV (mental health diagnosis) code, and CPT (procedure) code or other relevant procedure code if a CPT

designation is not available, or any other nationally recognized numerically codified diagnosis or procedure; and

(3) the classification of party requesting review (i.e., health care provider, injured employee, their representative, etc.);

(d) Complaints to the department. Within a reasonable time period, upon receipt of a written complaint alleging a violation of this subchapter or the Act, by a utilization review agent, from an injured employee, their representative or health care provider, the commissioner or his or her delegated representative shall investigate the complaint, notify the utilization review agent of the complaint, require response by the utilization review agent addressing the complaint within 10 days of receipt of the complaint, and furnish a written response to the complainant and the utilization review agent named. This response must include the following:

- (1) a statement of the original complaint;
  - (2) a statement of the findings of the commissioner or his or her delegated representative and an explanation of the basis of such findings;
  - (3) corrective actions, if any, on the part of the utilization review agent which the commissioner or his or her designated representative finds appropriate and whether the utilization review agent has voluntarily agreed to take such action; and
  - (4) a time frame in which any corrective actions should be completed.
- (e) Evidence of corrective action. The utilization review agent will provide evidence of corrective action within the specified time frame to the commissioner or his or her representative.

(f) Authority of the department to make inquiries. In addition to the authority of the commissioner to respond to complaints described in subsection (b) of this section, the department is authorized to address inquiries to any utilization review agent in relation to the agents' business condition or any matter connected with its transactions which the department may deem necessary for the public good or for a proper discharge of its duties. It shall be the duty of the agent to promptly answer such inquiries in writing.

(g) Lists of utilization review agents. The commissioner shall maintain and update monthly a list of utilization review agents issued certificates and the renewal date for those certificates. The commissioner shall provide the list at cost to all individuals or organizations requesting the list.

(h) On-site review by the Texas Department of Insurance.

(1) The commissioner or the commissioner's designated representative is authorized to make a complete on-site review of the operations of each utilization review agent at the principal place of business for such agent, as often as is deemed necessary.

(2) Utilization review agents will be notified of the scheduled on-site visit by letter, which will specify, at a minimum, the identity of the commissioner's designated representative and the expected arrival date and time.

(3) The utilization review agent must make available during such on-site visits all records relating to its operation.

(4) The commissioner or the designated representative may perform periodic telephone audits of utilization review agents authorized to conduct business in this state to determine if the agents are reasonably accessible.



This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Texas Department of Insurance

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For further information, please call: (512) 463-6327



## Chapter 34. State Fire Marshall

### Subchapter H. Storage and Sale of Fireworks

#### **28 TAC §§34.801, 34.807-34.809, 34.811-34.815, 34.817-34.818, 34.822-34.826, 34.830**

The Commissioner of Insurance adopts amendments to Subchapter H, Storage and Sale of Fireworks, §§34.801, 34.807-34.809, 34.811-34.815, 34.817-34.818, 34.822-34.826, and 34.830. Section 34.826 is adopted with changes to the proposed text as published in the July 24, 1998, issue of the *Texas Register* (23 TexReg 7514). Amendments to §34.828 as published are not adopted. Therefore, §34.828 will continue to include the same provisions. Sections 34.801, 34.807-34.809, 34.811-34.815, 34.817-34.818, 34.822-34.825, and 34.830 are adopted without changes to the proposed text as published and will not be republished.

These amendments are necessary in part to implement legislation enacted by the 75th Legislature in SB 371. SB 371, in part, transferred the operations of the state fire marshal and all of the powers, duties, rights, obligations, contracts, records, personnel, property, funds, and unspent appropriations of the Texas Commission on Fire Protection with respect to the administration of Article 5.43-4 of the Insurance Code from the Texas Commission on Fire Protection to the Texas Department of Insurance, effective September 1, 1997. Consequently, the Texas Department of Insurance now regulates fireworks. Therefore, provisions in the fireworks rules referring to the Texas Commission on Fire Protection are amended to reflect the transfer of authority from that commission to the Commissioner of Insurance. SB 371 also eliminated the fireworks importer license, added a pyrotechnic special effects license, and created two separate public display permits-single and multiple. The importer license was removed by statute, and is also removed by these amendments, because the function performed by the importer-importing of fireworks from other states to Texas will now be performed by the licensed fireworks distributor. The multiple display permit replaces the public display license, which was also removed by SB 371, and is also removed by these amendments. Public display licensees, who formerly have been required by statute to pay late fees for late renewals, will no longer be required to pay the statutory late fees required of all fireworks licensees, but will be required to apply annually for multiple public display permits. Dividing public display permits into two categories of permits-single and multiple-is more appropriate than a single public display permit because while many public fireworks displays are performed at certain locations only

once or twice per year, some businesses provide fireworks displays on many occasions throughout each year. The addition of the new license for a pyrotechnic special effects operator is appropriate because local governments sometimes require that a public fireworks display using Fireworks 1.4G be supervised by a licensed pyrotechnic technician. In these instances, a license requiring expertise in the use of Fireworks 1.4G should be issued. These amendments establish application fees for the new license and permits and also establish renewal fees for the new license. SB 371 also stated that the commissioner shall adopt by reference two NFPA standards-NFPA 1123, applicable to public fireworks displays, and NFPA 1126, applicable to pyrotechnic displays before proximate audiences. The amendments to §34.826 include NFPA 1126 in new subsection (k), but do not include NFPA 1123. NFPA 1123 will be considered by the commissioner separately in an upcoming rulemaking procedure. Additionally, SB 371 deleted references to class B and class C fireworks, and substituted for those classes the newer classifications, Fireworks 1.3G and Fireworks 1.4G, which are used in federal law, as well as in other jurisdictions. Although some of the rules in this subchapter previously have been amended using the newer classification system, the adopted amendments now use the newer classifications, resulting in uniform use of the newer classifications throughout the fireworks rules.

Additional language has been added to subsection (k) of §34.826, Testing, as proposed, to provide that testing shall be permitted by a licensed manufacturer or distributor, and that such testing must be conducted under the direct, on-site supervision of a licensed pyrotechnic operator. In addition, the proposed amendments to §34.828 have been deleted. The proposed new language of §34.828 had been meant to apply to certain rule amendments that were not in fact proposed in this rulemaking. Therefore, §34.828 remains unchanged.

Section 34.801 is amended by the addition of a provision stating that the rules should be read in conjunction with Article 5.43-4 of the Insurance Code for a complete understanding of the regulation of the fireworks industry. Section 34.807 is amended by the removal of an unnecessary provision providing for administrative actions against license and permit holders in accordance with the Administrative Procedure Act. The removal of this provision does not reflect a policy not to enforce the statute and regulations affecting the fireworks industry. Additionally, §34.808 is amended by deleting definitions of the terms that are already defined in Article 5.43-4 of the Texas Insurance Code, as well as terms that have been removed by SB 371. Additionally, §34.809(c) is amended by the addition of a sentence requiring that the original permit be posted at all retail locations for which the permit was issued. Subsection (h) of §34.809 is amended to require that persons engaging in the business of using or storing Fireworks 1.3G must obtain a federal license or permit if required by federal law, making it clear that the insurance department will enforce this provision. Additionally, §34.811(e) will increase from three to five the number of public displays in which a pyrotechnic operator license applicant must have assisted before being licensed. The amendment also will require a written verification of this experience by another licensed pyrotechnic operator. This requirement is intended to ensure that such operators have adequate experience before becoming licensed to conduct public displays. Section 34.812(b) is amended by clarifying the time at which public display permits expire, which will be midnight on the date on the permit. Additionally, §34.813(c) is amended to require that the name, address and telephone

number of the applicant be stated on the public display permit, rather than the sponsoring organization or person. This will enable the public and any regulatory authority to determine the identity of the person or business responsible for the conduct of the display. An additional amendment to §34.813(c) allows the number of fireworks to be discharged at a public display to be estimated in the application and on the permit, because the exact number that will be discharged often cannot be precisely determined when the permit is issued. Additionally, subsection (e) is amended by the addition of a requirement that a separate permit is required for each site separated by over 1,000 feet from another permitted site. This requirement also enables both the public and any regulatory authority to identify the person or businesses responsible for all public displays. This will allow each site to be separately evaluated for safety requirements. Additionally, §34.815(b) is amended to allow a limited version of the fireworks rules to be provided to a purchaser of a retail fireworks permit. This will allow the fireworks licensee to furnish only those rules applicable to retail permit holders, rather than the entire set of fireworks rules. This should reduce confusion about which provisions in the rules are of concern to these permit holders. Additionally, §34.815(c) is amended to require that both used and unused permits be returned no later than March 1 of each year. Additionally, §34.817(f) is amended by removing the prohibition against displays from air supported structures, because the meaning of this prohibition is unclear to both regulatory authorities and to the industry, and public safety is not jeopardized by the removal of this unclear provision. Subsection (f) is also amended to prohibit retail fireworks stand operators and assistants from operating a fireworks stand while under the influence of alcoholic beverages or from consuming alcohol while operating the stand. Additionally, §34.818(b) is amended to allow a power interruption in the form of one or more switches near exit doors of retail fireworks stands at a single location. This change provides greater flexibility and less expense than the current requirement of a master switch, but does not sacrifice safety. Additionally, §34.824 is amended to clarify that the tables specifying that the separation between fireworks processing and storage buildings and other structures are applicable except to the extent that federal law may be less restrictive. Additionally, §34.825(a)(3) is deleted because it is an unnecessary and potentially unclear provision stating that reporting of hazardous material incidents as required by federal regulations is not required by these rules. The removal of the provision does not reflect any department of insurance position relating to the reporting of such incidents under federal law. Additionally, §34.826 is amended by the addition of a new subsection (k) providing that the testing of fireworks is not considered a public display, and clarifying that no additional license or permit is required for this activity. However, such testing is to be performed in separately designated safe areas, is permitted only by licensed manufacturers or distributors, and will be required to be conducted under the direct on-site supervision of a licensed pyrotechnic operator. This amendment permits the testing of fireworks products like those used in public displays to minimize the risk of harm to the public. Section 34.830 is rewritten for the purpose of clarification. It provides that disciplinary actions against licensees and permittees will be based on law in effect at the time of the alleged violations.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to the Insurance Code, Articles 5.43-4 and 1.03A. The Insurance Code, Article 5.43-4, section 16(a), directs the commissioner to adopt rules the commissioner considers necessary for the protection, safety, and preservation of life and property, including rules regulating: (1) the issuance of licenses and permits to persons engaged in manufacturing, selling, storing, possessing, or transporting fireworks in this state; (2) the conduct of public fireworks displays; and (3) the safe storage of Fireworks 1.4G and Fireworks 1.3G. Section 16(b) further directs the commissioner to: (1) determine reasonable criteria and qualifications for licenses and permits; (2) set license and permit fees within the limits provided by Article 5.43-4; (3) determine the qualifications and examination requirements for pyrotechnic operators; and (4) establish a procedure for reporting and processing complaints. Section 5 of Article 5.43-4 also provides that the commissioner, in promulgating rules, may use standards recognized by federal law or regulation, and those published by a nationally recognized standards-making organization. Article 1.03A provides that the commissioner may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by a statute.

§ 34.826. *Preparing and Conducting Public Displays.*

(a) Storage. Public display fireworks may be stored temporarily for a period not to exceed 30 days prior to display date in a locked area, in regular 1.3G shipping cartons, not accessible by the general public, and in a location approved by the local fire prevention officer.

(b) (No change.)

(c) Public display criteria.

(1) The area selected for the discharge of aerial shells shall be located so that the trajectory of the shells will not come within 25 feet of any overhead object.

(2) Mortars shall be separated from spectator viewing and parking areas; from health care, church, asylum, school, and penal facilities; from storage of hazardous materials; and from residential occupancies by the minimum distances specified in the following table:

Figure: 28 TAC §34.826(c)(2)

(3) Fireworks shall not be discharged within 100 feet of any tent or canvas shelter.

(4) The potential landing area shall be a large, clear, open area acceptable to the authority having jurisdiction.

(5) Spectators, vehicles, or any readily combustible materials shall not be located within the potential landing area during the display.

(6) If, at any time, steady winds of 25 mph or other conditions prevail which in the opinion of either the authority having jurisdiction or the licensed pyrotechnic operator, pose a danger, the public display shall be postponed until conditions improve to an acceptable level.

(7) Any fireworks that remain unfired after the display is concluded shall be immediately disposed of or removed in a manner safe for the particular type of fireworks.

(d) Pyrotechnic equipment and installation. Reusable mortars shall be made of steel tubing or equivalent (cast iron and other fragmenting types of metal are prohibited) having a smooth bore and a

steel bottom plate equal in thickness to the tube welded continuously around its perimeter except as follows:

(1) Wooden base plugs in good condition may be substituted for welded steel bottom plates where such plugs have a minimum thickness of 1/2 inch per inch of bore diameter. Plugs shall be securely fastened. Wooden base plugs shall be discarded and replaced when split, shrunken, charred to less than minimum required thickness, or otherwise damaged. Screw type caps for plugs are prohibited.

(2) Mortars limited solely for the firing of single break shells and finale batteries may be made of spiral or convolute wound chipboard or kraft paper tubes. Tubes for two-inch shells shall have a wall thickness of not less than 1/4 inch. Tubes for three-inch shells shall have a wall thickness of not less than 3/8 inch. Tubes for four-, five-, and six-inch shells shall have a wall thickness of not less than 1/2 inch. All tubes shall have a base plug in good condition, the thickness of which shall be not less than half the inside diameter of the tube. The base plug shall be securely fastened to the tube.

(3) For single break shells, three-inch and four-inch mortar tubes may be made of 26 gauge or heavier galvanized iron riveted along their seams, beginning at a point within one inch of each end and spaced not more than three inches between rivets and having a two-inch wooden base plug.

(4) The minimum inside length of reusable mortars shall be not less than five times their inside diameter for mortars up to seven inches inside diameter and not less than four times their inside diameter for mortars having an inside diameter greater than seven inches.

(5) Any damaged mortars (split or bulged tube, base, seam, or with loose rivets, bolts, or wooden base plug) shall not be used for firing.

(6) Not less than 50% of the mortar tube length shall be below the normal surface of the ground. Sand or earth filled bags shall not be required unless the tubes do not conform to construction provisions of this subsection. When required, such bags shall be laid against the firing side of the mortars. The upper surface of the bags shall be level with the mortar tube muzzles. Such bags shall also be placed similarly at both ends of each line of mortars.

(e) Special setting of mortars. On locations where it is impossible to bury mortars in suitable clean earth or where the authority having jurisdiction and the licensed pyrotechnic operator in charge agree that public safety will be increased, mortars may be set for firing in approved sand or dirt filled steel drums or troughs and shall comply with the following.

(1) The depth of the drum or trough shall permit burial in sand of each mortar to within 50% of the length of the mortar.

(2) The containers shall be set and the mortars secured at the angle determined as safe for firing. Batteries may consist of as many approved units as required for the display, but each unit shall be set, braced, and secured, as determined by the wind direction and velocity predicted for the firing time.

(3) Finale batteries shall be set, braced, and secured as determined by the wind direction and velocity predicted for the firing time.

(f) Ready boxes.

(1) Before any firing begins, the entire complement of shells for any licensed or permitted public display shall be brought to the firing site and stored in ready boxes at a point not less than 25

feet distant upwind (with relation to the firing time) from the nearest mortar. These ready boxes shall be constructed and may be of wood, rubber, steel, or fiberboard cartons.

(2) A flame retardant tarp or a wood, rubber, or steel cover shall protect all ready boxes from the time they are placed in position until they are emptied, except that the cover may be lifted when shells are taken from or returned to the boxes.

(3) The use of compartmentation to avoid the mixing of shell sizes is recommended in large displays. Individual boxes should be used for each different shell size.

(g) Loading mortars.

(1) Mortars shall be cleared of paper or other burning material after being fired, if necessary. No shell hang firing shall be cleared from mortars for at least 30 minutes after being lighted.

(2) Finale batteries shall not be reloaded with finale chains, but may be reloaded with individual shells.

(h) Firing mortars.

(1) All firing shall be done upon order or signal of the licensed pyrotechnic operator directing the public display. No safety cap shall be removed from any shell match until immediately before the mortar is fired. Used igniters shall not be discarded in the area between the mortars and the ready boxes.

(2) Electric firing, if utilized, shall comply with the following requirements.

(A) Connecting any electric firing circuit to any power supply, whether battery or other, is prohibited until all special effects fireworks, pyrotechnics, and explosives in the sequence are connected to firing leads and are cleared for actual firing. Circuitry may be tested with a galvanometer equipped with a silver chloride battery.

(B) Power sources for firing fireworks and pyrotechnics shall be restricted to batteries or individually isolated, ungrounded generators used for firing purposes only. Commercial or house power circuits may be used for this purpose in conjunction with an appropriate transformer.

(C) Short circuiting shunts shall be maintained on all electrically fired pyrotechnic items during preparatory operations including loading, setting, and adjustment.

(D) Firing boxes shall be designed to prevent firing unless the switch is manually operated.

(E) Each explosive charge set in or on water, either salt or fresh, shall be fired by an individual two wire circuit.

(i) Public display safety precautions.

(1) A display must be conducted in accordance with all local regulations and conditions prescribed by the fire prevention officer at the time of the site inspection.

(2) During the display, at least one approved Class A type 2 1/2 gallon fire extinguisher or charged garden hose connected to a water line or equivalent means of fire protection shall be provided.

(3) Fireworks articles or items shall not be permitted to cross over or burst directly above the spectator area during such display and it shall be in full view of the pyrotechnic operator at the time of the burst.

(4) Vehicular traffic control shall be provided in all cases where the authority having jurisdiction determines that there is a

potential hazard to motor vehicles and people traveling on public highways or roadways.

(j) Proximate audience display criteria. Public displays before a proximate audience shall be conducted in accordance with the provisions of the National Fire Protection Association (NFPA) 1126, Standards for the Use of Pyrotechnics Before a Proximate Audience, 1996 Edition. Public displays conducted in accordance with this section shall include pyrotechnic devices, including 1.3G, 1.4G, and 1.4S, as defined in NFPA 1126, and individuals conducting such displays shall be regulated by the provisions of this subchapter as pyrotechnic operators.

(k) Testing. Testing of fireworks and components of fireworks intended for public displays shall be performed in an area set aside for that purpose and located a safe distance from any plant building or other structure. Such testing shall be permitted by a licensed manufacturer, or licensed distributor, conducted under the direct on-site supervision of a licensed pyrotechnic operator, and no public display permit is required.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 25, 1998.

TRD-9813537

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

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Proposal publication date: July 24, 1998

For further information, please call: (512) 463-6327

## TITLE 30. ENVIRONMENTAL QUALITY

### Part 1. Texas Natural Resource Conservation Commission

#### Chapter 115. Control of Air Pollution From Volatile Organic Compounds

##### Subchapter G. Consumer Related Sources

###### 1. Consumer Products

###### 30 TAC §115.600

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §115.600, concerning Definitions without changes to the proposed text as published in the June 5, 1998 issue of the *Texas Register* (23 TexReg 5939).

EXPLANATION OF ADOPTED RULE. This adoption amends the commission's consumer products rule to exclude a new type of insecticide designed to kill house dust mites from the volatile organic compound (VOC) limitation applicable to other crawling bug insecticides. The insecticide formulation necessary to kill house dust mites requires that the VOC content exceed the limitation contained in §115.612(a). The amendment adds language to the §115.600 definition of "crawling bug insecticide" to differentiate a "house dust mite" from other crawling bugs and a "house dust mite product" from crawling bug insecticides. This

rule amendment permits the sale of such products in Texas. The amendment also numbers the individual definitions in the section to conform to new Texas Register standards.

FINAL REGULATORY IMPACT ANALYSIS. The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code (the Code), §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Code, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this rule under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to amend definitions contained in the commission's consumer products rule to differentiate a "house dust mite" from other crawling bugs and a "house dust mite product" from crawling bug insecticides. This action will exclude house dust mite insecticides from the VOC limitation contained in the rule. This rulemaking does not constitute a taking of private, real property.

COASTAL MANAGEMENT PLAN. The commission has determined that this rulemaking action is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Tex. Nat. Res. Code Ann. §33.201 et. seq.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the TNRCC's rules in 30 TAC Chapter 281, Subchapter B, Consistency with the Texas Coastal Management Program. As required by 31 TAC §§505.11(b)(2) and 505.22(a), and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with applicable CMP goals and policies. The commission has reviewed this rulemaking action for consistency, and has determined that this proposed rulemaking action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at Title 40, Code of Federal Regulations (40 CFR), to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). Because this rulemaking only clarifies a definition, it does not change existing emission requirements. Current emission requirements are in compliance with 40 CFR Part 51. Therefore, this action is consistent with the CMP policy that agency regulations comply with 40 CFR.

HEARING AND COMMENTERS. The commission conducted a public hearing on June 29, 1998, in Austin, and did not receive any oral testimony. The commission received written comments from the Chemical Specialties Manufacturers Association (CSMA); International Sanitary Supply Association (ISSA); S.C. Johnson Wax; Theochem Laboratories; and the United States Environmental Protection Agency (EPA) during the comment period which closed on July 6, 1998.

All of the commenters expressed support for the rule amendment as proposed and urged its adoption. The EPA also agreed with the commission that the change will have little impact on the effectiveness of the consumer products rule and Texas' 15% State Implementation Plan objectives. There were no specific comments directed towards the proposed rule language.

The commission appreciates the support expressed by all of the commenters. There were no changes to the proposed rule language in response to comments.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012 and §382.017. Section 382.012 requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. Section 382.017 authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 31, 1998.

TRD-9813813

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: September 20, 1998

Proposal publication date: June 5, 1998

For further information, please call: (512) 239-1970

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part IX. Texas Department on Aging

#### Chapter 260. Area Agency on Aging Administrative Requirements

##### 40 TAC §260.1

The Texas Department on Aging adopts §260.1 relating to the Area Agency on Aging Administrative Requirements without changes to the proposed text as published in the June 19, 1998, issue of the *Texas Register* (23 TexReg 6431). The text of the rule will not be republished.

The rule has been amended in order to establish the use of standardized forms which will improve the collection and accuracy of the required programmatic and financial performance targets (units, persons, unit costs) reported to the Department as outlined in the approved area plan of each area agency on aging.

The purpose of the amendments is to establish the use of uniform reporting instruments which will assist each area agency in maintaining verifiable supporting documentation of the services they provide to the elderly in their service region.

A summary of the comments received relating to the amendment of (g)(7) are as follows:

Comment: The commentor suggests only one standard form for client notes because AAA staff initially does not know if the client will require Case Management or Benefits Counseling and suggests adding Benefits Counseling to the list of codes and renaming the form "Case Narrative" or "Client narrative". The commentor also asks for clarification regarding the actual form as to whether a new page is to be used each month and suggests that "date" is redundant since it is included with each entry. The commentor also suggests that "provider" and "site" be removed to conserve space.

Agency Response: Since the comments are not directed at the proposed amendment regarding the use of forms to be used for reporting data to the Department in and of itself, no change to the proposed amendment needs to be considered. However, the Department will review the applicability of the suggested changes to the design of the forms across the network when creating and/or revising forms. Additionally, the amendment as proposed will allow for an area agency to request a waiver from the Department to allow an area agency to modify a form to address their specific needs and concerns upon prior approval from the Department.

Comment: The commentor expressed concerns regarding changing the forms used with only a few months left in the fiscal year. The commentor had specific concerns regarding why the month and year is identified on the top of the narrative when the date next to the entry should be adequate and if pages have to be numbered, does it mean that the pages have to be numbered for each month if separate continuing notes by month are kept? The commentor also suggests that the provider/site information on the client's continuing notes be eliminated to save space and that "service coordination" may be a better description if the case manager is simply helping the client by contacting service providers which are not to be reimbursed by the AAA and suggests that definitions need further clarification to ensure consistency. The commentor also requests clarification as to why the new form requires "time" for each activity since a case manager may be involved in more than one activity when in a client's home and these activities may overlap. In addition, the commentor suggests that more space for continuing notes could be achieved by adjusting the margins, eliminating duplicative information such as MM/YY, page #, provider, site, etc.

Agency Response: Due to the expected adoption date of the rule it will not be effective until the beginning of the Department's next fiscal year. Since the remaining comments are not directed at the proposed amendment regarding the use of forms to be used for reporting data to the Department in and of itself, no change to the proposed amendment needs to be considered. However, the Department will review the applicability of the suggested changes to the design of the forms across the network when creating and/or revising forms. Additionally, the amendment as proposed will allow for an area agency to request a waiver from the Department to use an alternative form which would allow an area agency to modify a form to address their specific needs and concerns upon prior approval from the Department.

Comments were received regarding the proposed amendment from the North Texas Area Agency on Aging and the Texoma Area Agency on Aging.

The rule is adopted under the Human Resources Code, Section 101.021, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the Department.

The Human Resources Code, Chapter 101, relating to the operation of the Texas Department on Aging, is affected by this proposed action.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 2, 1998.

TRD-9813923

Mary Sapp  
Executive Director

Texas Department on Aging

Effective date: September 22, 1998

Proposal publication date: June 19, 1998

For further information, please call: (512) 424-6872



## Part XIX. Texas Department of Protective and Regulatory Services

### Chapter 725. General Licensing Procedures

#### Subchapter S. Administrative Procedures

##### 40 TAC §725.1810

The Texas Department of Protective and Regulatory Services (TDPRS) adopts new §725.1810, with changes to the proposed text published in the July 10, 1998, issue of the *Texas Register* (23 TexReg 7186).

The justification for the new section is to outline the conditions under which an administrative penalty will be assessed. This is a new enforcement tool in §42.078 of the Human Resources Code (Administrative Penalty).

The new section will function by providing increased compliance with child care regulations, and therefore increased protection for children in out-of-home care.

During the public comment period, TDPRS received comments from the Child Development Association of Texas, the Advisory Committee on Child Care Administrators and Facilities, Texas Licensed Child Care Association, and individuals. A summary of the comments and TDPRS's responses follow:

**Comment:** One commenter stated that providers were continuing to voice concerns regarding penalties and their implementation. The commenter suggested that TDPRS take care when recommending penalties to assure providers there are ample options to be considered prior to the application of penalties.

**Response:** The rule was written to show that administrative penalties will be assessed after the provider has failed repeatedly to come into compliance within a three-month period of time or after corrective action when time limits for compliance have expired. TDPRS believes that this system of allowing time for corrections builds options for the provider. TDPRS may, however, proceed to suspension, probation, or revocation without imposing administrative penalties in any instance in which the violation is serious enough to warrant such action. No change was made to the rule based on this comment.

**Comment:** One commenter did not understand the term "within a three month period of time."

**Response:** This term relates to the timeframe within which fines may be assessed if the provider shows repeated, but less serious, noncompliances of those standards listed which pose a risk to the health and safety of children. These health and safety standards are listed in §725.4020(f)and(g). TDPRS has not changed the wording of the rule based on this comment, but will train staff and providers on the application of the rule as needed.

**Comment:** Commenters requested that the term "within a three month period of time" be deleted and replaced with the term "after a three month period of time."

**Response:** TDPRS did not incorporate this change because it would mean that we would not be able to assess fines as a further incentive to comply with standards for three months. Also, using the three-month timeframe answers the request from providers for a specific guideline for when a fine may be assessed. TDPRS has, however, clarified §725.1810(a)(1) to indicate that the provider must have repeatedly failed to come into compliance with the standards within a three-month period.

**Comment:** Commenters requested that the term "less serious risk to children" be changed to "serious or imminent risk to children" and that the reference to "less serious" be deleted.

**Response:** TDPRS did delete the term less serious. TDPRS did not change "less serious risk to children" to "serious or imminent risk to children" because it would be in conflict with the intent of the Sunset Commission recommendation that TDPRS assign administrative penalties where the violations were not serious enough to warrant more severe nonmonetary sanctions. Any serious or imminent risk to children would be cause for considering adverse action such as suspension or revocation.

**Comment:** Commenters requested that the reason for fines be changed from "failure to comply with any corrective action plan after the time limits have expired" to "failure to comply with written probation corrective action plan."

**Response:** TDPRS did not make this change because it would mean that administrative penalties could be assigned only during times when the facility or family home is placed on probation. Probation is a corrective action used for more serious violations of standards and as a final step before suspension or revocation.

**Comment:** Commenters requested that a new statement be added which would allow for administrative penalties only after "a minimum 90 day technical assistance plan and period offered by the agency."

**Response:** TDPRS did not incorporate this statement because it would limit fines being assessed, regardless of the lack of corrections made by the facility or family home.

**Comment:** Commenters requested that a paragraph be added stating that: "Fines will not be assessed for repeated violations of those standards identified in §725.4020 (f) and (g) which do not pose a serious or imminent risk to the health and safety of children, while the centers' staff are cooperatively participating in an agency and center coauthored technical assistance plan and period for making corrective actions."

**Response:** TDPRS did not use this language because a) the rule already references use of penalties for violations that are less serious than imminent risk to children; b) the intent of the legislation is to use penalties for repeated non-compliances; and c) a corrective action plan is already in place in the rule as an alternative method of regulation to fines.

**Comment:** Commenters requested that changes be made to §725.2040 (Judicial Review) where the standards posing a risk to the health and safety of children when violated are listed. The commenter asked that the word "may" be added to "pose a risk to the health and safety of children," and that the words "a serious or imminent" be added to classify risk to the health and safety of children when violated."

Response: TDPRS did not incorporate these suggested changes because they address rules previously adopted by the Board and cannot be incorporated into these rules.

The new section is adopted under the Human Resources Code, Title 2, Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs and specifically §42.078 HRC which mandates rules for administrative penalties.

The new section implements the HRC, §42.078.

*§725.1810. Administrative Penalties.*

(a) Administrative penalties are fines imposed against a facility or family home, licensed or registered, when that facility or family home violates Chapter 42 of the Human Resources Code (HRC) or a rule or order adopted under that chapter. Nonmonetary, administrative penalties or remedies including, but not limited to, corrective action plans, probation, and evaluation periods shall be imposed, when appropriate, before monetary penalties. The Texas Department of Protective and Regulatory Services (TDPRS) may proceed to suspension, probation or revocation without imposing administrative penalties in any instance in which, in TDPRS's opinion, the violation is serious enough to warrant such action.

(1) Fines may be assessed after a provider has failed repeatedly within a three-month period to come into compliance with those standards identified in §725.4020 (f) and (g) of this title (relating to Judicial Review) which pose a risk to the health and safety of children when violated, but where the violations were not serious enough to warrant more severe nonmonetary sanctions.

(2) Fines may be assessed for failure to comply with any corrective action plan after time limits for correction have expired.

(b) Penalty assessment shall be based on the day the facility/family home is notified that a repeated violation has been cited or any corrective action plan has not been implemented. The ending period for the fine shall be the date the facility notifies TDPRS the violation has been corrected, unless a subsequent site visit determines no proper correction has been made.

(c) When notified of the penalty, it shall be the responsibility of the facility/family home to notify TDPRS when the violation is corrected. If necessary, a site visit by TDPRS staff may be made within seven calendar days to confirm that the violation has been corrected.

(d) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits, based on the number of children receiving care at the facility or family home at the time of the violation:

Figure: 40 TAC 725.1810(d)

(e) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations; and

(4) efforts to correct the violation.

(f) In determining the amount of the penalty, the primary consideration shall always be the actual or potential harm posed to

children in care by the violation, and the number of children exposed to that actual or potential harm.

(g) Monetary penalties shall not be assessed for violations of clerical errors or standards which do not clearly apprise the facility or family home of the action required by the standard.

(h) Upon determination that a violation has occurred, the executive director may issue a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(i) Within 14 days after the date the recommendation is issued, the executive director shall give written notice of the recommendation to the person owning or operating the facility. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(j) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the executive director, or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) If the person accepts the determination and recommended penalty of the executive director or fails to respond to the notice in a timely manner, the executive director shall issue an order and impose the recommended penalty.

(l) If the person requests a hearing, the executive director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(m) The notice of the administrative law judge's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(n) Within 30 days after the date the administrative law judges order becomes final as provided by §2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(o) Within the 30-day period, a person who acts under subsection (n)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(p) On receipt of a copy of an affidavit under subsection (o)(2) of this section, the executive director may file with the county, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(q) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(r) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(s) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court

does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(t) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(u) A penalty collected under this section shall be sent to the comptroller for deposit in the general revenue fund.

(v) All proceedings under this section are subject to Chapter 2001, Government Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 1, 1998.

TRD-9813907

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: October 1, 1998

Proposal publication date: July 10, 1998

For further information, please call: (512) 438-3765





# TEXAS DEPARTMENT OF INSURANCE

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## **Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L**

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

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## Texas Department of Insurance

### Adopted Action

The Commissioner of Insurance has adopted amendments to classifications contained in the TEXAS BASIC MANUAL OF RULES, CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE (Manual). The Manual provides insurers licensed to write workers' compensation insurance in Texas with rules, classifications and experience rating plan applicable to Texas workers' compensation policies. The revisions were proposed by the Texas Department of Insurance staff (TDI staff) in a petition filed on July 2, 1998. Notice of the proposal (Reference No. W-0798-16-I) was published in the July 17, 1998 issue of the *Texas Register* (23 TexReg 7446). The revisions were considered at a public hearing held on August 18, 1998 at 9:00 a.m., under Docket No. 2371 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

The Commissioner adopted the amendments to the workers' compensation classifications without changes to the proposal as notice in the *Texas Register*.

One set of comments was received concerning Docket No. 2371 and it came from State Farm Insurance Companies. The comments expressed concern about possible effects of the deletion of "clerical" and "salespersons" from various classifications. The first concern was that the recommended changes would cause Texas to have classification wordings different from the workers' compensation insurance industry in other states. In response to this concern, the department points out that Texas workers' compensation classifications have been significantly different from the classifications in other states since at least January 1, 1994. At that time Texas condensed the number of its workers' compensation classifications from about 656 classifications to about 351 classifications. In addition, the recommended deletions of "clerical" from the classifications is consistent with the earlier removal of "clerical" from eight (8) classifications effective January 1, 1994. Consequently, the additional deletions would not significantly increase the differences in the classifications between Texas and other states.

Another comment was that these changes would increase the possibility of misclassification, either intentionally or unintentionally. The department disagrees based on its experience with the earlier deletions

of "clerical" effective January 1, 1994. The TDI staff did not see an increase in misclassifications or possible fraud as a result of removing "clerical" from those eight (8) classifications effective January 1, 1994. Although the department recognizes that in some situations it may be difficult to distinguish which classification may apply to a particular employee, Manual rule IV. E. 2. provides guidance as to how to handle such situations. The rule requires all of the payroll of an employee operating under more than one classification during a policy year to be included under the highest rated classification. In addition, Manual Rule IV. b. 2. a. and d. set forth definitions for "clerical" and "salespersons". In order for an employee to be eligible for either of these classifications, an employee must meet those definitions. Otherwise, the employee's payroll must be included under the governing classification.

Another comment was that the insurers may have difficulty explaining to a policyholder why the rates for a classification are not the same from state to state and why the classification code might not be the same. The department's response is that this difficulty already exists since there presently are differences from state to state in the rates charged for the same classification as well as a difference in the actual classification code. Insurers have the continuing responsibility to inform their policyholders of in the rules and rates for the various states in which that employer has operations.

The commentor expressed concern about having to "re-underwrite" at renewal risks that may be eligible to have "clerical" and "salespersons" removed from the governing classification. TDI staff believes that the re-classification of some of the clerical and salespersons is worth the underwriting effort because the premium will be more reflective of the hazards of the work being performed. However, the TDI staff will monitor the effects of these changes on the rates being charged and if there are adverse effects, TDI staff will recommend changes to resolve them.

Lastly, the commentor expressed concern that if the clerical and salesperson payroll is being deleted from the recommended classifications there should be a corresponding rate adjustment. The department disagrees that a rate adjustment is warranted at this time. In response to this concern, TDI staff reviewed the pure premium level for three (3) of those classifications that removed "clerical" effective January 1, 1994. TDI staff's review revealed no significant empirical difference in the premium level for those three classifications after clerical was removed. If an insurance company feels that a rate adjustment

is necessary because of "clerical" being removed, the company could adjust either its rate filing or the amount of schedule rating applied to a specific policy to arrive at the appropriate premium level.

The Commissioner has determined that the revisions to the classifications contained in the Manual are necessary to combine certain classifications with like or similar hazards, to eliminate clerical and outside salespersons from the classification wordings for several classifications, to eliminate conflicting language within the classification wordings and footnotes, and to provide clarification to some of the classification wordings by amending the language.

The amendments to the classifications contained in the Manual are shown in exhibits on file with the Chief Clerk's Office of the Texas Department of Insurance under Reference No. W-0798-16-I and are incorporated by reference into Commissioner's Order No. 98-1012.

The Commissioner has jurisdiction of this matter pursuant to Articles 5.60 and 5.96 of the Texas Insurance Code.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Title 10, Chapter 2001 (Administrative Procedure Act).

Consistent with the Insurance Code, Article 5.96 (h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers affected by this action. The agency hereby certifies that the adopted amendments to the classifications contained in the Manual have been reviewed by the legal counsel and found to be a valid exercise of the agency's legal authority.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments to the classifications contained in the Texas Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance, which are attached and incorporated hereto are hereby adopted to be effective for workers' compensation policies written with an effective date on and after January 1, 1999.

TRD-9814033

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 3, 1998

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# == REVIEW OF AGENCY RULES ==

This Section contains notices of state agency rules review as directed by the 75th Legislature, Regular Session, House Bill 1 (General Appropriations Act) Art. IX, Section 167. Included here are: (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the ***Texas Administrative Code*** on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the ***Texas Register*** office.

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## Proposed Rule Reviews

Advisory Commission on State Emergency Communications

### Title 1, Part XII

The Advisory Commission on State Emergency Communications proposes to readopt Chapter 252, Administration, in accordance with the Appropriations Act, Article IX, Section 167. The report of the rule review of this Chapter will be presented at the September 18 Commission meeting.

The agency's reasons for adopting the rules contained in this chapter continue to exist.

The Advisory Commission on State Emergency Communications will accept comments for 30 days following the publication of this Article in the *Texas Register*. Comments on the proposal may be submitted to James D. Goerke, Executive Director, Advisory Commission on State Emergency Communications, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701; phone 512-305-6911; or fax 512-305-6937.

TRD-9814139

James D. Goerke

Executive Director

Advisory Commission on State Emergency Communications

Filed: September 4, 1998



Employees Retirement System of Texas

### Title 34, Part IV

The Employees Retirement System of Texas proposes to readopt Chapter 61 in accordance with the Appropriations Act, Section 167. This Chapter contains one Section (§61.1. Definitions). The agency's reason for adopting this Chapter continues to exist.

Comments on the proposed readoption of this Chapter may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207, or e-mail Mr. Nail at wnail@ers.state.tx.us.

TRD-9813956

Sheila W. Beckett

Executive Director

Employees Retirement System of Texas

Filed: September 2, 1998



The Employees Retirement System of Texas proposes to readopt the following Sections, concerning the Board of Trustees, in accordance with the Appropriations Act, Section 167. The agency's reason for adopting these Sections continues to exist.

§63.1. Duties of the Board of Trustees

§63.3. Election of Trustees (Nomination Process)

§63.5. Rulemaking Procedure

§63.7. Public Comment to the Board of Trustees

§63.9. Officers

§63.11. Quorum

§63.13. Committees

§63.15. Roberts Rules of Order

§63.17. Advisory Committees

Comments on the proposed readoption of these sections may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207 or e-mail Mr. Nail at wnail@ers.state.tx.us.

TRD-9813957

Sheila W. Beckett

Executive Director

Employees Retirement System of Texas

Filed: September 2, 1998



The Employees Retirement System of Texas proposes to readopt §63.4 Election of Trustees (Ballot), with changes, in accordance with the Appropriations Act, Section 167.

Section 63.4(e) is being amended to state that eligible voters will receive their ballots in the manner currently used for annual distribution of the summary of benefit statements and annuitant

correspondence. Please refer to the Proposed Rule Section to see the proposed changes to Section 63.4.

Comments on the proposed changes and readoption may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207, or e-mail Mr. Nail at [w nail@ers.state.tx.us](mailto:w nail@ers.state.tx.us).

TRD-9813959  
Sheila W. Beckett  
Executive Director  
Employees Retirement System of Texas  
Filed: September 2, 1998



The Employees Retirement System of Texas proposes to readopt the following Sections, concerning the Executive Director, in accordance with the Appropriations Act, Section 167. The agency's reason for adopting these Sections continues to exist.

- §65.1. Duties of the Executive Director
- §65.5. Correction of Administrative Error
- §65.7. Appointment of Hearing Examiner
- §65.9. Delegation of Authority

Comments on the proposed readoption of these sections may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207, or e-mail Mr. Nail at [w nail@ers.state.tx.us](mailto:w nail@ers.state.tx.us).

TRD-9813958  
Sheila W. Beckett  
Executive Director  
Employees Retirement System of Texas  
Filed: September 2, 1998



The Employees Retirement System of Texas proposes to readopt Section 65.3 Records of the System, with changes, in accordance with the Appropriations Act, Section 167.

Section 65.3 is being amended to reflect the current charges for copies of public information as adopted by the General Services Commission in the Texas Administrative Code, Title 1, §111.70. Please refer to the Proposed Rule Section to see the proposed changes to Section 65.3.

Comments on the proposed changes and readoption may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207, or e-mail Mr. Nail at [w nail@ers.state.tx.us](mailto:w nail@ers.state.tx.us).

TRD-9813960  
Sheila W. Beckett  
Executive Director  
Employees Retirement System of Texas  
Filed: September 2, 1998



The Employees Retirement System of Texas is in the process of reviewing Chapter 87, concerning the Deferred Compensation Program, in accordance with the Appropriations Act, Section 167. It is anticipated that these rules will be amended as a result of this

review. Please refer to the Texas Administrative Code to review the current Deferred Compensation rules.

Comments on Chapter 87 may be submitted to William S. Nail, Deputy Executive Director and General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207, or e-mail Mr. Nail at [w nail@ers.state.tx.us](mailto:w nail@ers.state.tx.us).

TRD-9813955  
Sheila W. Beckett  
Executive Director  
Employees Retirement System of Texas  
Filed: September 2, 1998



Texas Department of Human Services

**Title 40, Part I**

The Texas Department of Human Services files this notice of intention to review Title 40 TAC, Chapter 4 (relating to Medical Programs - Children and Pregnant Women), Chapter 5 (relating to Medicaid Programs for Aliens), Chapter 6 (relating to Disaster Assistance Program), Chapter 7 (relating to Refugee Cash Assistance Program), Chapter 9 (relating to Refugee Social Services), Chapter 11, Subchapter A, (relating to the Food Distribution Program), Chapter 12 (relating to Special Nutrition Program), and Chapter 13 (relating to Title IV-4 Emergency Assistance Program) pursuant to the Appropriations Act of 1997, House Bill 1, Article IX, §167. Chapter 11, Subchapter B (relating to the Texas Commodity Assistance Program), is not presented for review because it was published as a new rule, in its entirety, after September 1, 1997.

As required by §167, the Department will accept comments regarding whether the reason for adopting each of the rules in 40 TAC, Chapters 4, 5, 6, 7, 9, 11, 12, and 13 continues to exist. The deadline for the comments is 30 days after this publication in the *Texas Register*.

Any questions or written comments pertaining to this notice of intention to review Chapters 4, 5, 7, and 13 should be directed to Rita King, Eligibility Services, Texas Department of Human Services W-312, P.O. Box 149030, Austin, Texas 78714-9030, or at (512) 438-4148.

Any questions or written comments pertaining to this notice of intention to review Chapter 6 should be directed to Dennis McCudden, Emergency Services Programs, Texas Department of Human Services Y-950, P.O. Box 149030, Austin, Texas 78714-9030, or at (512) 483-3909.

Any questions or written comments pertaining to this notice of intention to review Chapter 9 should be directed to Liz Cruz- Garbutt, Office of Immigration and Refugee Affairs, Texas Department of Human Services W-230, P.O. Box 149030, Austin, Texas 78714-9030, or at (512) 438-5440.

Any questions or written comments pertaining to this notice of intention to review Chapter 11, Subchapter A, and Chapter 12 should be directed to Keith Churchill, Special Nutrition Programs, Texas Department of Human Services Y-906, P.O. Box 149030, Austin, Texas 78714-9030, or at (512) 467-5837. The Department anticipates that the result of the review of these rules will be the submission of proposed rules to incorporate changes necessary to simplify and improve the effectiveness of the rules, and invites comments on any aspect of these rules.

TRD-9814066  
Glenn Scott

General Counsel  
Texas Department of Human Services  
Filed: September 4, 1998



Texas State Board of Medical Examiners

**Title 22, Part IX**

The Texas State Board of Medical Examiners proposes to review Chapter 161 (§§161.1-161.3), concerning General Provisions, pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167.

The Texas State Board of Medical Examiners is contemporaneously proposing the amendment of §161.1 and new §161.4 elsewhere in this issue of the *Texas Register*.

Comments on the proposed review may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

TRD-9814093  
Bruce A. Levy, M.D, J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Filed: September 4, 1998



The Texas State Board of Medical Examiners proposes to review Chapter 173 (§173.1), concerning Applications, pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167.

The Texas State Board of Medical Examiners is contemporaneously proposing the repeal of §173.1 elsewhere in this issue of the *Texas Register*.

Comments on the proposed review may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

TRD-9814094  
Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Filed: September 4, 1998



The Texas State Board of Medical Examiners proposes to review Chapter 175 (§§175.1-175.4), concerning Schedule of Fees and Penalties, pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167.

The Texas State Board of Medical Examiners is contemporaneously proposing the repeal of §§175.1-175.4 and new §§175.1-175.5 elsewhere in this issue of the *Texas Register*.

Comments on the proposed review may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

TRD-9814095  
Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Filed: September 4, 1998



The Texas State Board of Medical Examiners proposes to review Chapter 181 (§§181.1-181.7), concerning Contact Lens Prescriptions,

pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167.

Chapter 181 was mandated by the 75th Legislature through the Texas Contact Lens Prescription Act, Chapter 1345. The chapter was initially proposed in order to set forth the criteria under which a patient may request and receive a contact lens prescription and under which a physician shall provide such prescription.

Comments on the proposed review may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

TRD-9814096  
Bruce A. Levy, M.D, J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Filed: September 4, 1998



The Texas State Board of Medical Examiners proposes to review Chapter 189 (§189.1), concerning Rule Changes, pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167.

The Texas State Board of Medical Examiners is contemporaneously proposing the repeal of §189.1 elsewhere in this issue of the *Texas Register*.

Comments on the proposed review may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

TRD-9814097  
Bruce A. Levy, M.D, J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Filed: September 4, 1998



The Texas State Board of Medical Examiners proposes to review Chapter 197 (§§197.1-197.6), concerning Emergency Medical Service, pursuant to the Appropriations Act of 1997, HB 1, Article IX, Section 167.

The Texas State Board of Medical Examiners is contemporaneously proposing the repeal of §§197.2-197.5 and new §§197.2-197.5 elsewhere in this issue of the *Texas Register*.

Comments on the proposed review may be submitted to Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018.

TRD-9814098  
Bruce A. Levy, M.D, J.D.  
Executive Director  
Texas State Board of Medical Examiners  
Filed: September 4, 1998



Texas Motor Vehicle Board

**Title 16, Part VI**

The Texas Motor Vehicle Board of the Texas Department of Transportation files this notice of intent to review Title 16, Chapter 101, Rules of Practice and Procedure, relating to agency operations, rule-making, and adjudicative proceedings and hearings, pursuant to the Appropriations Act of 1997, House Bill 1, Article IX, §167.

As required by §167, the Board will accept comments regarding whether the reasons for adopting each of the rules in 16 TAC, Chapter 101 continues to exist.

Any questions or written comments pertaining to this notice of intent to review should be directed to Brett Bray, Director, Motor Vehicle Division, Texas Department of Transportation, P. O. Box 23293, Austin, Texas 78768-2293 or at (512) 416-4910.

TRD-9814243

Brett Bray  
Director  
Texas Motor Vehicle Board  
Filed: September 9, 1998





# TABLES & GRAPHICS

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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

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**Figure: 28 TAC 34.82(c)(2)**

**Mortar Separation Distances**

<b>Mortar</b>	<b>Spectator Viewing Areas Parking Areas 1 &amp; 2-Family Dwellings</b>	<b>Health Care &amp; Penal Facilities</b>	<b>Storage of Hazardous Materials</b>
2 in.	100 ft.	600 ft.	600 ft.
3 in.	125 ft.	600 ft.	600 ft.
4 in.	125 ft.	600 ft.	600 ft.
5 in.	150 ft.	600 ft.	600 ft.
6 in. & larger	200 ft.	600 ft.	600 ft.

Figure 40 TAC 725.1810(d)

<u>Number of children receiving care</u>	<u>Maximum amount of penalty</u>
20 or less	\$20
21-40	\$30
41-60	\$40
61-80	\$50
81-100	\$75
More than 100	\$100

# OPEN MEETINGS

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Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the *Texas Register*.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

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**Texas State Board of Public Accountancy**

Wednesday, September 16, 1998, 10:00 a.m.

333 Guadalupe Street, Tower III, Suite 900, Room 910

Austin

Major Case Enforcement Committee

AGENDA:

1. File Nos. 95-08-39L and 95-08-40L
2. File No. 98-01-19L. Approval of consultant's contract.
3. Briefing on American Express lawsuit.
4. Report on August 13, 1998 teleconference committee meeting.
5. Status report on cases pending. Major cases summary.
6. File Nos. 95-10-03L and 95-10-04L.

All discussion of investigative files will be in Executive Session

Contact: Amanda G. Birrell, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3900, 512/305-7848.

Filed: September 3, 1998, 9:01 a.m.

TRD-9813999



Wednesday, September 16, 1998, 11:00 a.m.

333 Guadalupe Street, Tower III, Suite 900, Room 910

Austin

Licensing Committee

AGENDA:

- A. Report on the November, 1997 and the June, 1998, swearing-in ceremonies. Review of plans for the November 14, 1998 swearing-in ceremonies.
- B. Consideration of a referral from the Quality Review Committee.
- C. Review of licensing statistics.
- D. Review of statistical data regarding the registration of partnerships and professional corporations since last meeting.
- E. Review of statistical data of individuals registered under Sections 12, 13, and 14 of the Act since the last meeting.

All discussion of investigative files will be in Executive Session

Contact: Amanda G. Birrell, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3900, 512/305-7848.

Filed: September 3, 1998, 9:01 a.m.

TRD-9813998



Thursday, September 17, 1998, 9:00 a.m.

333 Guadalupe Street, Tower III, Suite 900, Room 910

Austin  
Board Meeting  
AGENDA:

Consideration of Committee Reports and Recommendations from: Executive, Regulatory Compliance, Rules, Behavioral Enforcement, Technical Standards Review, Major Case Enforcement, Qualifications, Quality Review and Licensing, Consideration of adoption of Board Rules. Election of Board officers. Consideration of Agreed Consent Orders, Board Orders and Proposals For Decision. Review of future meetings.

All discussion of investigative files will be in Executive Session

Contact: Amanda G. Birrell, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3900, 512/305-7848.  
Filed: September 3, 1998, 9:01 a.m.

TRD-9813997



Thursday, September 17, 1998, 9:00 a.m.  
333 Guadalupe Street, Tower III, Suite 900, Room 910  
Austin

Board Meeting

REVISED AGENDA:

Additional Item: XIV. Consideration of proposed agreed consent orders and proposals for decision. B. Proposal for Decision; 8. Investigation No. 97-02-021.

All discussion of investigative files will be in Executive Session

Contact: Amanda G. Birrell, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3900, 512/305-7848.  
Filed: September 3, 1998, 4:25 p.m.

TRD-9814046



## Texas State Affordable Housing Corporation

Friday, September 11, 1998, Noon  
1715 West 35th Street  
Austin

Board Meeting

AGENDA:

The Board of Texas State Affordable Housing Corporation will meet to consider and possibly act on: approval of minutes of Board meeting of August 13, 1998; approval of resignations of officers for the corporation; approval of officers for the corporation; approval of the fiscal 1999 expense budget; approval of selecting an alternative date and/or place for monthly board meetings; approval of the corporation for servicing the TDHCS Bond Program issue #54; approval of modification to the HOME grant Home Improvement Loan Program; approval of resolution to adopt the terms and conditions under TDHA's MRB Program #49; approval of the corporation's owned multifamily real estate policy; approval of a resolution concerning the sale of the Terrance Apartments; approval of the sale of the President's Corner Apartments.

Executive Session-Personal matters; consultation with attorney under sec. 551.071(2) of Texas Government Code; anticipated litigation

(potential or threatened); litigation settlement; action in open session on items discussed in executive session; adjourn. Individuals who required auxiliary aids or services for this meeting should contact Susan Caldwell at 512/377-3555 Ext. 405 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Michael Sullivan, 1715 West 35th Street, Austin, Texas 78703, 512/377-3555, Ext 414.  
Filed: September 4, 1998, 8:51 a.m.

TRD-9814064



Friday, September 11, 1998, Noon

1715 West 35th Street

Austin

Board Meeting

AGENDA:

The Board of Texas State Affordable Housing Corporation will meet to consider and possibly act on: approval of minutes of Board meeting of August 13, 1998; approval of resignations of officers for the corporation; approval of officers for the corporation; approval of the fiscal 1999 expense budget; approval of selecting an alternative date and/or place for monthly board meetings; approval of the corporation for servicing the TDHCS Bond Program issue #54; approval of modification to the HOME grant Home Improvement Loan Program; approval of resolution to adopt the terms and conditions under TDHA's MRB Program #49; approval of the corporation's owned multifamily real estate policy; approval of a resolution concerning the sale of the Terrance Apartments; approval of the sale of the President's Corner Apartments.

Executive Session-Personal matters; consultation with attorney under sec. 551.071(2) of Texas Government Code; anticipated litigation (potential or threatened); litigation settlement; action in open session on items discussed in executive session; adjourn. Individuals who required auxiliary aids or services for this meeting should contact Susan Caldwell at 512/377-3555 Ext. 405 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Michael Sullivan, 1715 West 35th Street, Austin, Texas 78703, 512/377-3555, Ext 414.  
Filed: September 6, 1998, 4:29 p.m.

TRD-9814150



## Texas Department of Agriculture

Monday, September 21, 1998, 11:00 a.m.

1700 North Congress, Room 911

Austin

Produce Recovery Fund Board

AGENDA:

Business Meeting: approval of the minutes for February 26, 1998, Produce Recovery Fund Board Meeting; discussion and possible action on proposed recommendation to increase payments from the Produce Recovery Fund; discussion and possible action on report from Mr. Byron White on proposed legislative changes financial report for fy 1998; public comment.

Contact: Margaret Alvarez, P.O. Box 12847, Austin, Texas 78711, 512/463-7604.

Filed: September 9, 1998, 8:43 a.m.

TRD-9814239

◆ ◆ ◆  
**State Aircraft Pooling Board**

Monday, September 14, 1998, 9:30 a.m.

4900 Old Manor Road

Austin

Board Meeting

AGENDA:

1. call to order; 2. introductions; 3. approval of April 9, 1998, minutes; 4. TSTC Waco-request for upgrade instrument trainer; 5. GLO-request for limited waiver from FAR Part 135 requirements; 6. airport relocation-APB Facilities status; 7. FY 2000-2001 Legislative Appropriations Request; 8. review of agency rules-Chapter 181, General Provisions; 9. executive director's Report; a. report from program specialist; b. report from chief pilot; c. report from director of aircraft maintenance; 10. executive session-personnel issues.

Contact: Kelley Perez, 4900 Old Manor Road, Austin, Texas 78723, 512/477-8900.

Filed: September 3, 1998, 9:01 a.m.

TRD-9814000

◆ ◆ ◆  
**Texas Commission on Alcohol and Drug Abuse**

Friday, September 18, 1998, 11:00 a.m.

Highway 281 South, Delicias Restaurant

Rachal

Regional Advisory Consortium (RAC) Region 11

AGENDA:

Call to order; welcome and introduction of guests; approval of minutes; old business: border task force, membership committee, and managed care; new business: issues from the RAC convenor's meeting; public comment; and adjournment.

Contact: Albert Ruiz, 9001 North IH35, Suite 105, Austin, Texas 78753, 512/349-6607 or 1/800/832-9623, Ext. 6607.

Filed: September 9, 1998, 11:36 a.m.

TRD-9814288

◆ ◆ ◆  
Tuesday, September 22, 1998, 1:00 p.m.

Fort Bliss, Building 48

El Paso

Regional Advisory Consortium (RAC) Region 10

AGENDA:

Call to order; welcome and introduction of guests; approval of minutes; old business: membership, election of officers, and planning for meeting outside of El Paso; new business: TCADA update and public hearings; and adjournment.

Contact: Albert Ruiz, 9001 North IH35, Suite 105, Austin, Texas 78753, 512/349-6607 or 1/800/832-9623, Ext. 6607.

Filed: September 9, 1998, 8:20 a.m.

TRD-9814234

◆ ◆ ◆  
Friday, September 25, 1998, 10:00 a.m.

9001 North IH-35, Suite 105, Room MR-3

Austin

Regional Advisory Consortium (RAC) Region 7

AGENDA:

Call to order; welcome and introduction of guests; approval of minutes; old business: update on United Way legislative priorities and terms of members; new business: election of officers and issues to be brought to the convenor's meeting; public comment; and adjournment.

Contact: Albert Ruiz, 9001 North IH35, Suite 105, Austin, Texas 78753, 512/349-6607 or 1/800/832-9623, Ext. 6607.

Filed: September 9, 1998, 8:20 a.m.

TRD-9814233

◆ ◆ ◆  
**State Board of Barber Examiners**

Monday, September 21, 1998, 8:30 a.m.

William P. Hobby State Office Building, 333 Guadalupe, Tower 2, Room 400A

Austin

Rules Committee of the State Board of Barber Examiners

AGENDA:

Opening of meeting; roll call; open session; 1. consideration of potential revisions to Title 22. Examining Boards, Part 1. TSBBE Chapter 51. Pursuant to a Rule Review Plan published in the Texas Register on August 8, 1998. The TSBBE will review sections 51.51-51.86, Examinations and Licensing; Adjourn. The Board may go into executive session on any agenda item if authorized by the Open Meetings Act, Government Code, Chapter 551.

Contact: Will K. Brown, 333 Guadalupe, Suite 2-110, Austin, Texas 78701, 512/305-8475.

Filed: September 8, 1998, 11:06 a.m.

TRD-9814160

◆ ◆ ◆  
**Comptroller of Public Accounts**

Tuesday, September 15, 1998, 10:00 a.m.

111 East 17th Street, Room 114, LBJ Building

Austin

Funds Review Advisory Committee

AGENDA:

I. Report to members on responses to the Notice to State Agencies requesting comments on items under consideration by the committee.

II. Discussion on agency comments on items under consideration by the committee.

III. Committee vote on items to include in the committee report to the legislature as follows: recommending the use of standardized language when drafting bills creating new funds, accounts or review ded-

ications; recommending reenactment and clarification of §403.095, Government Code; recommending that funds, accounts and revenue dedications not be exempt from §403.095, government Code when drafting legislation; recommending limiting the creation and recreation of funds, accounts and dedications of revenue; recommending repeal of §403.096, Government Code; recommending action on state agency proposals, if any.

IV. Discussion on time-frame for report preparation, review and sign off by committee members.

V. Adjourn.

Contact: Ken Welch, 111 East 17th Street, Room 901, Austin, Texas 78774, 512/475-0549.

Filed: September 3, 1998, 9:10 a.m.

TRD-9814002



Wednesday, September 16, 1998, 9:00 a.m.

111 East 17th Street, Room 114, LBJ Building

Austin

Texas Prepaid Higher Education Tuition Board Investment Committee

AGENDA:

Pursuant to Texas Government Code, Chapter 551, the following matters, not necessarily in the order noted, will be taken up for discussion and/or decision by the Texas Prepaid Higher Education Tuition Board Investment Committee at the Lyndon B. Johnson Building, 111 East 17th Street, Room 114, Austin, Texas on the 16th day of September, 1998 commencing at 9:00 a.m.

I. Presentation of Second Quarter Investment Report.

II. Program Update

III. Discussion and Possible Recommendation to the Board on Investment Consultant Candidate

IV. Discussion on Directed Brokerage

V. Discussion and Possible Vote to amend Investment Guidelines.

Contact: Todd Morgan, 111 East 17th Street, Room 901, Austin, Texas 78774, 512/475-1735.

Filed: September 8, 1998, 3:03 p.m.

TRD-9814194



Wednesday, September 16, 1998, 9:30 a.m.

111 East 17th Street, Room 114, LBJ Building

Austin

Texas Prepaid Higher Education Tuition Board

AGENDA:

Pursuant to Texas Government Code, Chapter 551, the following matters, not necessarily in the order noted, will be taken up for discussion and/or decision by the Texas Prepaid Higher Education Tuition Board Investment Committee at the Lyndon B. Johnson Building, 111 East 17th Street, Room 114, Austin, Texas on the 16th day of September, 1998 commencing at 9:30 a.m. The Board may meet in executive session on any items listed below as authorized by Texas Government Code, Chapter 551.

I. Approval of minutes from March 26, 1998, and April 17, 1998, meetings.

II. Program Update

III. Actuarial Update

IV. Quarterly Investment Report Update

V. Update on IRS Private Letter Ruling and Discussion of New Regulations

VI. Year 2000 Update

VII. Discussion and possible vote on FY99 Budget

VIII. Discussion and possible vote on changes to program rules

IX. Discussion and possible vote to set the next enrollment period

X. Discussion and possible vote to set new contract prices

XI. Presentation of 1998-1999 Marketing Plan

XII. Discussion and possible vote on investment consultant

XIII. Discussion and possible vote on participation in contract for legal services

XIV. Discussion and possible vote on proposals for auditing services

XV. Discussion and possible vote on bids for telemarketing services

XVI. Discussion and possible vote on renewal of marketing agent services

XVII. Discussion on directed brokerage

XVIII. Discussion on the marketing of life insurance policies

XIX. Discussion and possible vote to amend investment guidelines

XX. Set future meeting dates.

Contact: Todd Morgan, 111 East 17th Street, Room 901, Austin, Texas 78774, 512/475-1735.

Filed: September 8, 1998, 4:06 p.m.

TRD-9814216



## **Texas Council on Workforce and Economic Competitiveness**

Friday, September 18, 1998, 9:00 a.m.

Clements Building, Committee Room 2, Fifth Floor, 300 West 15th Street

Austin

Executive Committee

AGENDA:

Call to Order; Welcome and Introductions, Public Comments; Approval of Minutes, August 7, 1998 Executive Committee Meeting Minutes; Action Items: TCWEC Bylaws Revised, TCWEC 1998-1999 Budget; Adjournment at 9:45 a.m.

Notice Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Kay Rodriguez, (512) 936-8100 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Kay Rodriguez, P.O. Box 2241, Austin, Texas 78768, (512) 936-8100.



Filed: September 4, 1998, 2:58 p.m.

TRD-9814125



Friday, September 18, 1998, 10:00 a.m.

Clements Building, Committee Room 2, Fifth Floor, 300 West 15th Street

Austin

AGENDA:

Call to Order, Welcome and Introductions, Public Comments, Approval of Minutes April 27–28, 1998 and June 15, 1998; Action Items: Ratification of Executive Committee Actions on August 7, 1998, Local Plans for East Texas, Cameron Works Inc., Middle Rio Grande, Panhandle and North Texas Workforce Development Boards, Local Workforce Development Board Plans, TCWEC 1998–1999 Budget, TCWEC Bylaws Revised, Pilot Study Regarding Core Performance Measures; Presentation: (1 hr) Presentation on Welfare-to-Work; Briefing Items: Status Report-Texas' Strategic Plan for Workforce Development (June 1994–June 1999) Report on Perkins Coordination, Report on TEA Adult Education Data System, Status Report on Work Force Investment Act, Federal Legislation Issues, Impact on TCWEC, Development of a New Texas Strategic Plan for Workforce Development (June 1999–2004); Information Items: Report on One-Stop Centers, 4th quarter JTPA Performance Report for PY97, FY 1999 State Plan of Operation for Texas' Food Stamp Employment and Training (E&T) Program, Welfare-to-work Plan, Report on Family Income and Assistance Model, Report on Apprenticeship and Training Advisory Committee; Other Business; Comments from the Executive Director, Comments from the Chair, Other council Comments; Adjournment at 4:00 p.m.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Kay Rodriguez, (512) 936–8100 (or Relay Texas 800–735–2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Kay Rodriguez, P.O. Box 2241, Austin, Texas 78768, (512) 936–8100.

Filed: September 4, 1998, 3:00 p.m.

TRD-9814126



### **Texas Council on Purchasing for People with Disabilities**

Friday, September 25, 1998, 10:00 a.m.

Capitol Extension, 1400 North Congress Avenue, Hearing Room E2.026

Austin

Quarterly Meeting

AGENDA:

Approval of minutes from June 26, 1998 open meeting; consideration of Pricing Subcommittee Recommendations: Item 1. Discussion and action on service contracts completed under temporary approval authority; Item 2. Discussion and action on new services; Item 3. Discussion and action on renewal services; Item 4. Discussion and action on temporary employment service contracts for the Greater Austin Metropolitan Area, Quarterly Review; Item 5. Discussion

and action on new products; Item 6. Discussion and action on product changes and revisions; Presentation of TIBH Industries, Inc. Quarterly Activity Report; Discussion and action on TIBH Service Contract Reporting data; Discussion and action on proposed statewide expansion of the automated temporary employment service contract; Presentation by General Services commission staff development on proposed communication training; discussion and action on proposed communication training; discussion and action on Texas Council Rule Revisions; Discussion and action on General Services commission's Proposed State Spot Purchase Pricing Procedure; Public Comment Period; and Suggested Agenda Items for future consideration.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Erica Goldbloom at 512/463–3244 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Chester Beattle Jr., 1711 San Jacinto, Austin, Texas 78701, 512/463–3583.

Filed: September 4, 1998, 4:57 p.m.

TRD-9814146



### **Texas Department of Economic Development**

Friday, September 11, 1998, 8:00 a.m.

1700 North Congress, Third Floor Media Conference Room

Austin

Texas Strategic Military Planning Commission

AGENDA:

Call to order; update on the Office of Defense Affairs; recess into Executive Session pursuant to Government Code §551.072 to discuss the relative value of Texas Military Facilities; open and public comment; possible discussion and vote on information presented in Executive Session; adjourn.

Persons with disabilities who plan to attend this meeting who may need auxiliary aids or services, or who need assistance in having English translated into Spanish, should contact Kelley Wood at 512/936–0171 at least two days before this meeting so that appropriate arrangements can be made.

Contact: Kelley Wood, 1700 North Congress, Austin, Texas 78701, 512/936–0171.

Filed: September 3, 1998, 2:24 p.m.

TRD-9814038



### **Advisory Commission on State Emergency Communications**

Monday, September 14, 1998, 10:00 a.m.

333 Guadalupe Room II-500

Austin

Programs Committee

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take Committee

action, as necessary: review materials relating to the Councils of Governments' Strategic Plan and other agenda items set for the September Meetings. The Commission may meet in Executive Session on any of the items as authorized per Texas Open Meetings Act, and pursuant to Government Code 551, Subchapter D, 551.071, consultation with staff attorney on pending or contemplated litigation or to seek legal advice. Adjourn.

Persons requesting interpreter services for the hearing-and speech-impaired should contact Velia Williams at 512/305-6933 at least two working days prior to the meeting.

Contact: Velia Williams, 333 Guadalupe Street, Austin, Texas 78701, 512/305-6933.

Filed: September 4, 1998, 10:44 a.m.

TRD-9814077



Thursday, September 17, 1998, 1:15 p.m.

Capitol Extension Building, Room E1.026

Austin

Programs Committee

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discussion and take Committee action, as necessary: approval of Councils of Governments Strategic Plans: Alamo Area Council of Governments, Ark-Tex Council of Governments, Brazos Valley Council of Governments, Capital Area Planning Council, Central Texas Council of Governments, Coastal Bend Council of Governments, Concho Valley Council of Governments, Deep East Texas Council of Governments, East Texas Council of Governments, Golden Crescent Regional Planning Commission, Heart of Texas Council of governments, Houston-Galveston Area council, Lower Rio Grande Valley Council, Middle Rio Grande Development Council, Nortex Regional Planning Commission, North Central Texas Council of Governments, Panhandle Regional Planning commission, Permian Basin Regional Planning Commission, Rio Grande council of Government, South East Texas Regional Planning Commission, South Plains Association of Governments, South Texas Development Council, Texoma Council of Governments, West Central Texas Council of Governments, Discussion of Councils of Governments' Strategic Plan Process and Timeline; Proposed Amendments to Rule 251.4, Guidelines for the Provisioning of Accessibility Equipment; Update on the Wireless Task Force; Poison Control Coordinating Committee Report; Update on the Poison Control Program Phase III, Telecommunications Implementation; Fiscal Year 1997 and 1998 Poison Control Program Cost Savings; Update on Public Education Program; Approval of October 8, 1998, Poison Meeting Minutes, November 18, 1997, and January 4, 1998, Planning implementation Committee Minutes, and July 15, 1998, Programs Committee Meeting Minutes. The Commission may meet in Executive Session on any of the items as authorized per Texas Open Meetings Act, and pursuant to Government Code 551, Subchapter D, 551.071, consultation with staff attorney on pending or contemplated litigation or to seek legal advice. Adjourn.

Persons requesting interpreter services for the hearing-and speech-impaired should contact Velia Williams at 512/305-6933 at least two working days prior to the meeting.

Contact: Velia Williams, 333 Guadalupe Street, Austin, Texas 78701, 512/305-6933.

Filed: September 8, 1998, 3:25 p.m.

TRD-9814201



Friday, September 18, 1998, 8:30 a.m.

Capitol Extension Building, Room E1.026

Austin

Programs Committee

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take Committee action, as necessary: ACSEC 9-1-1 and Poison Control Financial Report; status of internal auditor support for fiscal year 1999; update by internal auditor on Telco Audit; Update on Legal Counsel Services for ACSEC; Status of Annual Review of wireless Service Fee Proportional Distribution Percentages in Compliance with Rules 252.6 and Authorization for the ACSEC Executive Committee to Meet an Take Action and Said Percentages; Agency Rule Review of Chapter 252, Administration, in Accordance with Appropriations Act, Section IX-167; Review and consider ACSEC Policy Relating to the Procurement of 9-1-1 Customer Premise Equipment; Update on the Public Utility Commission's Action with Regard to Proposed 9-1-1 Fees and 9-1-1 Equalization/Poison Control Surcharges and Allocations; Other Public Utility Commission and Federal Communications Commission regulatory Activities Approval of July 14, 1998, Committee Meeting Minutes. The Commission may meet in Executive Session on any of the items as authorized per Texas Open Meetings Act, and pursuant to Government Code 551, Subchapter D, 551.071, consultation with staff attorney on pending or contemplated litigation or to seek legal advice. Adjourn.

Persons requesting interpreter services for the hearing-and speech-impaired should contact Velia Williams at 512/305-6933 at least two working days prior to the meeting.

Contact: Velia Williams, 333 Guadalupe Street, Austin, Texas 78701, 512/305-6933.

Filed: September 8, 1998, 3:25 p.m.

TRD-9814200



Friday, September 18, 1998, 10:30 a.m.

Capitol Extension Building, Room E1.026

Austin

Commission Meeting

AGENDA:

The Committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take Committee action, as necessary: update on Budget Hearing to the Legislative Budget Board and the Governor's Office; Capital Area Planning Council's (CAPCO's) Response to the Advisory Commission on State Emergency Communications' Monitoring Report on CAPCO's 9-1-1 Regional Plan and any action which may include the Agency's Administrative budget; Update on the RFO Process and Potential Authorization to enter into interagency agreement with the General Services Commission to Secure Procurement; Programs Committee Report; Operations Committee Report; Approval of July 14 and August 13, 1998, Commission Meeting Minutes. The Commission may meet in Executive Session on any of the items as authorized per Texas Open Meetings Act, and pursuant to Government Code 551,

Subchapter D, 551.071, consultation with staff attorney on pending or contemplated litigation or to seek legal advice. Adjourn.

Persons requesting interpreter services for the hearing-and speech-impaired should contact Velia Williams at 512/305-6933 at least two working days prior to the meeting.

Contact: Velia Williams, 333 Guadalupe Street, Austin, Texas 78701, 512/305-6933.

Filed: September 8, 1998, 3:25 p.m.

TRD-9814199



## Texas State Board of Examiners of Professional Counselors

Friday, September 11, 1998, 8:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Complaints Committee

AGENDA:

The committee will meet to discuss and possibly act on: pending complaints (93-C002; 93-C021; 96-C017; 96-C038; 96-C039; 96-C040; 96-C062; 97-C005; 97-C072; 97-C074; 97-C090; 98-C014; 98-C021; 98-C033; 98-C035; 98-C036; 98-C038; 98-C042; 98-C043; 98-C049; 98-C068; 98-C070; 98-C071; 98-C072; 98-C075 — 98-C081; 98-C083 — 98-C109).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814014



Friday, September 11, 1998, 9:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Administration and Finance Committee

AGENDA:

The committee will meet to discuss and possibly act on: executive director's report; office operations to include policies, procedures, and personnel; financial report; and conference attendance requests.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814015



Friday, September 11, 1998, 10:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Public and Professional Relations Committee

AGENDA:

The committee will meet to discuss and possibly act on: review and comments concerning the September 1998 Examiners; writing assignments for the March 1999 Examiners; and conference attendance requests.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814016



Friday, September 11, 1998, 11:00 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Testing and Continuing Education Committee

AGENDA:

The committee will meet to discuss and possibly act on: continuing education reporting methods and auditing; post-exam survey questions; and appointments to the AD Hoc Committee.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814017



Friday, September 11, 1998, 11:45 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Applications Committee

AGENDA:

The committee will meet to discuss and possibly act on: application form and procedures.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814018



Friday, September 11, 1998, 12:00 p.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Rules Committee

AGENDA:

The committee will meet to discuss and possibly act on: proposed rule amendments to 22 TAC, Chapter 681.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814019



Friday, September 11, 1998, 1:00 p.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Board Meeting

AGENDA:

The board will meet to discuss and possibly act on: absent board members; and proposed amendments to 22 TAC, Chapter 681 in accordance with General Appropriations Act, Article IX, Rider 167, passed by the 75th Legislature.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:10 p.m.

TRD-9814020



Saturday, September 12, 1998, 8:30 a.m.

Exchange Building, Room S-402, Texas Department of Health, 8407 Wall Street

Austin

Board Meeting

AGENDA:

The board will meet to discuss and possibly act on: announcements; absent board members; approval of the minutes of the June 27, 1998, meeting; conference attendance; comments from persons wishing to address the board; vendor presentations concerning licensed professional counselor automated counselor examinations; surrender of the

professional counselor license of SWB; surrender of the professional counselor license of LRB; adoption of the order concerning the professional counselor license of DCQ; adoption of the order concerning the professional counselor license of XO; motion for a rehearing on REV; Administration and Finance Committee report (executive director's report; office operations; financial report and requests for conference attendance); Complaints Committee report (pending complaints (93-C002; 93-C021; 96-C017; 96-C038; 96-C039; 96-C040; 96-C062; 97-C005; 97-C072; 97-C074; 97-C090; 98-C014; 98-C021; 98-C033; 98-C035; 98-C036; 98-C038; 98-C042; 98-C043; 98-C049; 98-C068; 98-C070; 98-C071; 98-C072; 98-C075 — 98-C081; 98-C083 — 98-C109)); Testing and Continuing Education Committee report (continuing education reporting methods and auditing; post-exam survey questions; and appointments to the Ad Hoc Committee); Applications Committee report (application forms and procedures); Public and Professional Relations Committee report (March, 1999, newsletter; and conference attendance); Rules Committee report (proposed rules amendments to 22 TAC, Chapter 681); other matters relating to the regulation of professional counselors not requiring board action; setting of future meeting dates and locations for the board; and proposed amendments to 22 TAC, Chapter 681 in accordance with General Appropriations Act, Article IX, Rider 167, passed by the 75th Legislature.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: John Luther, 1100 West 49th Street Austin, Texas 78756, 512/834-6658

Filed: September 3, 1998, 12:11 p.m.

TRD-9814021



### Texas Funeral Service Commission

Tuesday, September 22, 1998, 2:00 p.m.

510 South Congress, Suite 206

Austin

Finance Review Committee

AGENDA:

1. Convene, chairman, Dr. John Q. Taylor King.
2. review and discussion of the 1990 operating budget.
3. review and discussion on increasing the continuing education application fee.
4. adoption of 1999 operating budget and recommendations to the full commission.
5. public comment.
6. adjourn.

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, 512/479-7222.

Filed: September 3, 1998, 4:03 p.m.

TRD-9814045



Tuesday, September 22, 1998, 3:00 p.m.

510 South Congress, Suite 206

Austin

Reciprocal Licensure Committee

AGENDA:

1. Convene, chairman, Dr. John Q. Taylor King. 2. discussion on status of attorney general opinion request and meetings held with senate staff and state auditors. 3. review and discussion rules committee meeting recommendations of Rule 203.15. Requirements for Reciprocal Licensure. 4. review and discussion of reciprocal application from Gregory Babcock. 5. other business. 6. public comment. 7. adoption of recommendations to the full commission. 8. adjourn.

Contact: Eliza May, 510 South Congress Avenue, Suite 206, Austin, Texas 78704-1716, 512/479-7222.

Filed: September 3, 1998, 4:03 p.m.

TRD-9814044



## Texas Department of Health

Thursday, September 10, 1998, 8:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Human Resources Committee

### AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes of the July 16, 1998, meeting; proposed rules concerning (Oral Health Services Advisory Committee; Family Planning Advisory Committee; and Children with Special Health Care Needs Advisory Committee); program and budget briefings for (Bureau of Vendor Drugs; Bureau of Licensing and Compliance; and the Bureau of Chronic Disease Prevention and Control).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 3:59 p.m.

TRD-9813978



Thursday, September 10, 1998, 10:00 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Strategic Management Committee

### AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes of the July 16, 1998, recent audit activities; fiscal year 1999 internal audit work plan; proposed rules concerning adoption of information, records received from child-placing agencies no longer in business, and the operation of the Bureau of Vital Statistics Central Adoption Registry; approval for the acceptance of a gift with a value of \$500 or more; approval of the fiscal year 1999 operating budget and Medicaid transfers; consideration of support for the House Committee Report 44 draft recommendations; Sunset update; Office of Border Health update; presentation of a video on community-based nonprofit training; and a report on strategic financial issues.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 3:59 p.m.

TRD-9813979



Thursday, September 10, 1998, 1:00 p.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Regulatory Committee

### AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes of the July 16, 1998, meeting; proposed rules concerning (licensure of professional medical physicists; requirement for paramedic licensure; a Memorandum of Understanding between the Railroad Commission of Texas, Texas Department of Health, and the Texas Natural Resource Conservation Commission regarding uranium surface mining, uranium ore milling, and tailings ponds and impoundments under the Texas Radiation Control Act; and repeal and new rules on registration and radiation safety requirements for lasers under the Texas Radiation Control Act); adoption of the repeal and new rules concerning the regulation of food establishments; and rules for discussion concerning (licensing of wholesale distributors of drugs including good manufacturing practices; worker right-to-know related to hazardous chemicals in public employer workplace; and the licensing of end stage renal disease facilities).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 4:00 p.m.

TRD-9813980



Thursday, September 10, 1998, 2:00 p.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Health and Clinical Services Committee

### AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes of the July 17, 1998, meeting; proposed rules concerning (repeal and new rules on the administration of the Health Options to Promote Employment (HOPE) Project; repeal, amendments, and new rules for the administration of treatment, health, and social service programs for persons with Human Immunodeficiency Virus (HIV) infection; repeal, amendment, and new rules for the administration of HIV prevention, education, and risk reduction programs; and repeal, amendments, and new rules for the administration of the Texas HIV Medication Program); final adoption of rules concerning the death of

a person with certain communicable diseases and mandatory testing of persons; and a petition to add a non-covered diagnosis (non Insulin dependent Diabetes) to chronically ill and dependent children (CIDC) coverage.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 4:00 p.m.

TRD-9813981



Friday, September 11, 1998, 8:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Board Briefing Meeting

AGENDA:

The board will meet to discuss and possibly act on: briefing by the Commissioner on current activities of the Texas Department of Health; and a discussion concerning procedural and/or administrative issues of the Board of Health.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 4:00 p.m.

TRD-9813982



Friday, September 11, 1998, 9:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Health Financing Committee

AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes of the July 16, 1998, meeting; proposed Medicaid rules concerning birthing center services; final adoption of rules concerning (submission of claims to the Medicaid Vendor Drug program consistent with the quality prescribed and dispensed; and the repeal and new rules for Medicaid provider re-enrollment of provider contract or agreement modification); Managed Care report; and a Vendor Drug warehouse audit status report.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 4:00 p.m.

TRD-9813983



Friday, September 11, 1998, 11:00 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health

AGENDA:

The board will introduce guests and will meet in open session to discuss and possibly act on: approval of the minutes of the July 17, 1998, meeting; commissioner's report; resolution recognizing September, 1998 as food safety month; month of truth awards; Strategic Management Committee Report (proposed rules concerning adoption information, records received from child-placing agencies no longer in business, and the operation of the Bureau of Vital Statistics Central Adoption Registry; approval for the acceptance of a gift with a value of \$500 or more; approval of the 1999 fiscal year operating budget and Medicaid transfers; and consideration of support for the House committee Report 44 draft recommendations); Health Financing Committee Report (proposed Medicaid rules concerning birthing center services; final adoption of rules concerning (submission of claims to the Medicaid Vendor Drug program consistent with the quantity prescribed and dispensed; and Medicaid provider re-enrollment of provider contract or agreement modification)); Health and Clinical Services Committee Report (proposed rules concerning (administration of the Health Options to Promote Employment (HOPE) project; administration of treatment, health, and social service programs for persons with Human Immunodeficiency Virus (HIV) infection; administration of HIV prevention, education, and risk reduction programs; and administration of the Texas HIV Medication program); final adoption of rules concerning the death of a person with certain communicable diseases and mandatory testing of persons; and a petition to add a non-covered diagnosis (non Insulin dependent Diabetes) to chronically ill and dependent children (CIDC) coverage); Human Resources Committee Report (proposed rules concerning (Oral Health Services Advisory Committee; Family Planning Advisory Committee; and Children with Special Health Care Needs Advisory Committee)); Regulatory Committee Report (proposed rules concerning (licensure of professional Medical Physicists; requirements for paramedic licensure; a Memorandum of Understanding between the Railroad Commission of Texas, Texas Department of Health, and the Texas Natural Resource Conservation Commission regarding uranium surface mining, uranium ore milling, and tailings ponds and impoundments under the Texas Radiation Control Act; and registration and radiation safety requirements for lasers under the Texas Radiation Control Act); and final adoption of rules concerning the regulation of food establishments); public comments; announcements/comments; and setting a board meeting date for October, 1998. The board will then meet in executive session to discuss pending litigation (United States of American ex rel. James M. Churchill versus State of Texas et. al., Case Number P97CA57, in the United States District Court for the Western District of Texas; and Linda Frew, et al. versus Don Gilbert, et. al., Civil Action Number 3:93CV65, in the United States District Court for the Eastern District of Texas, Paris Division).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, 512/458-7484.

Filed: September 2, 1998, 4:00 p.m.

TRD-9813984



Thursday, September 17, 1998, 8:30 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Family Planning Regional Coordinating Committee Chairs

AGENDA:

The committee will meet to discuss and possibly act on: regional reports; update on Texas Department of Health (TDH) reorganization; update on Texas Integrated Enrollment and Services (TIES); presentation by Compass 21 (family planning project team); presentation on client-centered counseling; update on TDH general contract provisions and carryover; agenda items for the December, 1998 meeting; and public comment.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Shannon Walton, 1100 West 49th Street, Austin, Texas 78756, 512/458-7444, Ext. 2051.

Filed: September 8, 1998, 3:53 p.m.

TRD-9814207



Thursday, September 17, 1998, 8:30 a.m.

Moreton Building, Room T-407, Texas Department of Health, 1100 West 49th Street

Austin

Opticians' Registry Advisory Committee Complaints Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on: staff reports concerning closed and open complaints.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Stephen Mills, 1100 West 49th Street, Austin, Texas 78756, 512/834-6661.

Filed: September 8, 1998, 3:52 p.m.

TRD-9814204



Thursday, September 17, 1998, 9:00 a.m.

Moreton Building, Room T-407, Texas Department of Health, 1100 West 49th Street

Austin

Opticians' Registry Advisory Committee Complaints Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on: comments received concerning proposed rules amendments (25 TAC Chapter 129) as published in the July 31, 1998, issue of the Texas Register (23 TexReg 7698); and the subcommittee's recommendation regarding the proposed rule amendments (25 TAC Chapter 129) as published in the July 31, 1998, issue of the Texas Register (23 TexReg 7698).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Stephen Mills, 1100 West 49th Street, Austin, Texas 78756, 512/834-6661.

Filed: September 8, 1998, 3:53 p.m.

TRD-9814205



Thursday, September 17, 1998, 9:30 a.m.

Moreton Building, Room T-407, Texas Department of Health, 1100 West 49th Street

Austin

Opticians' Registry Advisory Committee

AGENDA:

The committee will introduce guests and will discuss and possibly act on: approval of the minutes of the February 13, 1998, meeting; chairman's report; financial report; program director's report; subcommittee reports (Complaints Subcommittee; Rules Subcommittee; and the Public and Professional Relations Subcommittee); comments received concerning proposed rules amendments (25 TAC Chapter 129) as published in the July 31, 1998, issue of the Texas Register (23 TexReg 7698); committee recommendations to the Texas Board of Health regarding the proposed rule amendments (25 TAC Chapter 1229) as published in the July 31, 1998, issue of the Texas Register (23 TexReg 7698); impact of managed care on opticianry; public comment; and other business not requiring action.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Stephen Mills, 1100 West 49th Street, Austin, Texas 78756, 512/834-6661.

Filed: September 8, 1998, 3:53 p.m.

TRD-9814206



Thursday, September 17, 1998, 10:00 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Family Planning Advisory Council

AGENDA:

The council will meet to discuss and possibly act on: approval of the minutes of the March 1998 and June 1998 meetings; report from the Regional Coordinating Committee chairperson; Family Planning Program update; Title XXI (children's Health Insurance) presentation; presentation on Family Planning program data; prioritization of clients and services; presentation of proposed rules under consider-

ation by the Board of Health regarding Texas Department of Health advisory councils; proposal of a date and agenda for the December training retreat; agenda items for the December, 1998 meeting; and public comment.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Shannon Walton, 1100 West 49th Street, Austin, Texas 78756, 512/458-7444, Ext. 2051.

Filed: September 8, 1998, 3:53 p.m.

TRD-9814208



## Texas Higher Education Coordinating Board

Friday, September 18, 1998, 9:45 a.m.

Adams Street Community Center, 511 East Adams Street

Brownwood

Early Advisory Committee

AGENDA:

Public hearing to determine needs and most appropriate way to addressing higher education needs of Brown County.

Contact: Glenda Barron, P.O. Box 12788, Capitol Station, Austin, Texas 78711, 512/483-6250.

Filed: September 9, 1998, at 11:36 a.m.

TRD-9814289



Friday, September 18, 1998, 10:00 a.m.

Chevy Chase Office Complex Building 5, Room 5.212 7745 Chevy Chase Drive

Austin

Diverse Faculty and Professional Staff Committee

AGENDA:

Election of new Chair; review and approve minutes of last meeting; subcommittee reports; final report; and future of the committee.

Contact: Hector Castillo, P.O. Box 12788, Capitol Station, Austin, Texas 78711, 512/483-6144.

Filed: September 9, 1998, at 11:36 a.m.

TRD-9814294



Friday, September 18, 1998, 1:45 a.m.

Small Business Incubator, 104 East Industrial

Early

Early Advisory Committee

AGENDA:

Public hearing to determine needs and most appropriate way to addressing higher education needs of Early community.

Contact: Glenda Barron, P.O. Box 12788, Capitol Station, Austin, Texas 78711, 512/483-6250.

Filed: September 9, 1998, at 11:36 a.m.

TRD-9814290



Monday, September 21, 1998, 9:30 a.m.

Chevy Chase Office Complex, Building 5, Room 5.209, 7745 Chevy Chase Drive

Austin

Campus Planning Committee

AGENDA:

Review projects from Texas A&M University System, Texas State Technical College, University of Houston System, and the University of Texas System.

Contact: Don Brown, P.O. Box 12788, Capitol Station, Austin, Texas 78711, 512/483-6101.

Filed: September 9, 1998, at 11:36 a.m.

TRD-9814291



Tuesday, September 22, 1998, 9:00 a.m.

Chevy Chase Office Complex, Building 5, Room 5.209, 7745 Chevy Chase Drive

Austin

Campus Planning Committee

AGENDA:

Review Texas State University System projects.

Contact: Don Brown, P.O. Box 12788, Capitol Station, Austin, Texas 78711, 512/483-6101.

Filed: September 9, 1998, at 11:36 a.m.

TRD-9814292



Thursday, September 24, 1998, 9:45 a.m.

Cedar Valley College, Performance Hall, 3030 North Dallas, Avenue Lancaster

Special Committee on Higher Education in Southern Dallas County

AGENDA:

Discussion of the coordinating Board staff recommendation for Report of the Special Committee on Higher Education in Southern Dallas County.

Contact: Dr. Paul Meyer, P.O. Box 12788, Capitol Station, Austin, Texas 78711, 512/483-6226.

Filed: September 9, 1998, at 11:36 a.m.

TRD-9814293



## Texas Historical Commission

Saturday, September 12, 1998, 9:30 a.m.

William P. Clements State Office Building, Committee Room 5- (Fifth Floor), 300 West 15th Street

Austin

Quarterly Board Meeting, State Board of Review



AGENDA:

- I. call to order
- II. announcements
- III. approval of minutes of the July 25, 1998, meeting
- IV. review of nominations fro the National Registry of Historic Places
- V. new business
- VI. adjournment

Contact: Judy George, P.O. Box 12276, Austin, Texas 78711, 512/463-8452.

Filed: September 3, 1998, 8:22 a.m.

TRD-9813994



**Texas Department of Housing and Community Affairs**

Friday, September 11, 1998, 9:30 a.m.

507 Sabine Street

Austin

Programs Committee

AGENDA:

The Programs Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

Minutes of Program Committee Meeting of August 14, 1998; Approval of 1998 HOME Program Awards for Homebuyer Assistance, Owner Occupied Rehabilitation, Rental Project Assistance and Interim Construction; Amendments to HOME Program Awards for Family Crisis Center; City of Hearne; Baytown Housing Authority; San Marcos Seniors Community; Housing Infrastructure Fund Awards; Extension of Border Housing Initiative Fund Program for Corona del Valle; Operator for Northeast Texas Technical Assistance Center Ratification of Transfer of \$1,000,000 of Multi-Family Bond Issuance Fee to the Housing Trust Fund and Approval of the Use of Such Funds by the Housing Trust Fund; Down Payment and Closing Cost Assistance Guidelines, and adjourn.

Contact: Daisy Stiner, 507 Sabine, #900, Austin, Texas 78701, 512/475-3934.

Filed: September 3, 1998, 4:29 p.m.

TRD-9814048



Friday, September 11, 1998, 11:00 a.m.

507 Sabine Street

Austin

Programs Committee

AGENDA:

The Finance Committee of the Texas Department of Housing and Community Affairs will meet to consider and possible act on the following:

Approval of minutes of Finance Committee Meeting on September 11, 1998; Resolution to Remove Bond Trustee for GNMA Collateralized Home Mortgage Revenue Bonds Series 1989A and 1989B and

appoint a New Trustee and Other Related Matters; Program Guidelines for 1980 Single Family Mortgage Revenue Bond Indenture Special Mortgage Programs and other related matters; Selection of Bond Counsel for the Department in Response to Request for Proposal; Selection of Disclosure for the Department in Response to Request for Proposal; Designation of Master Servicer and Compliance Agent for 1998 Single Family Bond Program and other related matters.

Contact: Daisy Stiner, 507 Sabine, #900, Austin, Texas 78701, 512/475-3934.

Filed: September 3, 1998, 4:38 p.m.

TRD-9814049



Friday, September 11, 1998, 1:30 p.m.

507 Sabine Street

Austin

Board Meeting

REVISED AGENDA:

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act upon:

Minutes of Program Committee Meeting of August 13, 1998 and August 29, 1998; Approval of 1998 HOME Program Awards for Homebuyer Assistance, Owner Occupied Rehabilitation, Rental Project Assistance and Interim Construction; Amendments to HOME Program Awards for Family Crisis Center; City of Hearne; Baytown Housing Authority; San Marcos Seniors Community; Housing Infrastructure Fund Awards; Extension of Border Housing Initiative Fund Program for Corona del Valle; Operator for Northeast Texas Technical Assistance Center Ratification of Transfer of \$1,000,000 of Multi-Family Bond Issuance Fee to the Housing Trust Fund; Down Payment and Closing Cost Assistance Guidelines; Resolution to Remove Bond Trustee for GNMA Collateralized Home Mortgage Revenue Bond Series 1989A and 1989B and appoint a New Trustee and Other Related Matters; Program Guidelines for 1980 Single Family Mortgage Revenue Bond Indenture Special Mortgage Programs and other related matters; Selection of Bond Counsel for the Department in Response to Request for Proposal; Selection of Disclosure for the Department in Response to Request for Proposal; Designation of Master Servicer and Compliance Agent for 1998 Single Family Bond Program and other related matters. .

Executive Session Re: Personnel matter regarding duties and responsibilities in relationship to budget under Sec. 551.074, Texas Government Code, Litigation and Anticipated Litigation (Potential or Threatened under Sec. 551.071 and 551.103, Texas Government Code Litigation Exception)

Contact: Daisy Stiner, 507 Sabine, #900, Austin, Texas 78701, 512/475-3934.

Filed: September 3, 1998, 4:43 p.m.

TRD-9814050



**Texas Department of Insurance**

Monday, October 5, 1998, 1:00 p.m.

Stephen F. Austin Building, 1700 North Congress, Suite 1100

Austin

AGENDA:

Docket No. 454-98-1552.C. To consider whether disciplinary action should be taken against David Fernandez, El Paso, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License, and a Local Recording Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-A, Austin, Texas 78701, 512/463-6328.

Filed: September 8, 1998, 5:19 p.m.

TRD-9814230



Thursday, October 8, 1998, 9:00 a.m.

Stephen F. Austin Building, 1700 North Congress, Suite 1100

Austin

AGENDA:

Docket No. 454-97-2153.C. To consider the application of Steven Troy Tillery, Dallas, Texas and Carrollton, Texas for a Solicitor's License to be issued by the Texas Department of Insurance (reset from August 31, 1998).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-A, Austin, Texas 78701, 512/463-6328.

Filed: September 8, 1998, 5:19 p.m.

TRD-9814231



### **Commission on Jail Standards**

Thursday, September 24, 1998, 1:30 p.m.

Tarrant County Administration Building, 100 East Weatherford, 5th Floor

Fort Worth

AGENDA:

Meeting called to order; roll call of commission members; reading and approval of minutes for meeting conducted on July 30, 1998; old business; Harris County, Reeves County; Rockwall County, Tom Green, Change to Standard-Adopt; Delete Section 300.6 Fees and Payments, Change to Standard-Adoption; New and Existing Construction Rules, Section 259.15, 259.216, 261.115, 261.215, Juvenile Justice Grant; New Business: Fannin county, Hidalgo County, Review Proposed Change to Standard-Section 259 to Section 261. Requests for Variances: Dallas County; Review of Variances: San Augustine County; Staff Report: Completed Jail Projects, Jails in Compliance/Non Compliance, Status of Remedial Orders, Status and Composition of Jail Population, Training, Financial Report/Budget/LAR/Grants, Attorney General Letter Opinion No. 98-072, Juvenile Justice Survey; Other Business; and Adjourn.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, 512/463-5505.

Filed: September 9, 1998, 9:41 a.m.

TRD-9814253



### **Texas Commission on Law Enforcement Officer Standards and Education**

Thursday, September 10, 1998, 1:30 p.m.

Civil Center, 2501 East End Boulevard South

Marshall

EMERGENCY AGENDA:

Call to order, invocation, pledge of allegiance, welcoming remarks; executive director's report; status of memorial project, receive recommendations to induct officers in Texas Peace Officers' Memorial; receive reports concerning noncompliance of legislatively mandated training, license renewal, academy evaluation process, plan to review and revise commission rules, and basic county corrections course and correspondence components; receive report and recommendations concerning tracking mechanism of temporary jailer licenses; review recommendations for development and implementation of policies to separate policy-making responsibilities of the Commission and management responsibilities of the executive director and Commission staff; adjourn.

Reason for emergency: Meeting was to be held at Ramada Inn in Marshall. Meeting location changed to Civil Center, Marshall.

Contact: Vera Kocian, 6330 US Highway 290 East, Suite 200, Austin, Texas 78723, 512/936-7700.

Filed: September 8, 1998, 12:19 p.m.

TRD-9814186



Friday, September 11, 1998, 9:30 a.m.

Civil Center, 2501 East End Boulevard South

Marshall

EMERGENCY AGENDA:

Call to order, invocation, pledge of allegiance, welcoming remarks; approval of minutes of June 11-12, 1998 meeting; take action to induct officers in the Texas Peace Officers' Memorial; discussion of and take action on recommendations concerning non-compliance of mandated training; license renewal, revised academy evaluation process, plan for review and revision of Commission rules, development and implementation of policies to separate policy-making and management responsibilities of the Commission and the Executive Director, the basic county corrections course and correspondence components, and recommendations for tracking mechanism of temporary jailer licenses; set meeting date and location for March 1999 meeting; receive public comments as required by statute on training standards for officers, county jailers, or other individuals licensed by the Commission; take license action for revocation and suspension of licenses, and letters of reprimand; receive report of voluntary surrenders of licenses; receive comments on any subject without discussion; executive session to evaluate the performance of the executive director under the authority of §551.074, Texas Government Code, of the Open Meetings Act; reconvene to the open session to discuss or take action on matters covered in executive session; adjourn.

Reason for emergency: Meeting was to be held at Ramada Inn in Marshall. Meeting location changed to Civil Center, Marshall.

Contact: Vera Kocian, 6330 US Highway 290 East, Suite 200, Austin, Texas 78723, 512/936-7700.

Filed: September 8, 1998, 1:09 p.m.

TRD-9814187



### **Texas Department of Licensing and Regulation**

Wednesday, September 16, 1998, 9:30 a.m.

920 Colorado, E.O. Thompson Building, 4th Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, Jimmie Dale McWilliams, for failing to maintain insurance requirements from July 19, 1996 to December 9, 1996, in violation of 16 TAC §75.40(g), and for failing to provide the Department proof of insurance from July 19, 1996 to December 9, 1996, in violation of 16 TAC §75.40(g), pursuant to the Texas Revised Civil Statutes Ann. Articles 8861 and 9100, the Texas Government Code, Chapter 2001(APA) and 16 TAC Chapter 60.

Contact: Jackie Sager, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, 512/463-3192.

Filed: September 8, 1998, 12:56 p.m.

TRD-9814182



Thursday, September 17, 1998, 9:30 a.m.

920 Colorado, E.O. Thompson Building, 4th Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, Richard T. Wilson, III, for advertising in the 1997 edition of the El Paso Yellow Pages that he engaged in the business of performing air conditioning and/or refrigeration contracting without obtaining the required license, in violation of TAC §75.22(a); pursuant to the Texas Revised Civil Statutes Ann. Articles 8861 and 9100, the Texas Government Code, Chapter 2001.902 and 16 TAC Chapter 60.1-60.95.

Contact: Jackie Sager, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, 512/463-3192.

Filed: September 8, 1998, 12:56 p.m.

TRD-9814180



Thursday, September 17, 1998, 1:30 p.m.

920 Colorado, E.O. Thompson Building, 4th Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, Jesse Macias, for advertising in the 1997 edition of the El Paso Yellow Pages that he engages in the business of performing air conditioning and/or refrigeration contracting without obtaining the required license, in violation of TAC §75.22; pursuant to the Texas Revised Civil Statutes Ann. Articles 8861 and 9100, the Texas Government Code, Chapter 2001.902; and 16 TAC Chapter 60.1-60.95.

Contact: Jackie Sager, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, 512/463-3192.

Filed: September 8, 1998, 12:56 p.m.

TRD-9814181



Thursday, September 24, 1998, 9:30 a.m.

920 Colorado, E.O. Thompson Building, 4th Floor, Room 420

Austin

Water Well Driller Advisory Council

AGENDA:

- A. Call to order
- B. Roll call and certification of quorum-approval of minutes-meeting of July 23, 1998
- C. Election of Officers for FY 1999
- D. Report on Investigations and Complaints
- E. Discussion of qualifications and recommendations on applicants for certification in water well driller and pump installer programs.
- F. Discussion and recommendations on applications for driller and pump installer-trainee registration
- G. Council will make recommendations to the Department on consumer complaints.

- 1. Dennis Lugg complaint on Marion Heisler #2449WI
- 2. Sam Andrade complaint on Joe Carroll #2689W
- 3. Robert Waltrip complaint on J.O. Siegert #897WI
- 4. Kim and Scott Hibbs complaint on Mark Jordan #3155WPK
- 5. Cornel Mot complaint on Mark Jordan #3155WPK

H. Staff Reports

I. Open Session/Public Comment

J. Discussion of date, time and location of next Council meeting

K. Adjournment

Persons who plan to attend this meeting and required ADA assistance are requested to contact Caroline Jackson at 512/463-7348 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Steve Wiley, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, 512/463-8876.

Filed: September 9, 1998, 11:42 a.m.

TRD-9814295



**Texas State Board of Medical Examiners**

Thursday, September 3, 1998, 2:00 p.m.

333 Guadalupe, Tower 3 Suite 610

Austin

Disciplinary Panel

EMERGENCY REVISED AGENDA

In addition to previously posted agenda, the following has been added:

3:00 p.m. Consideration of the Application for Temporary Suspension of the license of Stephen Rice Fowler, M.D., License H-9514.

Executive session under the authority of the Open Meetings Act, Section 551.071 of the Government Code, and Article 4495b, Sections 2.07(b), 2.09(o), Texas Revised Civil Statutes, to consult with counsel regarding pending or contemplated litigation.

Reason for emergency: Information has been received by the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, 512/305-7016 or fax 512/305-7008.

Filed: September 3, 1998, 11:53 a.m.

TRD-9814012



Wednesday, September 16, 1998, 8:30 a.m.

333 Guadalupe, Lobby Level, Room 102

Austin

Ad Hoc Committee for Physicians in Training

AGENDA:

Call to order

Roll call

Executive session under the authority of the Open Meetings Act, Section 551.071 of the Government Code, and Article 4495b, Sections 2.07(b), 2.09(o), Texas Revised Civil Statutes, to consult with counsel regarding pending or contemplated litigation.

Discussion, recommendation, and possible action regarding proposed changes to Chapter 171 of Board rules.

Adjourn

Contact: Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, 512/305-7016 or fax 512/305-7008.

Filed: September 8, 1998, 4:06 p.m.

TRD-9814218



## **Texas Mental Health and Mental Retardation Board**

Wednesday, September 16, 1998, 8:00 a.m.

7050 Stemmons Freeway, (Berkshire Room)

Dallas

Commissioner Screening Committee

AGENDA:

1. Introductions, overview, and instructions
2. Interviews of candidates for the position of TDMHMR Commissioner

Notes:

1. All interviews will be held in closed session per requests from the applicants and in accordance with the Texas Open Meetings Act.
2. The TDMHMR Board established this committee

If ADA assistance or deaf interpreters are required, notify TXMHMR, 512/206-4506, (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, 512/206-4506.

Filed: September 8, 1998, 2:45 p.m.

TRD-9814192



Thursday, September 17, 1998, 8:00 a.m.

7050 Stemmons Freeway, (Berkshire Room)

Dallas

Commissioner Screening Committee

AGENDA:

1. Interviews of candidates for the position of TDMHMR Commissioner
2. Results and discussion

Notes:

1. All interviews will be held in closed session per requests from the applicants and in accordance with the Texas Open Meetings Act.
2. The TDMHMR Board established this committee

If ADA assistance or deaf interpreters are required, notify TXMHMR, 512/206-4506, (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, 512/206-4506.

Filed: September 8, 1998, 2:49 p.m.

TRD-9814193



## **Texas Municipal Retirement System**

Saturday, September 19, 1998, 8:30 a.m.

Barton Creek Conference Center, 8212 Barton Club Drive

Austin

Regular Meeting, Board of Trustees

REVISED AGENDA:

To hear and approve minutes of the regular Board of Trustees meeting held June 19, 1998; review and approve service retirements, disability retirements; review and approve supplemental death benefits payments; consideration extended supplemental death benefits coverage; review and act on financial statements; consider and act on resolution granting distributive benefits to annuitants and supplemental interest to certain funds and accounts: CONSIDER AND ACT ON LEGISLATIVE PROPOSALS FOR 1999 SESSION. Consider and act on selection of auditor for December 31, 1998, audit; reports by director and staff; report by actuary; report by legal counsel; consider any other business to come before the board.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, 512/476-7577.

Filed: September 4, 1998, 3:58 p.m.

TRD-9814133



## **Texas Natural Resource Conservation Commission**

Thursday, September 10, 1998, 10:00 a.m.

Stephen F. Austin, Building, 1700 North Congress Avenue, Suite 1100

Austin

REVISED AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on a statement change in water rates with the Texas Natural Resource Conservation Commission (Commission) effective June 1, 1998, for its service area located in Victoria County, Texas. This matter has been designated as SOAH Docket Number 582-98-1365.

Contact: Betty Goetz, P.O. Box 13025, Austin, Texas 78711-3025, 512/475-3445.

Filed: September 3, 1998, 1:14 p.m.

TRD-9814023



Monday, September 14, 1998, 1:30 p.m.

Building E, Room 201S, 12100 Park 35 Circle

Austin

AGENDA:

This meeting is a work session for discussion between commissioners and staff. No public testimony or comment will be accepted except by invitation of the commission.

Contact: Doug Kitts, 12100 Park 35, Austin, Texas 78753, 512/239-3317.

Filed: September 4, 1998, 4:07 p.m.

TRD-9814137



Tuesday, September 29, 1998, 7:00 p.m.

Live Oak Civic Center, 8101 Par Booker Road

Live Oak

AGENDA:

The Texas Natural Resource Conservation Commission will conduct a non-adjudicative public hearings pursuant to the Weather Modification Act, 1967, Chapter 576, as amended and codified in the Texas Water Code, Chapter 18, regarding Weather Modification, Inc. (WMI) and the Edwards Aquifer Authority (EAA), Application No. E821469 to conduct rain enhancement activities. The operation for which a permit is being sought includes only rainfall enhancement, during and of the periods from the date of issuance of the permit through December 31, 2001, within a portion of South Central Texas.

The rain enhancement operation is to be carried out in both an "operational" and a "target area" to cause intended effects to occur in the target area. The area of intended effect (target area) consists of the following counties: Banders, Bexar, Blanco, Caldwell, Comal, Guadalupe, Hays, Kendall, Kerr, Medina, Real (east of US 83), and Uvalde. The operational counties include the target counties as well as the following counties: Atascosa, Burnet, Frio, Gillespie, Kimble, Llano, Real, Wilson, and Zavala.

Contact: Annie Tyrone, P.O. Box 13087, Austin, Texas 78711-3087, 1/800/687-4040.

Filed: September 4, 1998, 12:49 p.m.

TRD-9814110



Thursday, October 1, 1998, 7:00 p.m.

Real County Courthouse, 4th and Main

Leskey

AGENDA:

The Texas Natural Resource Conservation Commission will conduct a non-adjudicative public hearings pursuant to the Weather Modification Act, 1967, Chapter 576, as amended and codified in the Texas Water Code, Chapter 18, regarding Weather Modification, Inc. (WMI) and the Edwards Aquifer Authority (EAA), Application No. E821469 to conduct rain enhancement activities. The operation for which a permit is being sought includes only rainfall enhancement, during and of the periods from the date of issuance of the permit through December 31, 2001, within a portion of South Central Texas.

The rain enhancement operation is to be carried out in both an "operational" and a "target area" to cause intended effects to occur in the target area. The area of intended effect (target area) consists of the following counties: Banders, Bexar, Blanco, Caldwell, Comal, Guadalupe, Hays, Kendall, Kerr, Medina, Real (east of US 83), and Uvalde. The operational counties include the target counties as well as the following counties: Atascosa, Burnet, Frio, Gillespie, Kimble, Llano, Real, Wilson, and Zavala.

Contact: Annie Tyrone, P.O. Box 13087, Austin, Texas 78711-3087, 1/800/687-4040.

Filed: September 4, 1998, 12:49 p.m.

TRD-9814111



Tuesday, October 6, 1998, 10:00 a.m.

Stephen F. Austin, Building, 1700 North Congress Avenue, Suite 1100

Austin

REVISED AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on a request for approval under Section 13.248 of the Texas Water Code of a contract with East Rio Hondo Water Supply Corporation ("East Rio Hondo WSC") designating the areas and customers to be served by the District and East Rio Hondo WSC. This matter has been designated as SOAH Docket Number 582-98-1465.

Contact: Betty Goetz, P.O. Box 13025, Austin, Texas 78711-3025, 512/475-3445.

Filed: September 3, 1998, 1:42 p.m.

TRD-9814027



**Board of Nurse Examiners**

Wednesday, September 16, 1998, 4:00 p.m.

333 Guadalupe, Tower 3, Suite 460

Austin

Eligibility and disciplinary Committee

AGENDA:

The Eligibility and Disciplinary Committee of the Board will meet consider and take action on the Eligibility Request of: Sonja Kay Vaughn, Petitioner for Declaration Order.

Contact: Cheryl Sepulveda, P.O. Box 430, Austin, Texas 78767-0430, 512/305-6824.

Filed: September 2, 1998, 3:21 p.m.

TRD-9813974



## Board of Vocational Nurse Examiners

Monday-Tuesday, September 14-15, 1998, 9:00 a.m.

333 Guadalupe

Austin

Board Meeting

### EMERGENCY REVISED AGENDA:

V. Education Report; B. Program Actions, 2. Board Action Required; Grayson County College in Denson requests a waiver to the "three years varied experience since graduation requirement for instructor" in Rule 233.22 Instructions for Kimberly Brown, RN. Emergency waiver granted by Board president on June 30, 1998; VIII. New Business; D. Election of Officers

Reason for emergency: These two items were left off the original agenda.

Person requiring reasonable accommodations are requested to contact Linda Rae Kent, 333 Guadalupe, Suite 3-400, Austin, Texas 78701, 512/305-8100 within 72 hours of the meeting to make appropriate arrangements.

Contact: Linda Rae Kent, 333 Guadalupe, Suite 3-400, Austin, Texas 78701, 512/305-8100.

Filed: September 9, 1998, 8:42 a.m.

TRD-9814238



## Texas Board of Occupations Therapy Examiners

Friday, September 11, 1998, 9:30 a.m.

15201 Dallas Parkway, Steuben Room, Hotel Intercontinental

Dallas

Continuing Education Committee

### AGENDA:

1. Call to order
2. Discussion and possible action on issues in continuing education
3. Discussion and possible action of the following chapters: §362.1 concerning Definitions; §365.1, concerning Types of Licenses; §366.1, concerning Application for License; §367.1, concerning Continuing Education; §370.1, concerning License Renewal; §371.1, concerning Inactive Status
4. Adjournment

Contact: Alicia Dimmick Essary, 333 Guadalupe, Suite 2-510 Austin, Texas 78701-3942, 512/305-6900.

Filed: September 3, 1998, 8:19 a.m.

TRD-9813991



Friday, September 11, 1998, 1:00 p.m.

15201 Dallas Parkway, Steuben Room, Hotel Intercontinental

Dallas

Board

### AGENDA:

1. Call to order;
  2. Approval of Minutes of June 12, 1998 Board Meeting
  3. Report from Texas Occupational Therapy Association (TOTA)
  4. Public Comment
  5. Discussion and possible action on proposed rules, as follows: §362.1 concerning Definitions; §364.1, concerning Requirements for Licensure; §366.1, concerning Application for License; §370.1, concerning License Renewal; §371.1, concerning Inactive Status; §372.1, concerning Provision of Services; §373.3, concerning Supervision
  6. Discussion and possible action on issues in continuing education
  7. Discussion and possible action on proposed rules, as follows: §362.1 concerning Definitions; §365.1, concerning Types of Licenses; §366.1, concerning Application for License; §367.1, concerning Continuing Education; §370.1, concerning License Renewal; §371.1, concerning Inactive Status
  8. Discussion and possible action on a jurisprudence examination for applicants and licensees
  9. Investigation Committee Report
    - A. Discussion and possible action on Agreed Orders #98-31 and 98-38
    - B. Discussion and possible action on committee meeting of August 18th, 1998
    - C. Discussion and possible action on investigative activities for FY98
  10. Discussion and possible action on chair's Report
  11. Discussion and possible action on Executive Director's Report
  12. Discussion and possible action on Coordinator's Report
  13. Discussion and possible action on the next meeting dates and locations
  14. Adjournment
- Contact: Alicia Dimmick Essary, 333 Guadalupe, Suite 2-510 Austin, Texas 78701-3942, 512/305-6900.  
Filed: September 3, 1998, 8:19 a.m.  
TRD-9813990



Sunday, September 13, 1998, 9:30 a.m.

15201 Dallas Parkway, Steuben Room, Hotel Intercontinental

Dallas

Board

### AGENDA:

1. Call to order
2. Public Comment
3. Discussion and possible action on adoption of proposed rules, as following: §362.1 concerning Definitions; §364.1, concerning Requirements for Licensure; §366.1, concerning Application for License; §370.1, concerning License Renewal; §371.1, concerning

Inactive Status; §372.1, concerning Provisions of Services; §373.1, concerning Supervision.

4. Discussion and possible action on a jurisprudence examination for applicants and licensees

5. Adjournment.

Contact: Alicia Dimmick Essary, 333 Guadalupe, Suite 2-510 Austin, Texas 78701-3942, 512/305-6900.

Filed: September 3, 1998, 8:19 a.m.

TRD-9813992



Sunday, September 13, 1998, 10:30 a.m.

15201 Dallas Parkway, Metroplex Room, Hotel Intercontinental

Dallas

Application Review Committee

AGENDA:

1. Call to order

2. Discussion and possible action on the following cases: Robin Pollani, Kimberly Sue Rose, Subrenna L. Samuels, Emilie Anne Simpson

3. Adjournment.

Contact: Alicia Dimmick Essary, 333 Guadalupe, Suite 2-510 Austin, Texas 78701-3942, 512/305-6900.

Filed: September 4, 1998, 1:54 p.m.

TRD-9814114



## Texas Board of Orthotics and Prosthetics

Wednesday, September 16, 1998, 8:00 a.m.

Tower Building, T-709, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The board will introduce members, guests, and staff and will discuss and possibly act on: approval of the minutes of the September 3, 1998, meeting; presiding officer's report; executive director's report; review, discussion, and action on comments received during the public comment period concerning proposed rules relating to the regulation of Orthotics and Prosthetics, implementing Senate Bill 291, 75th Texas Legislative, Regular Session 1997; final adoption of proposed rules (22 TAC Chapter 821) as published in the July 24, 1998, issue of the Texas Register (23 TexReg 7489); review of license application materials; other business not requiring board action; public comment; choosing future agenda items and setting future meeting dates for the board.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at 512/458-7627 or TDD at 512/458-7708 at least four days prior to the meeting.

Contact: Donna Flippin or Steven Lowenstein, 1100 West 49th Street, Austin, Texas 78756, 512/834-4520.

Filed: September 4, 1998, 2:09 p.m.

TRD-9814118



## Texas Board of Pardons and Paroles

Wednesday, September 16, 1998, 10:00 a.m.

Hilton Hotel, Diplomat Room, 2355 IH-10

Beaumont

Rules Committee Meeting

AGENDA:

I. Discussion of Rules under Chapter 141

II. Discussion of Rules under Chapter 145

III. Discussion of Rules under Chapter 146

IV. Discussion of Rules under Chapter 147

V. Discussion of Rules under Chapter 149

VI. Discussion of Rules under Chapter 150

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact the agency prior to the meeting so that appropriate arrangements can be made.

Contact: Juanita G. Llamas, Texas Board of Pardons and Paroles, Austin, Texas 512/406-5457.

Filed: September 4, 1998, 1:37 p.m.

TRD-9814113



Thursday, September 17, 1998, 8:00 a.m.

Hilton Hotel, Diplomat Room, 2355 IH-10

Beaumont

Rules Committee Meeting

AGENDA:

I. Regular Session

A. Recognition of Guests

B. Presentation by TDCJ-Parole Division

C. Consent Items: Approval of Minutes of Quarterly Meeting of June 11, 1998.

D. Board Committee and Staff Reports

E. Adoption of Special Condition "P" (MHMR) Services and (MIMR) Caseloads Policy

F. Discussion of Board Order to Requires All Releases to Participate in the Texas Department of Public Safety ID Program

G. Discussion of Board Order Requiring All Releases to Submit to Drug Testing

H. Resolution Adopting Annual Report

I. Resolution Adopting Development of Comprehensive Training and Education Program for Board and Policy Board Members

J. Discussion of Rules Review Plan

K. Final Adoption of New rules and Amendments to 37 TAC §141 and §145 et seq. as published in 23 TexReg 6696 (June 26 1998)

L. Adoption of Proposed New Rules and Amendments to 37 TAC §141 and §145 et seq.

II. Executive Session

A. Discussion with attorney concerning Johnson v. Rodriguez, et al; Gosch v. Texas Board of Pardons and Paroles, et al. (Closed in accordance with Section 551.071, Government Code.)

B. Discussion of matters made confidential under State Bar Disciplinary Rules of Professional Conduct. (Closed in accordance with Section 551.071, Government Code.)

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact the agency prior to the meeting so that appropriate arrangements can be made.

Contact: Juanita G. Llamas, Texas Board of Pardons and Paroles, Austin, Texas 512/406-5457.

Filed: September 4, 1998, 1:37 p.m.

TRD-9814112



**Texas State Board of Plumbing Examiners**

Monday, September 14, 1998, 8:30 a.m.

929 East 41st Street

Austin

Board Meeting

AGENDA:

The Texas State Board of Plumbing Examiners will convene in open session, deliberate and possibly take formal action on any of the following items.

1. Roll call;
2. recognize staff and visitors, special presentations-Phillip Lord, Joe Campbell Stanley Briers;
3. public comment;
4. July 13, 1998 Board Meeting minutes;
5. August 6th Special Called Board Meeting minutes;
6. hardship and waiver cases.
7. Committee Report;
8. August 7th Board Meeting regarding the administrator position;
9. field representative in El Paso;
10. examinations translated in a language other than English;
11. field/citation report;
12. examination report;
13. travel request;
14. fiscal report;
15. report on LBB hearing;
16. board meeting frequencies and per diem;
17. administrator's report;
18. date, location, and time of next two board meetings;
19. adjourn.

The Texas State Board of Plumbing Examiners may go into executive session on any agenda item if authorized by the Open Meetings Act, Government Code, Chapter 551.

Contact: Stephenie A. Spiars, 929 East 41st Street, Austin, Texas 512/458-2145, Ext. 222.

Filed: September 4, 1998, 10:02 a.m.

TRD-9814070



Monday, September 14, 1998, 8:30 a.m.

929 East 41st Street

Austin

Board Meeting

REVISED AGENDA:

The Texas State Board of Plumbing Examiners will convene in open session, deliberate and possibly take formal action on any of the following items.

(1) Discussion and possible action on selection of Continuing Professional Education Provider for 2000-2004.

(2) Board Advisory Committees

(3) Consider making a final item a part of the permanent agenda of each regular Board meeting which will be called "Board Member Comments", at which time each Board Member will be able to make such comments as they may deem appropriate.

The Texas State Board of Plumbing Examiners may go into executive session on any agenda item if authorized by the Open Meetings Act, Government Code, Chapter 551.

Contact: Stephenie A. Spiars, 929 East 41st Street, Austin, Texas 512/458-2145, Ext. 222.

Filed: September 4, 1998, 4:07 p.m.

TRD-9814138



Tuesday, September 15, 1998, 8:00 a.m.

929 East 41st Street

Austin

Board Meeting

AGENDA:

The Texas State Board of Plumbing Examiners will convene in open session, deliberate and possibly take formal action on any of the following items.

1. Roll call-8:00 a.m.,
2. recognize staff and visitors;
3. public comment;
4. executive session to consider the appointment, employment, evaluation, assignment and/or duties of the new Administrator. The executive session will include interview with potential candidates and discussion of those candidates along with any other matter that pertains to the employment of the new Administration, pursuant to Tex. Gov't. Code Chapter 551.074(a)(1);
5. return to open session to make the final considerations concerning the appointment, employment, evaluation, assignment and/or duties of the new Administrator. Action on any item necessary to employ the new Administrator;
5. Personnel Committee Report;
7. Adjourn.

The Texas State Board of Plumbing Examiners may go into executive session on any agenda item if authorized by the Open Meetings Act, Government Code, Chapter 551.

Contact: Stephenie A. Spiars, 929 East 41st Street, Austin, Texas 512/458-2145, Ext. 222.

Filed: September 3, 1998, 1:23 p.m.

TRD-9814024



**Produce Recovery Fund Board**

Tuesday, September 22, 1998, 11:00 a.m.

1700 North Congress, Room 911

Austin

AGENDA:



Administrative review of appeal filed TDA docket #32-90-APA, Ruiz Produce Co. v. Venable Farms, under Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon Suppl. 1998):

Contact: Dolores Alvarado Hibbs, P.O. Box 128747, Austin, Texas 78711, 512/463-7583.

Filed: September 8, 1998, 11:22 a.m.

TRD-9814167



## Texas Public Finance Authority

Wednesday, September 16, 1998, 10:30 a.m.

William P. Clements Building, 300 West 15th Street, Committee Room 5, 5th Floor

Austin

Board Meeting

AGENDA:

1. Call to order.
2. Approval of minutes of the August 12, 1998 Board meeting
3. Discussion matters relating to the application of the Open Meetings Law to Board Pricing Committees.
4. Consider Request for Financing from the State Preservation Board for the issuance of revenue bonds in the amount of approximately \$40 million for the second phase of the State History Museum project, and select a method of sale.
5. Update and possible action on the General Obligation Refunding.
6. Other Business.
7. Adjourn.

Persons with disabilities, who have special communication or other needs, who are planning to attend the meeting should contact Jeanine Barron or Marce Snyder at 512/463-5544. Requests should be made as far in advance as possible.

Contact: Jeanine Barron, 300 West 15th Street, Suite 411, Austin, Texas 78701, 512/463-5544.

Filed: September 8, 1998, 10:57 a.m.

TRD-9814159



## Texas Real Estate Commission

Monday, September 14, 1998, 9:00 a.m.

Conference Room 235, TREC Headquarters Office, 1100 Camino La Costa

Austin

AGENDA:

Call to order; minutes of July 27, 1998 Commission meeting; staff reports; committee reports; general comments from visitors; discussion and possible action to adopt: amendments to (a) TAC §535.92, concerning satisfaction of MCE requirements for license renewal; (b) 22 TAC §539.51, concerning definition of employee of residential service company; (c) 22 TAC §535.66, concerning accredited schools; discussion of proposed amendment to 22 TAC §535.223, concerning standard inspection report forms; executive session to discuss pending litigation pursuant to Texas Government Code, §551.071; discussion and possible action to authorize payments

from recovery funds; discussion and possible action to readopt or propose amendment or repeal of 22 TAC Chapter 533, concerning practice and procedure; discussion of comments on 22 TAC chapter 534, concerning general administration; discussion and possible action to authorize filing notice of intention to review 22 TAC Chapter 537, concerning professional agreements and standard contract forms; discussion and possible action to adopt the TREC Biennial Operating Plan for Information Resources; discussion and possible action on legislative initiatives; discussion of comments concerning internet advertising and transactions; discussion and possible action on petition for declaratory ruling filed by Travis County; discussion and possible action to establish evaluation process for the administrator; discussion and possible action to propose amendment to 22 TAC §§537.11, 537.26 and 537.27, concerning standard contract forms; discussion and possible action on policy regarding participation of commissioners in courses regulated by the agency; consideration of complaint information concerning: Nelson Dshannon Rushing; Vikki Nicholas; Curtis Michael Morton; Charles Alan McClain; Susan D. Benavides; Gary Waldon Atkins; Vickie Ann Scott; Loreen D. Snyder, Mark A. Silva; Jane Adele Friedman; Keith Wayne Gossett; James Russell Gregory; Alf Ronald Arnesen; Melinda Davis Graves; Entry of order in contested cases; Scheduling of future meetings.

For ADA assistance, call Nancy Guevremont at 512/465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, 512/465-3900.

Filed: September 4, 1998, 8:16 a.m.

TRD-9814055



## Records Management Interagency Coordinating Council

Wednesday, September 23, 1998, 10:00 a.m.

Texas State Library and Archives Commission de Zavala Building, Room 314, 1201 Brazos Street

Austin

Records Management Interagency Coordinating Council

AGENDA:

1. Council Member Introduction.
2. Approve minutes of the June 3, 1998 meeting.
3. Electronic Records Research Committee progress report for SB897 by Martha Richardson.
4. Blue Pages Committee progress report for SB897.
5. Adoption of RMICC bylaw rules.
6. Report on RMICC rules review plan.
7. Election of RMICC Chair.
8. Election of RMICC Co-Chair.
9. Discussion on report due November 1 to the Governor's Office.
10. Public comment.

Contact: Michele Lamb, Executive Assistant, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, (512) 463-5460, email michele.lamb@tsl.state.tx.us

Filed: September 3, 1998, 3:54 p.m.

TRD-9814043

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## Rural Community Health System

Friday, September 18, 1998, 9:00 a.m.

211 East 7th Street, , 7th Floor Conference Room

Austin

Full Board

AGENDA:

1. Call to order
2. approval of past meeting minutes.
3. Executive Committee Reports
  - a. Deliberations on Strategic Health Initiatives proposal.
  - b. Discussion and action on professional arrangement with above organization.
  - c. Discussion and action on Marketing and Development Subcommittee.
  - d. Discussion and action on informal advisory comm of CHS advisors.
  - e. Discussion and action on Legislative Committee items.
  - f. Discussion and action on possible funding items.
4. Old Business.
  - a. Discussion and action on pending proposals before the Board
  - b. Discussion and action on pending tax application.
  - c. Discussion and action on pending Center for Rural Health Grant Award and office share
  - d. Update on meeting of clinical partner meeting in September.
  - e. Discussion of and action on TDI rules response.
  - f. Discussion and possible action on RFP for Executive Director.
  - g. Discussion and possible action on formal advisory committee.
  - h. Discussion and update on HCFA contraction Medicare Contract.
5. Board member and public comment.

Contact: Victoria Ford, P.O. Box 13556, Austin, Texas 78711, 512/463-0119.

Filed: September 4, 1998, 3:58 p.m.

TRD-9814131

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## School Land Board

Tuesday, September 15, 1998, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

School Land Board

AGENDA:

Approval of previous board meeting minutes; lease suspension applications, Corpus Christi Bay, Nueces County; Pooling applications: Sralia Road (Jackson, W.) Field, Harris Co.; Wildcat Field, Chambers Co.; Carthage (Travis Peak-Collins) and (Cotton Valley) or S.E. Carthage (Cotton Valley), Panola Co.; Deer Canyon (Penn), Terrell

Co.; applications to lease highway rights of way for oil and gas, St. Hwy. 909, Red River Co.; U.S. Hwy. 380, Stonewall Co., and U.S. Hwy. 77, Lavaca Co.; Update from staff regarding amendments to the School Land Board's administrative rules, 31 Texas Administrative Code, Chapters 151 and 153. Staff will request that the Board adopt (1) its previously proposed and published conclusion that the reasons for adopting the rules continue to exist, and (2) its previously proposed published changes to its administrative rules. Staff will request authorization to publish notice of such adoption in the *Texas Register*; Authorization to publish in the *Texas Register* (1) a proposed repeal of 31 Texas Administrative Code, Chapter 9 (except sections 9.4 and 9.7) and (2) a concurrent proposed adoption of new, reorganized and updated sections to cover the same subject matter; consideration of a simultaneous acquisition of 108.18 acres of land from Texas Department of Criminal Justice out of the John McNeal Survey, Abstract 92, Brazoria Co., Texas and sale to Texas parks and Wildlife Department; Coastal public lands-commercial easement renewal-Sabine Pass, Jefferson Co.; structure (cabin) permit renewals, terminations and requests, Laguna Madre, Kenedy Co.; Laguna Madre, Kleberg Co.; Closed and Open Sessions-consideration of tracts, terms and conditions for a sealed bid land sale on October 20, 1998; Closed and Open Sessions- consideration and possible action on exchange of real estate interests in and around Eckert's Bayou, Galveston Co.; Closed and Open Sessions-consideration and approval of agreement between the permanent School Fund/School Land Board and F. Michael Speed, Receiver, concerning allocations of the amount bid on the S/2 of State Tract 49, Corpus Christi Bay, Nueces Co.; Closed and Open Sessions-status report and discussion of Brainard et al v. State of Texas; Closed and Open Sessions-status report on State of Texas et al v. Amoco Production company, et al, Cause #95-08680, 345th Judicial District Court, Travis Co., Texas; Closed and Open Sessions-Closed and Open Sessions-pending or contemplated litigation; and/or settlement offers.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: September 4, 1998, 11:04 a.m.

TRD-9814079

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## Texas Senate

Wednesday, October 7, 1998, 1:30 p.m.

Capitol Extension Room E1.010, 14th Street and Congress Avenue

Austin

Texas State Artist Committee

AGENDA:

- I. Call to order
- II. Roll Call
- III. Committee Business
  - A. Identification of Nominated Artists
    1. Two-Dimensional Media
    2. Three-Dimensional Media
  - B. Public Testimony
  - C. Selection of Texas State Artists (1998-1999)
    1. Two-Dimensional media
    2. Three-Dimensional media

D. Other Business

#### IV. Adjournment

Purpose: The Committee is to take testimony and a Texas State Artist in two-dimensional and three-dimensional media for the 1998-1999 term.

Contact: Stephanie Bergeron, General Counsel, (512) 463-0107.

Filed: September 8, 1998, 4:06 p.m.

TRD-9814217



### Texas Skill Standards Board

Monday, September 28, 1998, 1:00 p.m.

Texas Higher Education Coordinating Board, 7745 Chevy Chase Drive, Building 1, Room 1.100

Austin

Full Board

AGENDA:

Call to Order; Announcements; Public Comment; Action Item: Approval of Minutes of May 18, 1998 Meeting; Discussion, Consideration and Possible Action: Update on Workforce Skills Coalition; Discussion: Annual Report and Recommendation for 76th Legislature; Discussion, Consideration and Possible Action: Revised Board By-Laws; Discussion: Update on National Skill Standards Developments; Updates: Workforce Investment Act, Skills Summit, Texans Work, etc., Other Business; Adjournment.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Kay Rodriguez, (512) 936-8100 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Kay Rodriguez, P.O. Box 2241, Austin, Texas 78768, (512) 936-8100.

Filed: September 4, 1998, 11:36 a.m.

TRD-9814100



### Texas State Board of Social Worker Examiners

Friday, September 18, 1998, 8:30 a.m.

Pedregal Meeting Room, Embassy Suites Hotel, 1800 South Second Street

McAllen

Budget Committee

AGENDA:

The committee will meet to discuss and possible act on: approval of the minutes of the June 18, 1998, meeting; review of the fiscal year 1998 allocated salaries; review of fiscal year 1998 revenues review of fiscal year 1998 expenditures; update on the special fund for continuing education provider application fees; update on having access to open record requests, fees and charges; review of the National Association of Social Worker's letter regarding access to funding (newsletter and social work directory); other business not requiring action; and setting the next meeting for the committee.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights

at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Shirley Bibles, 1100 West 49th Street, Austin, Texas 78756, (800) 232-3162, or (512) 719-3521.

Filed: September 9, 1998, 10:29 a.m.

TRD-9814264



Friday, September 18, 1998, 9:15 a.m.

Pedregal Meeting Room, Embassy Suites Hotel, 1800 South Second Street

McAllen

Complaints Committee

AGENDA:

The committee will meet to discuss and possible act on: approval of the minutes of the August 7, 1998, meeting; responsibility of a licensee, providing drug/alcohol counseling services through an employee assistance program setting to another licensee, who has been mandated to attend counseling due to having tested positive for drugs; pending complaint waiting for a proposal for decision (SW-96-052 (KM) hearing held April 23-24, 1998, and June 12-12, 1998); pending complaint waiting for a hearing (SW-98-038 (NB) date not scheduled at this time); pending complaints waiting for board approval (SW-97-079 (TW); SW-98-047 (JBK); and SW-98-007 (DQ)); pending complaint recommended for revocation (SW-98-063); pending complaints (SW-98-053; SW-98-056; SW -98-057; SW-98-060; SW-98-062; SW-98-064; SW-98-065; SW-98-066; SW-98-067; SW-98-069; SW-98-069; SW-98-070 — SW-98-077); newspaper clipping on the licensee arrested for growing marijuana; conducting consumer evaluations of the complaint process; other business not requiring action; and setting the next meeting date for the committee (currently scheduled for October 30, 1998, in Austin, Texas).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Shirley Bibles, 1100 West 49th Street, Austin, Texas 78756, (800) 232-3162, or (512) 719-3521.

Filed: September 9, 1998, 10:29 a.m.

TRD-9814265



Friday, September 18, 1998, 10:00 a.m.

Pedregal Meeting Room, Embassy Suites Hotel, 1800 South Second Street

McAllen

Continuing Competency Committee

AGENDA:

The committee will meet to discuss and possible act on: approval of the minutes of the June 21, 1998, meeting; update on the continuing competency pilot project; update on looking at the issue of differential impact on the licensing process; articles for the Spring newsletter; update on a speaker/presentation packet for board members; development of a plan to ensure services are performed by professional within the Texas Department of Protective and

Regulatory Services; other business not requiring action; and setting the next meeting for the committee.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Shirley Bibles, 1100 West 49th Street, Austin, Texas 78756, (800) 232-3162, or (512) 719-3521.

Filed: September 9, 1998, 10:30 a.m.

TRD-9814269



Friday, September 18, 1998, 11:30 a.m.

Pedregal Meeting Room, Embassy Suites Hotel, 1800 South Second Street

McAllen

rules Committee

AGENDA:

The board will meet to discuss and possible act on: approval of the minutes of the June 18, 1998, meeting; proposed changes to the social work statute in the 1999 legislative session; other business not requiring action; and setting the next meeting for the committee.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Shirley Bibles, 1100 West 49th Street, Austin, Texas 78756, (800) 232-3162, or (512) 719-3521.

Filed: September 9, 1998, 10:29 a.m.

TRD-9814266



Friday, September 18, 1998, 1:30 p.m.

Pedregal Meeting Room, Embassy Suites Hotel, 1800 South Second Street

McAllen

Board

AGENDA:

The board will meet to discuss and possible act on: approval of the minutes of the June 20, 1998, meeting; report from the executive director; report from the assistant division director for programs; committee reports (Budget; Complaints; and Rules); final report from the process improvement team on the complaint tracking process; state audit report and the Texas Department of Health's response to the audit; proposal for decision on KM; orders relating to DQ, TW, and JBF; ratification of the probated license of Toni Young; release of probated licenses on (Elva Barrera; Melissa Reyes; and Cheryl Sandle); 1998 survey report on alternative methods of examining competency; board retreat held August 8-9, 1998; update on the 900 pilot project for license renewal; American Association of State Social Work Boards' (AASSWB) fee increase; AASSWB's agreement with Texas; update from the task force looking at the issue of a specialty recognition in the area of aging; setting 1999 board meeting dates; Social worker associate (SWA) applicants taking the same examination as licensed social workers (LSW); proposed rule amendments to 22 Texas Administrative Code, Chapter 781 in

accordance with General Appropriations Act, Article IX, Rider 167, 75th legislature; other board business not requiring action; and setting the next board meeting (currently scheduled for December 4-5, 1998, in Austin, Texas).

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Shirley Bibles, 1100 West 49th Street, Austin, Texas 78756, (800) 232-3162, or (512) 719-3521.

Filed: September 9, 1998, 10:30 a.m.

TRD-9814267



Saturday, September 19, 1998

Pedregal Meeting Room, Embassy Suites Hotel, 1800 South Second Street

McAllen

AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes of the June 19, 1998, meeting; request for a waiver to the rules of advanced clinical practitioner (ACP) supervision from Betty Burke, LMSW-ACP, Harris County Mental Health Mental Retardation; review and approval of the revised supervisory plan for ACP and advanced practitioner (AP) supervision; update from the subcommittee reviewing the issue of supervision protocols and methods; review of the forms developed to document supervisory sessions for either group or individual supervision by the supervisor; development of a private practice brochure; and other business not requiring action.

To request an accommodation under the ADA, please contact Suzzanna C. Currier, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least four days prior to the meeting.

Contact: Shirley Bibles, 1100 West 49th Street, Austin, Texas 78756, (800) 232-3162, or (512) 719-3521.

Filed: September 9, 1998, 10:30 a.m.

TRD-9814268



## **Texas State Soil and Water Conservation Board**

Tuesday, September 15, 1998, 8:00 a.m.

311 North Fifth Street, Hearings Room

Temple

AGENDA:

Minutes from the July 14, 1998, Board Meeting; District Director Appointments; Section 319 Status Reports; Senate Bill 503 Status Report; TMDL Activities; Unified Watershed Assessment; Texas Coastal Management program; Source Water Protection Activities; North Concho Brush Control Study; EPA Proposed General Permits for CAFOs; Drought Response Activities; Amendments to the Approved SB 503 Cost Share Practice List; Proposed Changes to the SB 503 Reference Manual; Reports from Agencies and Guests; 2000-2001 Legislative Appropriation Request; 1998 Annual Statewide Meeting of Soil and Water Conservation District Directors, Corpus Christi, Texas, October 12-14, 1998; NRCS Work Force Analysis;

Public Information/Education Report; Twelve Month Expenditure Report as of August 31, 1998; Summary Report on Fiscal Year 1998 Conservation Assistance Funds; Board Member Travel Report; Human Resources Staffing Update; Proposed Conservation Legislation; Next Regularly Scheduled State Board Meeting-November 18, 1998.

Contact: Robert G. Buckley, P.O. Box 658, Temple Texas 76503, (254) 773-2250, TEX-An 820-1250.

Filed: September 2, 1998, 3:21 p.m.

TRD-9813975



Tuesday, September 15, 1998, 8:00 a.m.

311 North Fifth Street, Hearings Room

Temple

REVISED AGENDA:

Minutes from the July 14, 1998, Board Meeting; District Director Appointments; Section 319 Status Reports; Senate Bill 503 Status Report; TMDL Activities; Unified Watershed Assessment; Texas Coastal Management program; Source Water Protection Activities; North Concho Brush Control Study; EPA Proposed General Permits for CAFOs; Drought Response Activities; Amendments to the Approved SB 503 Cost Share Practice List; Proposed Changes to the SB 503 Reference Manual; Reports from Agencies and Guests; 2000-2001 Legislative Appropriation Request; 1998 Annual Statewide Meeting of Soil and Water Conservation District Directors, Corpus Christi, Texas, October 12-14, 1998; NRCS Work Force Analysis; Public Information/Education Report; Twelve Month Expenditure Report as of August 31, 1998; Summary Report on Fiscal Year 1998 Conservation Assistance Funds; Board Member Travel Report; Human Resources Staffing Update; Proposed Conservation Legislation; Next Regularly Scheduled State Board Meeting-November 18, 1998; HR 4409-Small Watershed Rehabilitation Amendment of 1998.

Contact: Robert G. Buckley, P.O. Box 658, Temple Texas 76503, (254) 773-2250, TEX-An 820-1250.

Filed: September 2, 1998, 3:21 p.m.

TRD-9813989



### **Stephen F. Austin State University**

Friday, September 18, 1998, 12:30 p.m.

1936 North Street, Austin Building, Room 307

Nacogdoches

Board of Regents

AGENDA:

I. Housing Report

Contact: Dan Angel, P.O. Box 6078, Nacogdoches, Texas 75962-6078, (409) 468-2201.

Filed: September 2, 1998, 1:57 p.m.

TRD-9813965



### **Teacher Retirement System of Texas**

Thursday, September 10, 1998, 9:00 a.m.

1000 Red River, Room 514E

Austin

Board of Trustees Policy Committee

AGENDA:

1. Consideration of Changes to the TRS Investment Policy
2. Consideration and Review of TRS Rules, Chapter 21, 23, 25, 27, and 29

Contact: John R. Mercer, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact John R. Mercer (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to the meeting.

Filed: September 2, 1998, 3:28 p.m.

TRD-9813976



### **The Texas A&M University System**

Friday, September 11, 1998, 2:00 p.m.

Lamar Street, Memorial Student Center, Room 145

Austin

Ad Hoc Evaluation Criteria Committee

AGENDA:

The purpose of the meeting is to continue the Committees' work in developing criteria for evaluating System expansion opportunities and take any action the Committee deems necessary and appropriate.

Contact: Vickie Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 6, 1998, 4:14 p.m.

TRD-9814149



### **Texas Tech University and Texas Tech University Health Sciences Center**

Tuesday-Saturday, September 8-12, 1998, Monday-Friday, September 14-18, 1998, Monday-Friday, September 21-25, 1998, Monday-Friday, September 28-October 2, 1998, Monday-Friday, October 5-9, 1998, Monday-Friday, October 12-16, 1998, Monday-Wednesday, October 19-21, 1998, Friday, October 23, 1998, Monday-Friday, October 26-30, 1998, Monday-Friday, November 2-6, 1998, Monday-Thursday, November 9-12, 1998, Monday-Friday, November 16-20, 1998, Monday-Wednesday, November 23-25, 1998, Monday, November 30, 1998, 11:00 a.m.

Administration Building, Broadway and Akron Avenues, Room 201

Lubbock

Board of Regents Pricing Com.

AGENDA:

The Pricing Committee of the Board of Regents of Texas Tech University will consider and act upon the following: a resolution by the Pricing Committee approving the issuance and sale of the Board of Regents of Texas Tech University Revenue Financing System Refunding bonds, Sixth Series (1998), in an aggregate principal amount not to exceed \$60,000,000, and resolving other matters relating to the issuance and sale of said bonds.

Note: A special called meeting of the Board of Regents Pricing Committee is necessary to take immediate action in order to obtain the most favorable terms relative to the bonds to be sold and to execute the necessary documents relative thereto. It is impossible to convene a quorum of the Pricing Committee members at one location on the numerous dates which the Pricing Committee must be available to meet. Therefore, in order to properly exercise its duty of governance of the Universities, meetings by telephone conference call are initiated.

The telephone conference call will be hosted in the Board of Regents Meeting Room #201, Texas Tech University Campus, Lubbock, Texas.

Contact: James L. Crowson, Box 42013, Lubbock, Texas 79409-2013.  
Filed: September 4, 1998, 3:09 p.m.

TRD-9814129

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## Texas Department of Transportation

Wednesday, September 30, 1998, 9:00 a.m.

150 East Riverside Drive, Room 101

Austin

Household Goods Carrier Advisory Committee

AGENDA:

- I. Convene-Harry Snyder, Committee Chairperson.
- II. Review and Approval of Minutes from September 9-10, 1998.\*
- III. Discussion and recommendations for modernizing and streamlining department rules codified in Title 43, Texas Administrative Code, Chapter 18, Subchapters A, B, and E.\*
- IV. Agenda and date of next meeting.
- V. Adjourn.\*

Contact: Bob Jackson, 150 East Riverside Drive, Austin, Texas, (512) 463-8630.

Filed: September 8, 1998, 4:23 p.m.

TRD-9814220

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## University of Houston

Monday, September 21, 1998, 1:00 p.m.

S&RII, Room 501, University of Houston

Houston

Institutional Animal Care and Use Committee

AGENDA:

To discuss and/or act upon the following:

Approval of August 17, 1998 Minutes

New Protocols

Renewal Protocols

Other Business

Contact: Charles Raflo, 4800 Calhoun Boulevard, Houston, Texas 77204-5510, (713) 743-9191.

Filed: September 4, 1998, 10:28 a.m.

TRD-9814076

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## Texas Veterans Commission

Thursday, September 17, 1998, 10:00 a.m.

E. O. Thompson Building, Sixth Floor, Tenth and Colorado Street  
Austin

Special Meeting

AGENDA:

Convene

Roll Call

Read and possibly approve minutes of board meetings of August 5th, August 19th, and August 27th, 1998

EXECUTIVE SESSION:

Executive Session pursuant to Section 551.074, Texas Government Code:

Discussion of employment, appointment and/or duties of the Executive Director.

OPEN SESSION:

Discussion and possible action concerning employment, appointment and/or duties of the Executive Director.

ADJOURNMENT

Contact: Charles A. Buerschinger, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

Filed: September 4, 1998, 11:49 a.m.

TRD-9814102

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## Texas Water Development Board

Wednesday, September 16, 1998, 3:00 p.m.

Stephen F. Austin Building, Room 513-F, 1700 North Congress Avenue

Austin

Finance Committee

AGENDA:

1. Consider approval of the minutes of the meeting of August 19, 1998.
2. Briefing and discussion on the Board's investment portfolio for the quarter ending August 31, 1998, as required by the Public Funds Investment Act.
3. Consider approving a \$1,660,000 grant/loan to Moore Water Supply Corporation (Frio County) to finance the design and construction of a new wastewater treatment plant and collection system from the Economically Distressed Areas Program.
4. Briefing and discussion on the status of bond authorization for Economically Distressed Areas Program purposes.
5. Briefing and discussion on activities of the Border Project Management Division including present and future EDAP projects.
6. May consider items on the agenda of the September 17, 1998 Board or TWRFRA meeting.

Additional non-committee Board members may be present to deliberate but will not vote in the Committee meeting.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: September 8, 1998, 3:53 p.m.

TRD-9814210



Wednesday, September 16, 1998, 4:00 p.m.

Stephen F. Austin Building, Room 513-F, 1700 North Congress Avenue

Austin

Audit Committee

AGENDA:

1. Consider approval of the minutes of the meeting of June 17, 1998.
2. Briefing and discussion on the external audit activities of the Audit and Funds Management Division for fiscal years 1998 and 1999.
3. Briefing and discussion on the audit of data collection areas.
4. Briefing and discussion on risk assessment of auditable activities.
5. Consider approval of change to the FY 1998 Audit Plan.
6. Consider approval of the FY 1999 Audit Plan.
7. Briefing and discussion on year 2000 compliance.
8. Briefing on the status of approved contracts.
9. May discuss items on the agenda of the September 17, 1998 Board or TWRFA meetings.

Additional non-committee Board members may be present to deliberate but will not vote in the Committee meeting.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: September 8, 1998, 3:53 p.m.

TRD-9814211



Thursday, September 17, 1998, 9:00 a.m.

Stephen F. Austin Building, Room 118, 1700 North Congress Avenue

Austin

Board

AGENDA:

The Board will consider: minutes; committee, executive and financial reports; resolution of appreciation from Olmito WSC; Hidalgo County compliance; financial assistance to Greater Texoma Utility Authority (Paradise), El Paso Public Service Board, Comal Co. Fresh Water Supply District No. 1, St. Paul WSC, and Edwards Aquifer Authority; substitution of security for Pearland 1996B bonds; time extension for Gatesville and No. Alamo WSC (San Juan); environmental finding and release of design funds for Montgomery Co. Utility District No. 3 and city of Humble; ranking and forwarding Harris Co. and Fredericksburg applications for Flood Mitigation Assistance grants to the Federal Emergency Management Agency; contract amendment with UT-Marine Science Institute and transfer of funds; transfer of funds from the Administrative Cost Recovery Fund to the SRF Program Account; amendments to 31 TAC §§363.502, 363.505, 363.202, 363.209 and Chapter 371; repeal of

§§367.1, 367.41-367.50 and 367.70-367.79 and new 367.1, 367.40-367.51; amendments to existing loan conditions regarding the by-laws of water supply corporations and future sales of facilities; changes to the State Participation Program and publication of proposed amendments to 31 TAC chapter 363; FY 1999-2002 Project Priority Lists and FY 1999 Intended Use Plan for the Clean Water State Revolving Fund Loan program and selection of bond counsel.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: September 9, 1998, 10:07 a.m.

TRD-9814254



## Texas Windstorm Insurance Association

Tuesday, September 15, 1998, 8:00 a.m.

OMNI Bayfront Hotel, 900 North Shoreline Boulevard

Corpus Christi

Board of Directors

AGENDA:

- I. Call to Order-Reminder of the Anti-trust Statement
- II. Approval of the Minutes from the following Board of Directors' Meetings  
June 16, 1998  
July 15, 1998  
August 31, 1998
- III. Report of the Secretary/Treasurer
- IV. Report of the Chairman of the Board of Directors
- V. 1998 Budget Conformance and 1999 Preliminary Budget
- VI. Annual Limits Adjustment
- VII. General Manager's Authority Statement
- VIII. Treaty Reinsurance
- IX. Underwriting Committee Report  
Law and Ordinance Coverage  
ACV Roof Endorsement  
Business Interruption/Extra Expense Coverage
- X. Executive Session
- XI. Consideration of issues as respects to real estate that may require action, if any, of the Board of Directors.
- XII. Consideration of issues created by the audit of the Internal Revenue Service that may require action, if any, of the Board of Directors.
- XIII. Adjourn

Contact: Charles F. McCullough, 2028 East Ben White Boulevard, Suite 200, Austin, Texas 78741

Filed: September 2, 1998, 2:42 p.m.

TRD-9813969



## Texas Workforce Commission

Tuesday, September 15, 1998, 8:30 a.m.  
room 644, TWC Building, 101 East 15th Street  
Austin

AGENDA:

Approval of prior meeting notes: vote on minutes dated August 4, 1998, and August 11, 1998; Public comment; Discussion, consideration and possible action: (1) on acceptance of pledges of Child Care Matching Funds; (2) on the adoption of the Food Stamp, Employment and Training Rules (Chapter 813); (3) on the adoption of the proposed amendments to the Unemployment Insurance Rules concerning Signatures on Reports and Forms 940 TAC, Section 815.8); 94) on the adoption of the proposed amendments to the Unemployment Insurance Rules concerning Technical Corrections (40 TAC, Chapter 815); (5) on the PY98 JTPA Incentives Policy Amendment and Workflex Partnership and Demonstration program; (6) on the PY97 JTPA Fourth Quarter Interim Performance Report; (7) regarding potential and pending applications for certification and recommendations to TCWEC and status of strategic and operational plans submitted by Local Workforce Development Boards; (9) regarding recommendations to TCWEC; and (10) regarding approval of Local Workforce Board or Private Industry Council Nominees; General discussion and staff report concerning the Employment Service and related functions at the Texas Workforce Commission; Discussion, consideration and possible action relating to House Bill 2777 and the development and implementation of a plan for the integration of services and functions relating to eligibility determination and service delivery by Health and Human Services Agencies and TWC; Staff report and discussion-update on activities relating to: Administrative Support Division, Technology and Facilities Management Division, Unemployment Insurance and Regulation Division, Workforce Development Division, and Welfare Reform Initiatives Division; Executive Session pursuant to: Government Code §551.071(1) concerning the pending or contemplated litigation of the Texas AFI-CIO v. TWC; pat McCowan, Betty McCoy, Ed Carpenter, and Lydia DeLeon Individually and on Behalf of Others Similarly Situated v. TWC et al; TSEU/CWA Local 6186, AFL-CIO, Lucinda Robles, and Maria Roussett v. TWC et al; Midfirst Bank v. Reliance Health Care et al (Enforcement of Oklahoma Judgment); Gene E. Merchant et al. v. TWC; and Carolyn Harris v. TEC; Government Code §551.071(2) concerning all matters identified in this agenda where the Commissioners seek the advice of their attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas and to discuss the Open Meetings Act and the Administrative Procedure Act; Actions, if any, resulting from executive session; Consideration, discussion, questions, and possible action on: (1) whether to assume continuing jurisdiction on Unemployment Compensation cases and reconsideration of Unemployment Compensation cases, if any; and (2) higher level appeals in Unemployment Compensation cases listed on Texas Workforce Commission Docket 37.

Contact: J. Randel (Jerry) Hill, 101 East 15th Street, Austin, Texas 78778, (512) 463-8812.  
Filed: September 4, 1998, 3:09 p.m.

TRD-9814130



Tuesday, September 16, 1998, 8:00 a.m.  
Room 644, TWC Building, 101 East 15th Street  
Austin  
AGENDA:

Discussion, consideration and possible action on any additional supplemental funding items as a part of the Texas Workforce Commission's Appropriation Request (LAR) for the fiscal years 2000 and 2001.

Contact: J. Randel (Jerry) Hill, 101 East 15th Street, Austin, Texas 78778, (512) 463-8812.  
Filed: September 8, 1998, 4:37 p.m.

TRD-9814222



**Texas Youth Commission**

Thursday, September 16, 1998, 4:00 p.m.  
4900 North Lamar Boulevard, Room 2301 Human Resources Conference Room  
Austin  
Education Committee

AGENDA:

Contact: Shirley Cochran, 4900 North Lamar, Austin, Texas 78751, (512) 424-6004  
Filed: September 4, 1998, 10:07 a.m.

TRD-9814072



Thursday, September 17, 1998, 8:00 a.m.  
4900 North Lamar Boulevard, Room 2301 Human Resources Conference Room  
Austin  
Audit Committee

AGENDA:

Contact: Shirley Cochran, 4900 North Lamar, Austin, Texas 78751, (512) 424-6004  
Filed: September 4, 1998

TRD-9814073



Thursday, September 17, 1998, 9:00 a.m.  
4900 North Lamar Boulevard, Public Hearing Rooms 1420 and 1430  
Austin  
Board

AGENDA:

Contact: Shirley Cochran, 4900 North Lamar, Austin, Texas 78751, (512) 424-6004.  
Filed: September 4, 1998, 10:07 a.m.

TRD-9814071



Thursday, September 17, 1998, 9:00 a.m.  
4900 North Lamar Boulevard, Public Hearing Rooms 1420 and 1430  
Austin  
Board  
REVISED AGENDA:



Contact: Shirley Cochran, 4900 North Lamar, Austin, Texas 78751, (512) 424-6004.

Filed: September 9, 1998, 9:24 a.m.

TRD-9814242



## Regional Meetings

Meeting Filed September 2, 1998

Cypress Springs Water Supply Corporation, Board of Directors Meeting met at the Office of Cypress Springs Water, Supply Corporation, 4430 Highway 115, South of Mount Vernon, September 8, 1998, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, 903/860-3400. TRD-9813986.

Deep East Texas Council of Governments, Chief Elected Officials met in a emergency meeting at City Hall, Room 202, Lufkin, September 4, 1998, at 10:00 a.m. The reason for emergency: unforeseeable situation exists with regard to area workforce programs and funds. Information may be obtained from Floyd A. Watson, 200 San Augustine, Center, Texas 75935, 409/598-3863. TRD-9813968.

Grayson Appraisal District, Board of Directors met at 205 North Travis, Sherman, September 16, 1998, at 4:00 p.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, 903/893-9673. TRD-9813973.

Middle Rio Grande Development Council, Chief Elected Officials Board Meeting met at the Town House Restaurant, 2105 East Main, Uvalde, September 3, 1998, at 2:00 p.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, 830/876-3533. TRD-9813987.

Middle Rio Grande Workforce Board, Worker Committee met in a emergency meeting at the Town House Restaurant, 2105 East Main Street, Uvalde, September 3, 1998, at 2:00 p.m. Reason for emergency: Workers Adjustment Meeting: Citizens effected by the flood disaster need immediate assistance. Information may be obtained from Ricky McNeil, 100 West South Street, Uvalde, Texas 78801, 830/591-0141. TRD-9813963.

Middle Rio Grande Workforce Board, Finance Committee met in a emergency meeting at the Town House Restaurant, 2105 East Main Street, Uvalde, September 3, 1998, at 2:00 p.m. Reason for emergency: Finance Committee Meeting: Received approval from State on master contract, needs immediate response. Information may be obtained from Ricky McNeil, 100 West South Street, Uvalde, Texas 78801, 830/591-0141. TRD-9813964.

San Antonio River Authority, South Central Texas Regional Water Planning Group, met at 100 East Guenther Street, Boardroom, San Antonio, September 9, 1998, at 10:00 a.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9813970.

Wise County Appraisal District, Board of Directors met at 206 South State, Decatur, September 8, 1998, at 8:00 p.m. Information may be obtained from Freddie Triplett, 206 South State, Decatur, Texas 76234, 940/627-3081. TRD-9813985.

Meetings filed September 3, 1998

Austin Travis County MHMR Center, Human Resources Board Committee met at 1700 South Lamar, Building One, Suite 102A, Austin, September 8, 1998, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, 512/440-4031. TRD-9814042.

Comal Appraisal District, Appraisal Review Board met at 178 East Mill Street, #102, New Braunfels, September 17, 1998, at 9:00 a.m. Information may be obtained from Curtis Koehler, P.O. Box 311222, New Braunfels, Texas 78131-1222, 830/625-8597. TRD-9814009.

Dallas Housing Authority, Board of Commissioners met at Melrose Hotel, 3015 Oaklawn Avenue, Dallas, September 10, 1998, at 8:00 a.m. Information may be obtained from Mattye Jones, 3939 North Hampton Road, Dallas, Texas 75212, 214/951-8302. TRD-9814001.

Dewitt County Appraisal District, Board of Directors met at 103 Bailey Street, Cuero, September 15, 1998, at 7:30 p.m. Information may be obtained from Beverly Malone, P.O. Box 4, Cuero, Texas 77954, 512/275-5753. TRD-9814013.

Edwards Aquifer Authority, Administrative Committee met at 1615 North St. Mary's Street, San Antonio, September 8, 1998, at 1:00 p.m. Information may be obtained from Mary Esther R. Cortez, 1615 St. Mary's Street, San Antonio, Texas 78212, 210/222-2204. TRD-9814006.

Edwards Aquifer Authority, Board Meeting met at 1615 North St. Mary's Street, San Antonio, September 8, 1998, at 4:00 p.m. Information may be obtained from Mary Esther R. Cortez, 1615 St. Mary's Street, San Antonio, Texas 78212, 210/222-2204. TRD-9814005.

El Oso Water Supply Corporation, Board of Directors met at FM 99, Karnes City, September 8, 1998, at 7:30 p.m. Information may be obtained from El Oso Water Supply Corporation, P.O. Box 309, Karnes City, Texas 78118, 830/780-3539. TRD-9814026.

Erath County Appraisal District, Board of Directors met at 1390 Harbin Drive, Stephenville, September 8, 1998, at 8:00 a.m. Information may be obtained from Angi Couch, 1390 Harbin Drive, Stephenville, Texas 76401, 254/965-5434. TRD-9814004.

Evergreen Underground Water Conservation District, Board of Directors met at 1306 Brown, Jourdanton, September 10, 1998, at 9:00 a.m. Information may be obtained from Evergreen UWCD, P.O. Box 155, Jourdanton, Texas 78026, 830/769-3740. TRD-9814008.

Harris County Appraisal District, Board of Directors met at 2800 North Loop West, 8th Floor, Houston, September 9, 1998, at 9:30 a.m. Information may be obtained from Margy Taylor, P.O. Box 920975, Houston, Texas 77292-0975, 713/9457-5291. TRD-9813995.

Hickory Underground Water Conservation District No. One, Board and Advisors met at 111 East Main, Brady, September 10, 1998, at 7:00 p.m. Information may be obtained from Stan Reinhard, P.O. Box 1214, Brady, Texas 76825, 915/597-2785. TRD-9814039.

Mason County Appraisal District, Board of Directors met at 210 Westmoreland, Mason, September 10, 1998, at Noon. Information may be obtained from Deborah Geistweidt, P.O. Box 1119, Mason, Texas 76856, 915/347-5989. TRD-9813996.

Nolan County Central Appraisal District, Board of Directors met at the Nolan County Courthouse, Third Floor, 100 East Third, Sweetwater, September 15, 1998, at 7:00 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, 915/235-8421. TRD-9814030.

Nolan County Central Appraisal District, Board of Directors met at the Nolan County Courthouse, Third Floor, 100 East Third, Sweetwater, September 15, 1998, at 7:15 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, 915/235-8421. TRD-9814031.

Nortex Regional Planning Commission, Executive Committee met at the Galaxy Center, #2 North, Suite 200, 4309 Jacksboro Highway, Wichita Falls, September 17, 1998, at Noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 76307-5144, 940/322-5281 or fax 940/322-6743. TRD-9814032.

Permian Basin Regional Planning Commission, Board of Directors met at 2910 La Force Boulevard, Midland, September 16, 1998, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, 915/563-1061. TRD-9814028.

Rio Grande Council of Governments, Board of Directors' Meeting met at Camino Real, 101 El Paso Street, Salon D, El Paso, September 16, 1998, at 1:00 p.m. Information may be obtained from Michele Maley, 1100 North Stanton, Suite 610, El Paso, Texas 79902, 915/533-0998. TRD-9814007.

San Antonio Bexar County Metropolitan Planning Organization, Bicycle Mobility Task Force met at 114 Commerce Street, "B" Room Municipal Plaza Building, San Antonio, September 9, 1998, 3:30 p.m. Information may be obtained from Scott Ericksen, 603 Navarro, Suite 904, San Antonio, Texas 78205, 210/227-8651. TRD-9814041.

San Antonio Bexar County Metropolitan Planning Organization, Technical Advisory Committee met at 233 North Pecos (vista Verde), 4th Floor, Bexar County Public Works, San Antonio, September 11, 1998, 1:30 p.m. Information may be obtained from Scott Ericksen, 603 Navarro, Suite 904, San Antonio, Texas 78205, 210/227-8651. TRD-9814040.

South East Texas Regional Planning Commission, Executive Committee met at the Beaumont City Council Chambers, 801 Main, Beaumont, September 16, 1998, 7:00 p.m. Information may be obtained from Jackie Vice Solis, P.O. Drawer 1387, Nederland, Texas 77627, 409/727-2384. TRD-9814003.

Tarrant Appraisal District, Board of Directors met at 2301 Gravel Road, Fort Worth, September 11, 1998, at 9:00 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, 817/284-0024. TRD-9814025.

Meetings filed September 4, 1998

Austin-Travis County MHMR Center, Public Regulations Committee met at 1430 Collier Street, Board Room, Austin, September 10, 1998, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, 512/440-4031. TRD-9814101.

Barton Springs/Edwards Aquifer Conservation District, Board of Directors Work Session/Retreat met at 2510 Onion Creek Parkway, Austin, September 10, 1998, at 9:00 a.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, 512/282-8441 or fax 512/282-7016. TRD-9814145.

Callahan County Appraisal District, Board of Directors Budget Hearing for 1999 met at 130A West 4th Street, Baird, September 14, 1998, at 7:00 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, 915/854-1165. TRD-9814115.

Coleman County Water Supply Corporation, Board of Directors met at 214 Santa Anna Avenue, Coleman, September 9, 1998, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 San Anna Avenue, Coleman, Texas 76834, 915/625-2133. TRD-9814103.

Creedmoor Maha WSC, Monthly Board Meeting met at 1699 Laws Road, Mustang Ridge, September 9, 1998, at 7:30 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Mustang Ridge, Texas 78610, 512/243-2113. TRD-9814063.

Dallas Area Rapid Transit, Administrative met at 1401 Pacific Avenue, Conference Room C, 1st Floor, Dallas, September 8, 1998, Noon. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9814109.

Dallas Area Rapid Transit, Administrative met in a revised agenda at 1401 Pacific Avenue, Conference Room C, 1st Floor, Dallas, September 8, 1998, Noon. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9814132.

Dallas Area Rapid Transit, External Communications met at 1401 Pacific Avenue, Conference Room D, 1st Floor, Dallas, September 8, 1998, 2:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9814106.

Dallas Area Rapid Transit, Operations met at 1401 Pacific Avenue, Conference Room C, 1st Floor, Dallas, September 8, 1998, 2:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9814105.

Dallas Area Rapid Transit, Committee of the Whole met at 1401 Pacific Avenue, Conference Room C, 1st Floor, Dallas, September 8, 1998, 4:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9814107.

Dallas Area Rapid Transit, Board of Directors met at 1401 Pacific Avenue, Board Room, 1st Floor, Dallas, September 8, 1998, 6:30 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, 214/749-3256. TRD-9814108.

Deep East Texas Local Workforce Development Board met in an emergency revised agenda at 300 East Shepherd, Lufkin City Hall, Room 102, Lufkin, September 8, 1998, 2:30 p.m. Reason for emergency: Unforeseeable event-officer vacancies. Information may be obtained from Sydney Murphy, Route 9, Box 1898, Livingston, Texas 77351, 409/632-9090. TRD-9814124.

East Texas Behavioral Healthcare Network, Regional Oversight Committee will meet at Victorian Condo Hotel and Conference Center, 6300 Seawall Boulevard, Galveston, September 18, 1998, at 9:00 a.m. Information may be obtained from Joe McCulley, 4101 South Medford Drive, Lufkin, Texas 75901-5699, 409/633-5629. TRD-9814119.

Education Service Center, Region I, Board of Directors met at 1900 West Schunior, Edinburg, September 8, 1998, at 7:00 p.m. Information may be obtained from Dr. Sylvia R. Hatton, 1900 West Schunior, Edinburg, Texas 78539, 956/984-6000. TRD-9814057.

Education Service Center, Region X, Board of Directors met at 400 East Spring Valley Road, Richardson, September 9, 1998, at 8:00 a.m. Information may be obtained from Joe Farmer, 400 East Spring Valley Road, Richardson, Texas 75081, 972/48-1000. TRD-9814067

Falls County Appraisal District, Board of Directors met at the Interstate Highway 6 and 7, Falls County Courthouse, First Floor, Marlin, September 14, 1998, at 5:30 p.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, 254/883-2543. TRD-9814099.

Hockley County Appraisal District, Appraisal Review Board met at 1103 Houston Street, Levelland, September 10, 1998, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336-1090, 806/894-9654 or fax 806/894-9654. TRD-9814069.

Hunt County Appraisal District, Board of Directors met at 4801 King Street, Greenville, September 10, 1998, at Noon. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, 903/454-3510. TRD-9814121.

Hunt County Appraisal District, Board of Directors met at 4801 King Street, Greenville, September 10, 1998, at 12:05 p.m. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, 903/454-3510. TRD-9814122.

Hunt County Appraisal District, Board of Directors met at 4801 King Street, Greenville, September 10, 1998, at 12:10 p.m.. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, 903/454-3510. TRD-9814123.

Jim Wells County Soil and Water Conservation District met at 2287 North Texas Boulevard, Suite 5, Alice, September 9, 1998, at 1:30 p.m. Information may be obtained from Joan D. Rumfield, 2287 North Texas Boulevard, Suite 5, Alice, Texas 78332, 512/668-8361 Ext. 202. TRD-9814128.

Johnson County Central Appraisal District, Appraisal Review Board met at 109 North Main, ARB Conference Room, Cleburne, September 10-11, 1998, at 9:00 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, 817/645-3986. TRD-9814127.

Johnson County Central Appraisal District, Board of Directors met at 109 North Main, Suite 201, Cleburne, September 17, 1998, at 4:30 p.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, 817/558-8100. TRD-9814120.

Johnson County Central Appraisal District, Appraisal Review Board met at 109 North Main, ARB Conference Room, Cleburne, September 22-24, 1998, at 9:00 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, 817/645-3986. TRD-9814140.

Jones County Appraisal District, Board of Directors met at 1137 East Court Plaza, Anson, September 17, 1998, at 8:30 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, 915/823-2422. TRD-9814052.

Jones County Appraisal District, Board of Directors met at 1137 East Court Plaza, Anson, September 17, 1998, at 8:45 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, 915/823-2422. TRD-9814051.

Kempner Water Supply Corporation, Board of Directors Meeting met at Highway 190, Kempner Water Supply Corporation, Kempner September 10, 1998, at 6:30 p.m. Information may be obtained from Donald W. Guthrie, P.O. Box 103, Kempner, Texas 76539, 512/932-3701. TRD-9814104.

Manville Water Supply Corporation, Regular Board Meeting met at 108 North Commerce Street, Coupland, September 10, 1998, at 7:00 p.m. Information may be obtained from Tony Graf, P.O. Box 248, Coupland, Texas 78615, 512/272-4044. TRD-9814075.

Northeast Texas Rural Transportation District, Board met at the Hopkins County Courthouse, 118 Church, Sulphur Springs, September 9, 1998, at 3:00 p.m. Information may be obtained from Sue Ann Harting, 2821 Washington Street, Greenville, Texas 75401, 903/450-0140. TRD-9814053.

Red River Authority of Texas, Board of Directors Meeting met at the Holiday Inn Hotel and Suites, 401 Broad, Wichita Falls, September 16, 1998, at 10:00 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, 900 Eighth Street, Wichita Falls, Texas 76301-6894, 940/723-0855. TRD-9814135.

Rockwall County Central Appraisal District, Board of Directors met at 841 Justin Road, Rockwall, September 8, 1998, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, 972/771-2034. TRD-9814074.

Scurry County Appraisal District, Board of Directors met at 2612 College Avenue, Snyder, September 15, 1998, at 8:30 a.m. Information may be obtained from L.R. Peveler, 2612 College Avenue, Snyder, Texas 75949, 915/573-8549. TRD-9814117.

Scurry County Appraisal District, Board of Directors met at 2612 College Avenue, Snyder, September 15, 1998, at 9:00 a.m. Information may be obtained from L.R. Peveler, 2612 College Avenue, Snyder, Texas 75949, 915/573-8549. TRD-9814116.

Texas Municipal Power Agency, Board of Directors Annual Meeting met at Performing Arts Center, 300 North Fifth Street, Garland, September 10, 1998, at 10:30 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, 409/873-1131. TRD-9814068.

Meetings filed September 6, 1998

Deep East Texas Council of Governments, Grants Application Review Committee will meet at the Woodville Inn, 201 North Magnolia, Woodville, September 24, 1998, 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, 409/384-5704 or fax 409/384-5390. TRD-9814152.

Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson Suite D, Mt. Pleasant September 10, 1998, at 9:30 a.m. Information may be obtained from Beverly Amerson, 180-9 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, 903/572-5411, Ext. 202. TRD-9814147.

Texas Automobile Insurance Plan Association, Governing Committee met at the Doubletree Guest Suites, 303 West 15th Street, Austin, September 17, 1998, at 8:30 a.m. Information may be obtained from Dianna Brooks, P.O. Box 149144, Austin, Texas 78760, 512/444-5999. TRD-9814151.

Upshur County Appraisal District, Board of Directors met at 1711 Latch Road, Gilmer, September 14, 1998, at 1:00 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmore, Texas 75644-0280, 903/843-3041. TRD-9814148.

Meetings filed September 8, 1998

Austin Transportation Study, Policy Advisory Committee met at the Joe C. Thompson Conference Center, Room 2.102, 26th and Red River, Austin, September 14, 1998, at 6:00 p.m. Information may be obtained from Michael R. Aulick, 301 West 2nd Street, Austin, Texas 78701, 512/499-2275. TRD-9814190.

Bexar-Medina-Atascosa Counties Water Control and Improvement District One, Board of Directors met at 226 State Highway 132, Natalia, September 14, 1998, at 8:30 a.m. Information may be obtained from John W. Ward III, 226 State Highway 132, Natalia, Texas 78059, 830/865-2132. TRD-9814209.

Canyon Regional Water Authority, Regular Board Meeting met in a revised agenda at 320 Fire Field Road, Guadalupe Fire Training Facility, New Braunfels, September 14, 1998, at 7:00 p.m. Information may be obtained from Paul M. Taggart, 850 Lakeside Pass, New Braunfels, Texas 78130, 830/609-0543. TRD-9814191.

Clear Creek Watershed Regional Flood Control District, Board of Directors met at 3519 Liberty Drive, Council Chambers, Pearland, September 17, 1998, at 7:00 p.m. Information may be obtained from

Roger Davis, 4805 West Broadway, Pearland, Texas 77581, 281/485-1434. TRD-9814189.

Gonzales county Appraisal District, Board of Directors met at 928 St. Paul Street, Gonzales, September 15, 1998, at 6:00 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 76929, 830/672-2879 or fax 830/672-8345. TRD-9814215.

Gonzales county Appraisal District, Board of Directors met at 928 St. Paul Street, Gonzales, September 15, 1998, at 7:00 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 76929, 830/672-2879 or fax 830/672-8345. TRD-9814214.

Houston-Galveston Area Council, Projects Review Committee met at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, September 15, 1998, at 9:00 a.m. Information may be obtained from Rowena Ballas, 3555 Timmons Lane, Suite 500, Houston, Texas 77027, 713/627-3200. TRD-9814221.

Jack County Appraisal District met at 210 North Church Street, Jacksboro, September 15, 1998, at 7:00 p.m. Information may be obtained from Gary L. Zeitler or Tammie Morgan, P.O. Box 958, Jacksboro, Texas 76458, 940/567-6301. TRD-9814202.

Jack County Appraisal District met at 210 North Church Street, Jacksboro, September 15, 1998, at 7:05 p.m. Information may be obtained from Gary L. Zeitler or Tammie Morgan, P.O. Box 958, Jacksboro, Texas 76458, 940/567-6301. TRD-9814203.

Mills County Appraisal District, Board of Directors met at the Mills County Courthouse, Jury Room, Fisher Street, Goldthwaite, September 15, 1998, at 6:30 p.m. Information may be obtained from Lewis (Bo) Wright, P.O. Box 565, Goldthwaite, Texas 76844, 915/648-2253. TRD-9814168.

Red Bluff Water Power Control District, Board of Directors Meeting met at 111 West Second Street, Pecos, September 14, 1998, at 1:00 p.m. Information may be obtained from Jim Ed Miller, 111 West Second Street, Pecos, Texas 79772, 915/445-2037. TRD-9814155.

San Antonio River Authority, Audit Committee met at 100 East Guenther Street, Boardroom, San Antonio, September 16, 1998, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, 210/227-1373. TRD-9814156.

San Antonio River Authority, Board of Directors met at 100 East Guenther Street, Boardroom, San Antonio, September 16, 1998, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, 210/227-1373. TRD-9814157.

Shackelford Water Supply Corporation, Directors Meeting met in an emergency called meeting at 1180 County Road 109, Albany, September 11, 1998, at 1:30 p.m. Reason for emergency: called meeting on personnel review. Information may be obtained from Gaynell Perkins, Box 11, Albany, Texas 76430, 940/345-6868. TRD-9814176.

South Texas Development Council, Board of Directors met at the Commissioners Courtroom, Courthouse Annex, Zapata, September 11, 1998, at 11:00 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, 956/722-3995. TRD-9814212.

STED Corporation, Board of Trustee met at the Commissioners Courtroom, Courthouse Annex, Zapata, September 16, 1998, at 10:00

a.m. Information may be obtained from Robert Mendiola, Courthouse Annex, Zapata, Texas 956/722-3995. TRD-9814213.

Tri County Special Utility District, Board of Directors Meeting met at Highway 7 East, Marlin, September 14, 1998, at 7:30 p.m. Information may be obtained from Patsy Booher, P.O. Box 976, Marlin, Texas 76611, 254/803-3553. TRD-9814198.

Tri County Special Utility District, Committee Meeting met at Highway 7 East, Marlin, September 15, 1998, at 5:30 p.m. Information may be obtained from Patsy Booher, P.O. Box 976, Marlin, Texas 76611, 254/803-3553. TRD-9814197.

West Central Texas Workforce Development Board met at 1025 East North 10th Street, Abilene, September 16, 1998, 10:00 a.m. Information may be obtained from Mary Ross, 1025 East North Street, Abilene, Texas 79601, 915/672-8544. TRD-9814175.

Meetings filed September 9, 1998

Ark-Tex Council of Governments, Board of Directors Meeting will met at West Side Plaza, 111 Gilmer Street, Sulphur Springs, September 24, 1998, at 2:15 p.m. Information may be obtained from Sharon Morris, P.O. Box 5307, Texarkana, Texas 75505, 903/832-8636. TRD-9814284.

Brown County Appraisal District, Board of Directors met at 403 Fisk Avenue, Brownwood, September 14, 1998, at Noon. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, 915/643-5676. TRD-9814240.

Central Texas Council of governments, K-TUTS Transportation Planning Policy Board met at 302 East Central Avenue, September 15, 1998, 9:00 a.m. Information may be obtained from Jim Reed, P.O. Box 729, Belton, Texas 76513, 254/939-7075. Ext. 203. TRD-9814280.

Concho Valley Council of Governments, Economic Development District Meeting met at 5002 Knickerbocker Road, San Angelo, September 16, 1998, at 4:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, 915/944-9666. TRD-9814297.

Concho Valley Council of Governments, Executive Committee Meeting met at 5002 Knickerbocker Road, San Angelo, September 16, 1998, at 7:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, 915/944-9666. TRD-9814298.

Deep East Texas Local Workforce Development Board, Executive Committee met in emergency meeting at 101-C Temple Boulevard, Lufkin, September 11, 1998, at 3:00 p.m. Reason for emergency: To comply with dates and requirements established by TWC in getting LWDB operational. Information may be obtained from Billy Junge, P.O. Drawer N, Diboll, Texas 75901, 409/829-1657. TRD-9814281.

Education Service Center, Region VII, Board of Directors will meet at 440 Highway 79 South, Henderson, September 24, 1998, at Noon. Information may be obtained from Eddie J. Little, 818 East Main Street, Kilgore, Texas 75662, 903/984-3071. TRD-9814256.

Elm Creek WSC, Board met at 508 Avenue E, Moody, September 14, 1998, at 7:00 p.m. Information may be obtained from Lynn Holt, P.O. Box 538, Moody, Texas 76557, 254/853-3838. TRD-9814270.

Golden Crescent Workforce Development Board, Welfare to Work Ad Hoc Committee met at 1502 East Airline, Suite 39, Victoria, September 14, 1998, at 3:30 p.m. Information may be obtained from Laura Sanders, 2401 Houston Highway, Victoria, Texas 77901, 512/576-5872. TRD-9814285.

Grayson Appraisal District, Board of Directors will meet in a revised agenda at 205 North Travis, Sherman, September 30, 1998, at 4:30 p.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, 903/893-9673. TRD-9814296.

Guadalupe-Blanco River Authority, Retirement and Benefit Committee at GBRA Office, 933 East Court Street, Seguin, September 15, 1998, at 2:00 p.m. Information may be obtained from W.E. West, Jr., 933 East Court Street, Seguin, Texas 78155, 830/379-5822. TRD-9814257.

Guadalupe-Blanco River Authority, Audit Committee at Seguin ISD Board Room, 1221 East Kingsbury, Seguin, September 16, 1998, at 9:30 a.m. Information may be obtained from W.E. West, Jr., 933 East Court Street, Seguin, Texas 78155, 830/379-5822. TRD-9814258.

Guadalupe-Blanco River Authority, Board of Directors met at Seguin ISD, Board Room, 1221 East Kingsbury, Seguin, September 16, 1998, at 10:00 a.m. Information may be obtained from W.E. West, Jr.,

933 East Court Street, Seguin, Texas 78155, 830/379-5822. TRD-9814259.

Houston-Galveston Area Council, Board of Directors Meeting met at 3555 Timmons Lane, Conference Room A, 2nd Floor, Houston, September 15, 1998, at 10:00 a.m. Information may be obtained from Mary Ward, P.O. Box 22777, Houston, Texas 77227, 713/627-3200. TRD-9814282.

Liberty County Central Appraisal District, Appraisal Review Board met at 315 Main Street, Liberty, September 16, 1998, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, 409/336-5722. TRD-9814232.

North Texas Municipal Water District, Board of Directors will meet at the Administration Office, 505 East Brown Street, Wylie, September 24, 1998, at 4:00 p.m. Information may be obtained from James M. Parks, P.O. Box 2408, Wylie, Texas 75098, 972/442-5405. TRD-9814263.

# IN ADDITION

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The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

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## Ark-Tex Council of Governments

### Request for Proposal for Provision of a Regional Law Enforcement Training Program

The Ark-Tex Council of Governments (ATCOG) is soliciting proposals for the provision of regional law enforcement training through a grant provided by the Texas Governor's Office, Criminal Justice Division.

The types of training to be provided include: Basic Law Enforcement Officer, Basic Jailer Certification, Basic Telecommunications, Reserve Officer, and Advanced Law Enforcement training. The period of performance is May 1, 1999-April 30, 2000.

The service delivery area includes the following counties in Texas: Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, Titus. Potential respondents may obtain a copy of the request for proposal, scoring guidelines, and project scoring criteria by contacting Janell Browning, Program Director, Community Services, Ark-Tex Council of Governments, P.O. Box 5307, Texarkana, Texas 75505-5307, or call (903) 832-8636. The deadline for proposal submission is October 20, 1998, at 5:00 p.m. The Ark-Tex Council of Governments Regional Criminal Justice Advisory Committee will score multiple proposals received. Respondents will be notified in writing of the date, time, and place of the meeting at which the proposals will be scored.

TRD-9814158

James C. Fisher, Jr.

Executive Director

Ark-Tex Council of Governments

Filed: September 8, 1998



## Texas Department of Banking

### Correction of Error

The Texas Department of Banking submitted an Open Meeting Notice, which appeared in the July 31, 1998, issue of the *Texas Register*, (23 TexReg 7877).

In section C., the word "authorizes" was printed incorrectly, it should be "authorized."

In section D., the word "an" was printed incorrectly, it should be "and."

In section F., the sentence was incorrectly printed. It was printed as "Discussion of an possible vote to approve changing the investment officer report." It should be "Discussion of and possible vote to approve changing the investment portfolio for the Guaranty Fund."



## Texas Commission for the Blind

### FFY 1999 Independent Living Services Notice of Provider Enrollment

Terrell I. Murphy, Executive Director of the Texas Commission for the Blind, announces the availability of funds for contracting with external entities (organizations or individuals) to provide "hands-on" independent living skills training to consumers receiving services from the Commission. Provider(s) are being sought to address unmet needs in the counties surrounding Lufkin (Angelina, Jasper, Houston, Nacogdoches, Newton, Polk, Trinity, Tyler, Sabine, San Augustine, San Jacinto, and Shelby).

**OBJECTIVE:** The Commission's primary objective is to increase the availability of services that enable consumers who are blind or severely visually impaired to live independently. Providers will train consumers at the consumer's residence in adaptive skills techniques to accommodate for the consumer's vision loss in daily living activities such as:

-Personal Management (grooming, clothing identification and coordination, eating, health, safety).

-Home Management (sewing, cleaning of clothing, housekeeping, meal preparation, marketing, minor home maintenance).

-Communication (time, telephone, money management, writing, typing, language skills, equipment use).

-Orientation and Mobility (pre-cane skills including orientation to surroundings, sighted guide, and protective techniques).

Providers will also assist consumers with information and referral needs, such as housing, nutrition, general health (diabetes management), transportation, and financial matters.

Additional preference will be given to providers who can provide the following services:

–Vision services, including counseling and guidance, low vision referral and follow-up, assistance in coordination of restoration services, and arranging diagnostic and evaluation services.

–Recreation and socialization services, including group activities, individual activities, and interpersonal relations.

–Related services, including recommending adaptive aids, advocacy, and transportation.

Service providers must be individuals (who may or may not be part of an organization) with demonstrated skills in providing independent living skills training, preferably with experience in "hands-on" individual training to persons who are elderly or have disabilities, particularly visual losses. Other requirements include a college degree, and good oral and writing skills.

**TARGETED POPULATION.** Consumers to be served by providers are persons who are totally blind or severely visually impaired who have met the basic requirements for receiving services from the Commission's Independent Living Program. Services will be provided in coordination with Commission staff, who will retain responsibility for eligibility decisions, service plan development, use of agency funds, and coordination of services, including acquisition of adaptive devices.

**PERIOD COVERED BY CONTRACTS.** It is estimated that services will begin in November 1998 after contracts are awarded. Contracts will run through the state fiscal year, which ends August 31, 1999.

**WHO IS ELIGIBLE TO APPLY.** Organizations and individuals that can provide individualized independent living skills training may apply.

**APPLICATION PROCEDURES.** All applications must be post-marked no later than October 19, 1998. Submit applications to: Purchasing, Texas Commission for the Blind, 4800 N. Lamar, Suite 360, Austin, Texas 78756. Applications consist of a narrative no longer than five typed pages, which must describe:

- (1) individual or organization applying;
- (2) proposed geographic coverage;
- (3) proposed number of hours available per week;
- (4) quality and extent of services to be provided (list service categories offered) ;
- (5) experience in providing individual adaptive skills training, information and referral services, vision services, recreation and socialization services, and related services (cite recipient population and mode of delivery);
- (6) qualifications of each person who will provide this service (each person, even if associated with an organization, will be evaluated);
- (7) additional information about you or your organization and past achievements in serving consumers who are blind or visually impaired;
- (8) three letters of reference from individuals trained by the applicant; and
- (9) a list of agreements with other state agencies.

Should the applicant be unable to provide the specific information required, the application must explain why the information is not available or not relevant.

**INQUIRIES.** To facilitate the process, interested parties are urged to contact the Texas Commission for the Blind with related questions prior to drafting proposals. Inquiries should be directed to Charles Burtis at (512) 459-2589.

**REIMBURSEMENT AND METHOD OF PAYMENT.** Services will be paid at an hourly rate of \$20 per hour for time spent directly with consumers and conferring with the Texas Commission for the Blind case manager. Travel time will be paid at \$10 per hour. Travel costs will be reimbursed according to State of Texas guidelines.

The service provider will be responsible for all transportation arrangements.

Each provider must submit a monthly statement containing a detailed listing of provided services and copies of training reports. The Commission will share report formats with the providers. Upon Commission approval of the submissions, payment will be made by State warrant.

**REVIEW CRITERIA.** Applications will be reviewed by a review panel. Respondents meeting minimum criteria will be scheduled for a presentation. The presentation must include an oral synopsis of the application and a demonstration of teaching an independent living skill.

The review panel will use the following criteria to evaluate the applications:

- (1) The application addresses the explicit purpose cited in this notice.
- (2) The applicant addresses expertise with the subject matter.
- (3) The applicant provides evidence of their professional and organizational capacity to achieve the objectives in a timely manner.
- (4) The applicant agrees to provide services to the consumer at the consumer's residence.
- (5) The applicant agrees to meet with the case manager for an initial orientation to this project and on an as needed basis for on-the-job training and case consultation.
- (6) The applicant agrees to observations with the case manager to review teaching techniques and assure quality of services.
- (7) The applicant agrees to submit reports with required content within 30 days of service provision.
- (8) Other criteria as may be consistent with the scope of services contained in this request for proposal.

**ADDITIONAL FACTORS.** Preference will be given to applicants exhibiting:

- the widest array of services;
- the greatest availability for geographic coverage within the area cited as needing coverage; and
- experience in addition to demonstrated knowledge.

TRD-9814054  
Terrell I. Murphy  
Executive Director  
Texas Commission for the Blind  
Filed: September 4, 1998

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**Center for Rural Health Initiatives**

Request for Proposal



The Center for Rural Health Initiatives is issuing a Request for Proposals ("RFP") for the Medically Underserved Community-State Matching Incentive Program. The purpose of this RFP is to provide the applicant with the information necessary to apply for matching grant funds under the provisions of this program.

The purpose of this program is to increase the number of physicians providing primary care in medically underserved communities, particularly rural.

**USE OF FUNDS:** The funds can be used to establish a medical office and ancillary facilities for diagnosing and treating patients. The optimum use of funds would be for the purchase of equipment and furnishings that would establish a new practice site. The site will continue to serve the primary care needs of the community beyond the grant period, and the physician will agree to practice for a minimum of two years.

**AMOUNT OF AWARDS:** The funding available for support of this program during FY 1999 is \$250,000. Approximately 10 projects will be funded. Under the requirements of this program the state grants funds of up to \$25,000 to **match** the contributions by community groups to cover start-up costs for new physicians.

**ELIGIBLE APPLICANTS:** An eligible community must be in an underserved area as determined by the U.S. Department of Health and Human Services or the Texas Department of Health. The community must make a commitment of at least \$15,000 in contributions toward the project and contract with a physician eligible to participate in this program.

Eligible physicians include those in family/general practice, general pediatrics, general internal medicine, or general obstetrics/gynecology. The physician must be licensed to practice in the State of Texas, have completed an accredited residency program, and have contracted with the community to provide full-time primary care for at least two years. A physician who completed residency within the last ten years will be given priority consideration.

**EVALUATION AND SELECTION:** The Center will prioritize the eligible communities to assure that the neediest are provided grants. The prioritization process will quantify indicators of need that may include, but are not limited to, the following: no practicing primary care physicians; only one primary care physician and a population of at least 2,000; no federally or state-funded primary care clinic; no practicing physician assistants or nurse practitioners; the participating physician will be the only physician practicing in one of the primary care specialties; a large minority population, if the participating physician is a member of the same minority group; designation by the United States Department of Health and Human Services as a primary care Health Professional Shortage Area (HPSA) for at least the last five years; a population-to-primary care provider ratio in the top 25% of all counties in the state; poverty rates above the state average; and median family incomes at least 25% below the state average.

**DEADLINE:** Completed applications are due by October 23, 1998. Announcement of the selected applicants will be made by November 6, 1998.

**CONTRACT PERIOD:** The budget period for applications funded under this RFP will be January 1, 1999 - August 31, 1999.

**CONTACT PERSON:** To obtain the application, please contact: Janet Leubner, Rural Health Specialist, Center for Rural Health Initiatives, P.O. Drawer 1708, Austin, Texas 78767-1708, (512) 479-8891.

TRD-9814300

Robt. J. "Sam" Tessen

Executive Director  
Center for Rural Health Initiatives  
Filed: September 9, 1998

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## Coastal Coordination Council

### Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC 501. Requests for federal consistency review were received for the following projects(s) during the period of August 28, 1998, through September 8, 1998:

#### FEDERAL AGENCY ACTIONS:

**Applicant:** Vintage Petroleum, Inc.; **Location:** C-2 Complex Platform in State Tract 5-8B, northwesterly across Trinity Bay, to a point on the northwest shoreline of Trinity Bay, Chambers County, Texas. For the shore approach, from the intersection of McCulum Park Road with Point Barrow Road, go southeast on point Barrow Road approximately 0.6-mile; thence, left on an access easement to the Vintage Petroleum, Inc. 33.0921 acre tract; **Project No.** 98-0414-F1; **Description of Proposed Action:** The applicant proposes to transport produced natural gas (wet) from C-2 Complex in State Tract 5-8B to the Vintage Petroleum, Inc. facilities on the Solomon Barrow Survey, A-3, Chambers County; **Type of Application:** U.S.C.O.E. permit application under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

**Applicant:** Zydeco Exploration, Inc.; **Location:** The project site is located approximately 1.3 miles south of the junction of State Highway 82 and Parish Road No. 536, in Cameron Parish, Louisiana; **Project No.:** 98-0422-F1; **Description of Proposed Action:** The applicant proposes to place boards on 353 feet of existing road, construct approximately 1,807 feet of new board road, and construct a 300-by 300-foot ring levee to drill the Matilda Stream Well No. 1. Approximately 5,001 cubic yards of material will be excavated from designated borrow areas to construct the road and ring levee. If the well is productive, approximately 1,100 cubic yards of shell will be required to permatize the road. The construction of the board road and ring levee will impact approximately 4.5 acres of jurisdictional wetlands. The drill site and ring levees will be degraded within 120 days of abandonment. Excavated material will be returned to borrow areas and the area restored to as near pre-project conditions as practical. The purpose of the proposed project is to explore for oil and gas; **Type of Application:** U.S.C.O.E. permit application #21409 under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403), and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action should be referred to the Coastal Coordination Council for review and whether the action is or is not consistent with the Texas Coastal Management Program goals and policies. All comments must be received within 30 days of publication of this notice and addressed to Ms. Janet Fatheree, Council Secretary, 1700 North Congress Avenue, Room 617, Austin, Texas 78701-1495.

TRD-9814271

Garry Mauro  
Chairman  
Coastal Coordination Council  
Filed: September 9, 1998

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**Office of Consumer Credit Commissioner**

**Notices of Rate Ceiling**

The Consumer Credit Commissioner of Texas has ascertained the market competitive rate ceiling by use of the formulas and methods described in Articles 5069-6.03(6)(a) and 5069-6.03(6)(e), Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-6.03(6)(a) and 5069-6.03(6)(e)) and Texas Finance Code, Chapter 345, Subchapter D. The market competitive rate ceiling for the period October 1, 1998, through September 30, 1999, is 21%.

TRD-9814286  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: September 9, 1998

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The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Articles 1D.003 and 1D.009, Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-1D.003 and 1D.009, Vernon's Texas Civil Statutes).

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 09/14/98 - 09/20/98 is 18% for Consumer <sup>1</sup>Agricultural/Commercial <sup>2</sup>credit thru \$250,000.

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 09/14/98 - 09/20/98 is 18% for Commercial over \$250,000.

<sup>1</sup>Credit for personal, family or household use.

<sup>2</sup>Credit for business, commercial, investment or other similar purpose.

TRD-9814287  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: September 9, 1998

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**Texas Court Reporters Certification Board**

**Disciplinary Action**

On July 11, 1998, the Texas Court Reporters Certification Board reprimanded Ms. Pamela Jenkins, Certified Shorthand Reporter Number (CSR) 5156, of San Antonio, Texas, for violating Section 52.029(a) of the Government Code relating to willful or negligent violation or failure of duty and unprofessional conduct for a CSR in the State of Texas. Ms. Jenkins failed to provide in a timely manner a 13-page transcript of a settlement divorce agreement that was orally dictated into the record. The Board ordered Ms. Jenkins to:

- (1) Promptly refund a sum of \$150 to the complaining party.
- (2) Successfully complete by August 1999 four hours of supplemental continuing education training in time management and four hours of supplemental continuing education training relating to professionalism or ethical conduct for a Texas CSR.

Continuing education training required as part of a disciplinary action does not qualify for CE credit required as a condition of a court reporters certification as specified under the Continuing Education Rules for Court Reporters.

TRD-9813971  
Peg Liedtke  
Executive Secretary  
Texas Court Reporters Certification Board  
Filed: September 2, 1998

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**Texas Department of Criminal Justice**

**Correction of Error**

The Texas Department of Criminal Justice proposed an amendment to 37 TAC §157.4. The rule appeared in the August 7, 1998, issue of the *Texas Register*, (23 TexReg 8029).

On page 8029, fifth paragraph, the comments should be directed to "Tom Baker" instead of "Tom Bates."

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**Public Notice**

The Texas Department of Criminal Justice (TDCJ) will host its 5th Annual Management Conference November 2-4, 1998, at the Red Lion Hotel, Austin, Texas. As part of this event, TDCJ will offer a vendor exhibition area on Tuesday November 3, 1998, from 8:30am-5pm. Vendor space is limited to 30 booths. TDCJ reserves the right to select vendor participation to ensure a diverse representation of products and/or services of interest to TDCJ professionals.

Vendors interested in participating should submit the following information to Dimitria D. Pope, 209 West 14th Street, Suite 500, Austin, Texas 78701 by 5pm, September 30, 1998. Fax transmissions will not be accepted.

Name, address, telephone number of company

Name of principal(s) and regional representative

Brief description of product/service

A deposit of \$300 made payable to TDCJ is due at the time of application submission. The balance of \$300 is due by October 15, 1998. If a vendor is not selected to participate, the deposit will be refunded.

TRD-9813993  
Carl Reynolds  
General Counsel  
Filed: September 3, 1998

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**Texas Education Agency**

**Correction of Error**

The Texas Education Agency filed an open meeting notice for the State Board of Education (SBOE) Committee on School Finance/Permanent School Fund (PSF). The notice was published in the Friday, July 10, 1998, issue of the *Texas Register* (23 TexReg 7259). Due to error, within the body of the agenda, the item before the last one was published as "Presentation of an audit of the financial statements of the PSF relating to the standards of performance..." should read Presentation of an audit of the financial statements of the PSF and material accounts of the fund reported by the TEA".

The TEA filed a Correction of Error letter that appeared in the Friday, July 10, 1998, issue of the *Texas Register* (23 TexReg 7284). The last paragraph on the page included a correction of error for five errors that appeared previously in an open meeting notice. Due to error, the correction of error for item 3) was not completely published and should read "3) Within the middle of the agenda paragraph, the sentence "a maximum costs to the state per student for adopted instructional materials in cash" should read "a maximum cost to the state per student for adopted instructional materials in each".

The TEA filed a Notice of Intent for Request for Proposals (RFP) #701-97-010. The notice appeared in the Friday, July 17, 1998, issue of the *Texas Register* (23 TexReg 7439). Due to error, the second sentence of the second paragraph was published as "The EA, in accordance with RFP" and should read "The TEA, in accordance with RFP".

The TEA filed an open meeting notice for the State Board of Education (SBOE) Committee on School Finance/Permanent School Fund (PSF). The notice appeared in the Friday, July 3, 1998, issue of the *Texas Register* (23 TexReg 7082). Due to error, the room number was published incorrectly and should read 1-100.

Due to error, in the middle of the agenda paragraph, the item published as "Review of the annual administrative and discussion of 2000-2001 legislative appropriations request" should read "Review of the annual administrative and program strategic budget for the 1998-1999 fiscal year and discussion of 2000-2001...".

Due to error, at the end of the first column, the sentence that reads "TSF's master trust custodian and securities lending agent" should read PSF's master trust custodian and securities lending agent".

The TEA filed an open meeting notice for the State Board of Education (SBOE). The notice appeared in the Friday, July 3, 1998, issue of the *Texas Register* (23 TexReg 7082). Due to error, the fourth line of the agenda was published as "Proposed amendment to 19 TAC §157.4, Certification Criteria for Independent Hearing Examiners" and should read "Proposed amendment to 19 TAC §157.41, Certification Criteria for Independent Hearing Examiners". Also, in the middle of the agenda paragraph, the item published as "large type materials for the visually impaired" should read "large type materials for the visually impaired".



## General Services Commission

Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-001-405, Baytown

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-001-405, consists of new buildings for Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions as well as parking improvements in Baytown, Texas.

The estimated construction budget for the Project is \$700,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with the Texas Government Code, Title 10,

Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically underutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledge the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Boulevard, Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Boulevard, Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ number and state that the package contains a letter of intent.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814161  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-002-405, El Paso

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-002-405, consists of new buildings for Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions as well as parking improvements in El Paso, Texas.

The estimated construction budget for the Project is \$300,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledge the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly

marked with the RFQ number and state that the package contains a letter of intent.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814162  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-003-405, Eastland

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-003-405, consists of new buildings for Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions as well as parking improvements in Eastland, Texas.

The estimated construction budget for the Project is \$400,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be

assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledge the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ number and state that the package contains a letter of intent.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814163  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: September 8, 1998

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## Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-004-405, Alpine

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-004-405, consists of new buildings for Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions as well as parking improvements in Alpine, Texas.

The estimated construction budget for the Project is \$550,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledge the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ number and state that the package contains a letter of intent.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814164

Judy Ponder

General Counsel

General Services Commission

Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-005-405, Borger

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-005-405, consists of new buildings for Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions as well as parking improvements in Borger, Texas.

The estimated construction budget for the Project is \$225,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledge the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ number and state that the package contains a letter of intent.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814165

Judy Ponder

General Counsel

General Services Commission

Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-006-405, Tyler

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-006-405, consists of additions and renovations to existing facilities to accommodate Traffic Law

Enforcement, Criminal Law Enforcement and Driver's License functions in Tyler, Texas.

The estimated construction budget for the Project is \$577,500, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically underutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledges the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ Number and state that the package contains letter of interest.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814178

Judy Ponder

General Counsel

General Services Commission

Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-007-405, Ft. Worth

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-007-405, consists of additions and renovations to existing facilities to accommodate Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions in Ft. Worth, Texas.

The estimated construction budget for the Project is \$425,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically underutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledges the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews -

middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ Number and state that the package contains letter of interest.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814166

Judy Ponder

General Counsel

General Services Commission

Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-008-405, Temple

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-008-405, consists of additions and renovations to existing facilities to accommodate Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions in Temple, Texas.

The estimated construction budget for the Project is \$400,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle

D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledges the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (copy attached). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ Number and state that the package contains letter of interest.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814170



Judy Ponder  
General Counsel  
General Services Commission  
Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-009-405, Cleburne

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-009-405, consists of additions and renovations to existing facilities to accommodate Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions in Cleburne, Texas.

The estimated construction budget for the Project is \$425,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledges the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ Number and state that the package contains letter of interest.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814169  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-010-405, Palestine

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-010-405, consists of additions and renovations to existing facilities to accommodate Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions in Palestine, Texas.

The estimated construction budget for the Project is \$350,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time

limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:**To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledges the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ Number and state that the package contains letter of interest.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814172  
Judy Ponder  
General Counsel  
General Services Commission  
Filed: September 8, 1998



Request for Qualifications for Architectural/Engineering Services for Department of Public Safety Project No. 99-011-405, Plainview

**General:** The General Services Commission (GSC), on behalf of the Department of Public Safety (DPS), is seeking Requests for Qualifications for Architectural/Engineering firms interested in performing design services for the above referenced project.

**Project Description:** Project No. 99-011-405, consists of additions and renovations to existing facilities to accommodate Traffic Law Enforcement, Criminal Law Enforcement and Driver's License functions in Plainview, Texas.

The estimated construction budget for the Project is \$475,000, which includes construction costs, design professional fees, contingencies and project related expenses. Estimated delivery of construction documents would be between March and May 1999.

**Selection Process:** Selection of prime design professionals shall be made in accordance with Texas Government Code, Title 10, Subtitle D, Chapter 2166, Subchapter E, the Commission's rules and other applicable authority.

This is a qualifications based selection process. Interviews will be offered to firms that meet or exceed the minimum qualifications established by the Commission in its rules.

Evaluation factors for selection of firms will be based on written statements of interest, completed A/E Questionnaires, and interviews, as follows: (1) Experience and qualifications of the firm in the type of work required. (2) Professional qualifications of individuals to be assigned to the project. (3) Present workload and capabilities of the firm to accomplish the contemplated work within the required time limit. (4) Capability of the firm for use AutoCAD or translatable into AutoCAD format. (5) Cost control effectiveness. (6) Past experience, if any, of the firm with respect to performance of state funded projects. (7) Historically nderutilized Businesses (HUB) subconsultant participation.

**Submissions Required:** To be considered for an interview for this project, a firm must submit a letter of interest and qualifications which acknowledges the notice of this interview opportunity and a completed Architect/Engineer Questionnaire (located in the In-Addition Section of this *Texas Register* publication). All responses to this posting shall be evaluated for minimum qualifications.

**Schedule:** The schedule for this process is as follows: (1) Posting on the Texas Marketplace - September 8, 1998. (2) Letters of interest and qualifications, with completed A/E questionnaire, due by close of business (5:00 pm, CDT), September 23, 1998. (3) Interviews - middle of October, 1998, to be scheduled with invited firms. All interviews will be conducted at the Central Services Building, 1711 San Jacinto Blvd., Austin, Texas.

Letters of interest and qualifications and completed A/E questionnaires should be delivered to, Mr. Bobby Huston, Bid Tab Room, Room 180, Central Services Building, 1711 San Jacinto Blvd., Austin, Texas 78701 on or by the date and time specified above. The envelope or outside package for a submission must be clearly marked with the RFQ Number and state that the package contains letter of interest.

**Design Professional Contract:** GSC intends to enter into negotiated, fixed fee contracts for basic services of prime design, from schematic design through warranty inspection. The fees payable by GSC are regulated by the terms and conditions of the Appropriations Act, Article IX-77, Sec. 48 (Acts of the 75th Legislature, 1997).

Reimbursables available under a contract are for extra sets of documents in excess of 25 bid sets and license or permit application fees for ADA inspections. All other costs incurred by the design

professional, including subconsultant costs, are considered a part of basic services under the contract.

**Miscellaneous:** Firms shall bear the entire cost of responding to this posting, participating in a subsequent interview and negotiating a contract, if selected. GSC has no responsibility for costs incurred by participants.

Late submittals shall not be considered.

GSC reserves the right to reject all responses, to abandon this RFQ process and to obtain needed services through other means. GSC reserves the right to award more than one Project to a qualified firm.

GSC considers all information, documentation, and other materials submitted from firms to be non-confidential and subject to disclosure

pursuant to the Texas Government Code, Chapter 552 (Public Information Act), after close of this solicitation process.

TRD-9814171

Judy Ponder

General Counsel

General Services Commission

Filed: September 8, 1998



Architect/Engineer Questionnaire

028 - A/E QUESTIONNAIRE (GRAPHIC)

GENERAL SERVICES COMMISSION  
 FACILITIES CONSTRUCTION  
 P.O. BOX 13047  
 AUSTIN, TEXAS 78711-3047  
 512/463-3417

---

1. Name: \_\_\_\_\_

2. Address: \_\_\_\_\_ For Office Use Only:  
 Zones \_\_\_\_\_

3. Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

4. Other Location: \_\_\_\_\_

5. Organization Class:  
 Individual \_\_\_\_\_  
 Partnership \_\_\_\_\_  
 Association \_\_\_\_\_  
 Corporation \_\_\_\_\_

6. Date Established \_\_\_\_\_  
 Former Business Name: \_\_\_\_\_  
 Date of Dissolution: \_\_\_\_\_

7. Subsidiary of: \_\_\_\_\_

8. Historically Underutilized Business Information:  Black American  Hispanic American  
 Native American  American Woman

9. Small Business  Yes  No

---

10. Principals & Officers: Name & Responsibilities Management, Design, Production, Specification, Construction-Administration, Business Development)  
 (Ex. John Doe: M, D, B) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

11. Key Personnel & Responsibilities: (Name & Responsibilities)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. Number of Personnel by Discipline:

Admin	_____	Registered	_____	Struct	_____	Registered	_____
Arch	_____		_____	Mech	_____		_____
Drafting	_____		_____	Elect	_____		_____
Insp	_____		_____	HVAC	_____		_____
Int. Arch	_____		_____	Civil	_____		_____
Landscape	_____		_____	Environmental	_____		_____
Planning	_____		_____	Other _____	Specify _____		_____
Programming	_____		_____	Net Total	_____		_____

A/E QUESTIONNAIRE (Continued)

13. Services Provided by Firm: (Please Circle)  
(Admin, Arch, Drafting, Insp, Int Arch, Landscape Arch, Planning, Programming, Struct, Mech, Elect, HVAC, Civil, Other (please state)) \_\_\_\_\_

14. Professional Liabilities Coverage: Errors & Omissions, etc. Yes \_\_\_\_\_ No \_\_\_\_\_

15. Services Provided through Consultant: (Please Circle)  
(Admin, Arch, Drafting, Insp, Int Arch, Landscape Arch, Planning, Programming, Struct, Mech, Elect, HVAC, Civil, Other)

Name of Consultants & Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16. Geographical Limits: \_\_\_\_\_

17. Work type Distribution by % of Annual Average:

	% by Fee	% by # of Projects
Commercial, Office, Retail	_____	_____
Industrial	_____	_____
Educational	_____	_____
Medical	_____	_____
Other Institutional	_____	_____
Type: _____	_____	_____
New Building Design	_____	_____
Restoration & Renovation	_____	_____
Interior Design	_____	_____
Urban or Site Planning	_____	_____
Prime Engineering	_____	_____
Type: _____	_____	_____
Other: _____	_____	_____

18. Projects in last two years (Type, Name, Location, Size, Cost in Thousands, Completion Date, Service, Owner/Owner's representative with area code and phone number)(Ex: Office, Regent's Center, Austin, Tx., 200,000, All, John Doe, 512-475-2941)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. Date of Questionnaire: \_\_\_\_\_

20. Signature and Typed Name of Preparer:

\_\_\_\_\_  
\_\_\_\_\_

TRD-9814188  
Judy Ponder  
General Counsel  
General Services Commission

Filed: September 8, 1998

◆ ◆ ◆  
Office of the Governor  
Request for Proposals

Notice of Request for Proposals: Pursuant to Chapter 2254, Subchapter B, Government Code, the Criminal Justice Division in the Office of the Governor announces the issuance of a Request for Proposals (RFP). The purpose is to hire a consultant to work with Criminal Justice Division to develop progress reporting forms for the juvenile justice and youths. Additionally, the consultant would receive the individual evaluation plans from approximately 370 CJD grant applications, assess the plans for statistical soundness and relevance to the project's goals, objectives, and activities, and work with each grantee to fine-tune the evaluation plans. The consultant would also receive the grantee progress reports, log the reports, and enter the information into a computer database developed by the consultant to track all projects' progress over time. This information would be compiled by the grantee and provided to CJD in the format required by the federal government for reports on grantees' performance. The consultant would also provide CJD with reports both on demand and on a semi-annual basis.

Eligible to apply are universities, colleges, or research organizations with criminal justice programs or specific expertise in the area of juvenile justice or prevention programs for youths. Applicant must be able to document that it can provide adequate personnel and equipment resources for the project and must also provide a statement of its expertise. The successful bidder will be expected to begin performance of the contract no later than January 1, 1999.

Contact: Parties interested in submitting a proposal should contact Planning and Grant Administration, Criminal Justice Division, Office of the Governor, Post Office Box 12428, Austin, Texas 78711, (512) 463-1789 to obtain additional information, including a packet of examples of grantee self-evaluation plans that would be relevant to this project.

Closing Date: Proposals must be postmarked by or received in Planning and Grant Administration no later than September 30, 1998.

Award Procedure: Proposals will be subject to evaluation by a committee based on how closely the action plan within the proposal can meet the criteria in this RFP and on the demonstration of the level of expertise and resource intended to be committed to this project. The committee will determine which proposal best meets these criteria and will make a recommendation to an executive committee made up of the Director of the Criminal Justice Division, the Governor's General Counsel, and the Director of the Governor's Office of Budget and Planning. The decision of this executive committee will be final. At any time during this process, a bidder may be asked to clarify their proposal, which may include telephone inquiries, revisions to the proposal, or a verbal presentation at the Criminal Justice Division.

The Office of the Governor reserves the right to accept or reject any or all proposals submitted. The Office of the Governor is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of any other information. Additionally, the Office of the Governor is not obligated to and will not pay for any costs incurred prior to the execution of a contract.

TRD-9813967  
Pete Wassdorf  
Deputy General Counsel  
Office of the Governor  
Filed: September 2, 1998

◆ ◆ ◆  
**Texas Department of Health**

**Corrections of Error**

The Texas Department of Health adopted the repeal to 25 TAC §§133.1–133.3, 133.11–133.14, 133.21, 133.22, 133.51–133.54, 133.71, 133.72, 133.101, 133.102, 133.111–133.113, 133.121, and 133.131; and new §§133.1, 133.2, 133.21–133.26, 133.41–133.47, 133.61, 133.62, 133.81, 133.101, 133.102, 133.121, 133.122, 133.141–133.143, and §§133.161–133.169, concerning hospital licensing rules. The rules appeared in the August 7, 1998, issue of the *Texas Register*, (23 TexReg 8042).

On page 8097, §133.162(d)(4)(A)(iii)(I), the word “in” should be deleted and the text should read as “Nonflammable medical gas and clinical vacuum outlets shall be provided in accordance with Table 6 of §133.169(f) of this title”

On page 8100, §133.162(d)(5)(M), a semi-colon should replace the comma following NFPA 101, so that the text reads as “Emergency electric service. A Type I essential electrical system shall be provided in each hospital in accordance with requirements of NFPA 99; NFPA 101; and National Fire Protection Association 110. Standard for Emergency and Standby Power Systems, 1996 edition.”

◆ ◆ ◆  
The Texas Department of Health proposed an amendment to 25 TAC §§229.432–229.433, 229.441, and 229.443. The rules appeared in the July 31, 1998, issue of the *Texas Register*, (23 TexReg 7704).

On page 7705, §229.433(9)(A), only the subparagraph (A) reference should be shown in brackets, proposed for deletion, and the remaining text was supposed to become a part of the “Distributor” definition. Correct language for §229.433(9) beginning with the third sentence is “The term does not include [:(A)] a person who repackages a finished device or who otherwise changes the container, wrapper, or labeling of the finished device or the finished device package.[:]”

◆ ◆ ◆  
**Licensing Action for Radioactive Materials**

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled “Location” indicates the city in which the radioactive material may be possessed and/or used. The location listing “Throughout Texas” indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

## Licensing Actions for Radioactive Materials

## NEW LICENSES ISSUED:

Location -----	Name ----	License# -----	City ----	Amend- ment # -----	Date of Action -----
ABILENE	ABILENE DIAGNOSTIC CLINIC PLLC	L05101	ABILENE	2	08/26/98
ARLINGTON	COLUMBIA MEDICAL CENTER OF ARLINGTON SUBSIDIARY LP	L02228	ARLINGTON	44	08/25/98
AUSTIN	ROBERT A LAIBOVITZ MD	L02246	AUSTIN	8	08/26/98
BAYTOWN	SAN JACINTO METHODIST HOSPITAL	L02388	BAYTOWN	30	08/19/98
BEAUMONT	MOBIL OIL CORPORATION	L00603	BEAUMONT	59	08/24/98
BEAUMONT	METALFORMS INC	L02261	BEAUMONT	26	08/21/98
CENTER	CENTER HOSPITAL INC	L03608	CENTER	15	08/21/98
EL PASO	CARDIOLOGY CARE CONSULTANTS	L05045	EL PASO	1	08/26/98
HOUSTON	SHAW FABRICATORS	L05169	HOUSTON	0	08/25/98
KERRVILLE	KERRVILLE RADIATION THERAPY CENTER	L05135	KERRVILLE	1	08/26/98
LUBBOCK	HIGHLAND HEALTH SYSTEM INC	L02467	LUBBOCK	17	08/26/98
MIDLAND	WEST TEXAS NUCLEAR PHARMACY PARTNERS	L04573	MIDLAND	12	08/24/98
THROUGHOUT TEXAS	TN TECHNOLOGIES INC	L01105	ROUND ROCK	50	08/31/98
THROUGHOUT TEXAS	ODELL GEER CONSTRUCTION CO INC	L01804	BELTON	14	08/18/98

## AMENDMENTS TO EXISTING LICENSES ISSUED:

Location -----	Name ----	License# -----	City ----	Amend- ment # -----	Date of Action -----
ARLINGTON	CITY OF ARLINGTON	L01956	ARLINGTON	7	08/28/98
ARLINGTON	TEXAS IMAGING MANAGEMENT INC	L05109	ARLINGTON	5	08/24/98
AUSTIN	HTI/ADC VENTURE	L04910	AUSTIN	9	08/17/98
AUSTIN	HTI/ADC VENTURE	L04910	AUSTIN	10	08/26/98
BAY CITY	CELANESE LTD	L00246	BAY CITY	35	08/24/98
BAYTOWN	CHEVRON CHEMICAL COMPANY LLC	L00962	BAYTOWN	29	08/24/98
BRYAN	ST JOSEPH REGIONAL HEALTH CENTER	L00573	BRYAN	48	08/24/98
CARTHAGE	EAST TEXAS MEDICAL CENTER CARTHAGE	L02540	CARTHAGE	22	08/28/98
CHANNELVIEW	VIA NDT ENGINEERING AND TESTING	L04322	CHANNELVIEW	42	08/27/98
CONROE	CONROE HOSPITAL CORPORATION	L01769	CONROE	46	08/24/98
CORPUS CHRISTI	SPOHN HOSPITAL	L02495	CORPUS CHRISTI	57	08/26/98
CORPUS CHRISTI	DOCTORS REGIONAL MEDICAL CENTER	L02816	CORPUS CHRISTI	42	08/28/98
DENTON	COLUMBIA MEDICAL CENTER OF DENTAOM SUBSIDIARY LP	L02764	DENTON	34	08/31/98
DENTON	INTERNATIONAL ISOTOPES INC	L04994	DENTON	11	08/20/98
EL PASO	COLUMBIA MEDICAL CENTER EAST	L02551	EL PASO	34	08/21/98
EL PASO	COLUMBIA MEDICAL CENTER WEST	L02715	EL PASO	36	08/17/98
FORT WORTH	COLLINSWORTH #1 LLC	L05119	FORT WORTH	3	08/24/98
FRIENDSWOOD	ISO TEX DIAGNOSTICS INC	L02999	FRIENDSWOOD	30	08/25/98
GATESVILLE	CORYELL COUNTY MEMORIAL HOSPITAL AUTHORITY	L02391	GATESVILLE	24	08/31/98

## CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location -----	Name ----	License# -----	City ----	Amend- ment # -----	Date of Action -----
HOUSTON	DOCTORS HOSPITAL 1997 LP	L02047	HOUSTON	16	08/27/98
HOUSTON	TANOX BIOSYSTEMS INC	L04094	HOUSTON	8	08/25/98

HOUSTON	BAKER HUGHES INTEQ	L04452	HOUSTON	27	08/17/98
HOUSTON	BAKER HUGHES INTEQ	L04452	HOUSTON	28	08/25/98
HOUSTON	WYLE LABORATORIES INC	L04813	HOUSTON	1	08/21/98
LUBBOCK	METHODIST DIAGNOSTIC IMAGING	L03948	LUBBOCK	25	08/25/98
LUBBOCK	ST MARY IMAGING CENTER LTD	L04005	LUBBOCK	10	08/19/98
NACOGDOCHES	NACOGDOCHES MEDICAL CENTER	L02853	NACOGDOCHES	21	08/24/98
PASADENA	PASADENA BAYSHORE HOSPITAL INC	L00153	PASADENA	63	08/26/98
PASADENA	ARISTECH CHEMICAL CORPORATION PASADENA PLANT	L03421	PASADENA	9	08/18/98
PORT ARTHUR	ST MARY HOSPITAL OF PORT ARTHUR	L01212	PORT ARTHUR	58	08/25/98
SAN ANTONIO	BAPTIST HEALTH SYSTEM	L00455	SAN ANTONIO	80	08/31/98
SAN ANTONIO	SOUTHWEST FOUNDATION FOR BIOMEDICAL RESEARCH	L00468	SAN ANTONIO	42	08/27/98
SAN ANTONIO	SANTA ROSA HEALTH CARE CORPORATION	L02237	SAN ANTONIO	51	08/18/98
SAN ANTONIO	CARESELECT SAN ANTONIO INC	L04860	SAN ANTONIO	11	08/24/98
SHERMAN	COLUMBIA MEDICAL CENTER	L02372	SHERMAN	18	08/21/98
STAFFORD	BURZYNSKI RESEARCH INSTITUTE INC	L02948	STAFFORD	12	08/25/98
THROUGHOUT TEXAS	HALLIBURTON ENERGY SERVICES	L00442	HOUSTON	89	08/28/98
THROUGHOUT TEXAS	TEXAS A & M UNIVERSITY	L00448	COLLEGE STATION	94	08/28/98
THROUGHOUT TEXAS	BERRY FABRICTORS	L01575	CORPUS CHRISTI	35	08/18/98
THROUGHOUT TEXAS	H & G INSPECTION COMPANY INC	L02181	HOUSTON	122	08/18/98
THROUGHOUT TEXAS	TECHNICAL WRITING LABORATORY INC	L02187	PASADENA	115	08/21/98
THROUGHOUT TEXAS	METCO	L03018	HOUSTON	78	08/18/98
THROUGHOUT TEXAS	METCO	L03018	HOUSTON	79	08/28/98
THROUGHOUT TEXAS	MIDWEST INSPECTION SERVICE	L03120	PERRYTON	50	08/19/98
THROUGHOUT TEXAS	GLOBAL X RAY & TESTING CORP	L03663	ARANSAS PASS	61	08/17/98
THROUGHOUT TEXAS	TRAMTEXAS GAS CORPORATION	L03956	LAREDO	17	08/24/98
THROUGHOUT TEXAS	SGS INDUSTRIAL	L04460	DEER PARK	41	08/27/98
THROUGHOUT TEXAS	B & H INSPECTION SERVICES INC	L04684	ROBSTOWN	3	08/28/98
THROUGHOUT TEXAS	DURWOOD GREENE CONSTRUCTION COMPANY	L04753	STAFFORD	3	08/25/98
THROUGHOUT TEXAS	LONGVIEW ASPHALT INC	L04827	LONGVIEW	2	08/21/98
THROUGHOUT TEXAS	E D BAKER CORPORATION	L04872	BORGER	2	08/18/98
THROUGHOUT TEXAS	BUSTER PAVING COMPANY INC	L04886	SULPHUR SPRINGS	4	08/20/98
THROUGHOUT TEXAS	GULF COAST INSPECTION INC	L04934	INGLESIDE	3	08/21/98
THROUGHOUT TEXAS	ESCOT M D E INC	L5002	CORPUS CHRISTI	6	08/18/98
THROUGHOUT TEXAS	TEXAS PERFORATORS INC	L05086	SEGUIN	3	08/26/98
THROUGHOUT TEXAS	AGRA EARTH & ENVIRONMENTAL INC	L3622	EL PASO	11	08/25/98
TYLER	EAST TEXAS MEDICAL CENTER	L00977	TYLER	72	08/17/98
WHARTON	WHARTON HOSPITAL CORPORATION	L01388	WHARTON	33	08/21/98
YOAKUM	YOAKUM COMMUNITY HOSPITAL	L04466	YOAKUM	7	08/26/98

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
DALLAS	ST PAUL SOUTHWEST IMAGING CENTER	L04093	DALLAS	6	08/26/98
TEXAS CITY	CHARLES R BROMAN MD	L01469	TEXAS CITY	9	08/21/98
THROUGHOUT TEXAS	S UNITED INC	L04651	HOUSTON	2	08/18/98

CONTINUED TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
THROUGHOUT TEXAS	C & M WIRELINE SERVICE INC	L04695	SNYDER	2	08/19/98



THROUGHOUT TEXAS APPLIED ENVIRONMENTAL SERVICES L04772 EL PASO 1 08/25/98

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
BAYTOWN	EXXON CHEMICAL AMERICAS	L01135	BAYTOWN	0	08/28/98

EXEMPTIONS ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
ALICE	ALICE REGIONAL HOSPITAL	L02390	ALICE	0	08/28/98

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing Richard A. Rattiff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation

Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m. Monday-Friday (except holidays).

TRD-9814237  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: September 9, 1998

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Notice of Intent to Revoke Certificates of Registration

Pursuant to *Texas Regulations for Control of Radiation*, Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: X-Ray Equipment Company/Radiation Therapy Services, Inc., Mansfield, R08351; Al C. Franklin, D.D.S., McKinney, R09644; Chiropractic Health Center, Big Spring, R16416; Chiropractic Associates, Lubbock, R17993; Tetra Technologies, Inc., Houston, R18695; Houston Pro Medical Management, Inc., Houston, R19508; Family Chiropractic Health Center, Stafford, R20763; Palm Chiropractic, Brownsville, R23135; Bolton Chiropractic Clinic, Burnet, R23170; Aesthetic Laser Services LLC, Houston, Z01101.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Texas Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the

bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-9814235  
Susan Steeg  
General Counsel  
Texas Department of Health  
Filed: September 9, 1998



#### Notice of Intent to Revoke Radioactive Material Licenses

Pursuant to *Texas Regulations for Control of Radiation*, Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: CH2M Hill, San Antonio, G01719; Vector Engineering and Testing Company, Wichita Falls, L04031; Woodhill Medical Imaging Center, Dallas, L04256; Trans-America International, Inc., Fort Worth, L04634; Memorial Hermann Healthcare System, Houston, L04655; Global Tubular Services LC, Channelview, L05039.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Texas Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the licensees for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-9814236  
Susan Steeg  
General Counsel  
Texas Department of Health  
Filed: September 9, 1998



#### Patient Health Care Information Fees for General and Special Hospitals

The Texas Department of Health licenses general and special hospitals in accordance with the Health and Safety Code, Chapter 241. In 1995, the Texas Legislature amended the law to address the release and confidentiality of health care information. In accordance with the Health and Safety Code, §241.154(e), the fee for providing a patient's health care information has been adjusted 1.5% to reflect the most recent changes to the consumer price index as published by the Bureau of Labor Statistics (BLS) of the United States Department of Labor. The BLS measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.

With the adjustment, the fee may not exceed the sum of:

(1) a basic retrieval or processing fee, which must include the fee for providing the first 10 pages of the copies and which may not exceed \$32.05: and

(A) a charge for each page of:

- (i) \$1.07 for the 11th through the 60th page of the provided copies;
- (ii) \$.54 for the 61st through the 400th page of the provided copies;
- (iii) \$.27 for any remaining pages of the provided copies; and

(B) the actual cost of mailing, shipping, or otherwise delivering the provided copies; or

(2) if the requested records are stored on any microform or other electronic medium, a retrieval or processing fee, which must include the fee for providing the first 10 pages of the copies and which may not exceed \$48.08: and

(A) \$1.07 per page thereafter; and

(B) the actual cost of mailing, shipping, or otherwise delivering the provided copies.

This is published only as a courtesy to licensed hospitals. Hospitals are responsible for verifying that any fees charged for health care information are in accordance with the Health and Safety Code, Chapter 241.

If you have any questions, please call John M. Evans, Jr., Hospital Licensing Director, Health Facility Licensing Division, Texas Department of Health, at (512) 834-6648.

TRD-9814299  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: September 9, 1998



## Texas Department of Housing and Community Affairs

Notices of Administrative Hearings

Manufactured Housing Division

Wednesday, September 23, 1998, 3:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building, 1700 N. Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. Bobby Harness

aka Roadmaster Transport to hear alleged violations of the Act, §7(d) and the Rules §80.125(e) regarding obtaining, maintaining or possessing a valid installer's license. SOAH 332-98-1523. Department MHD1998000114UI.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9814141

Daisy Stiner

Acting Executive Director

Texas Department of Housing and Community Affairs

Filed: September 4, 1998



### **Manufactured Housing Division**

**Wednesday, September 23, 1998, 4:00 p.m.**

State Office of Administrative Hearing, Stephen F. Austin Building, 1700 N. Congress, 11th Floor, Suite 1100

Austin, Texas

#### **AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. Brian Stewart dba Stewart Home Repair to hear alleged violations of the Act, §7(b)(d) and §8(a) and the Rules §80.28(a) and §80.125(e) regarding obtaining, maintaining, or possessing a valid retailer's license; obtaining, maintaining or possessing a valid installer's license; selling a used manufactured home without the appropriate seal or label affixed to it; and not properly submitting the Form T/Installation Report on a manufactured home. SOAH 332-98-1524. Department MHD1998002065UR.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9814142

Daisy Stiner

Acting Executive Director

Texas Department of Housing and Community Affairs

Filed: September 4, 1998



### **Manufactured Housing Division**

**Tuesday, September 29, 1998, 1:00 p.m.**

State Office of Administrative Hearing, Stephen F. Austin Building, 1700 N. Congress, 11th Floor, Suite 1100

Austin, Texas

#### **AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. Lyle NiFong dba Bay Area Mobile Home Service to hear alleged violations of the Act, §7(d) and the Rules §80.125(e) regarding obtaining, maintaining or possessing a valid installer's license. SOAH 332-98-1532. Department MHD1997001350D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9814143

Daisy Stiner

Acting Executive Director

Texas Department of Housing and Community Affairs

Filed: September 4, 1998



### **Manufactured Housing Division**

**Tuesday, October 6, 1998, 1:00 p.m.**

State Office of Administrative Hearing, Stephen F. Austin Building, 1700 N. Congress, 11th Floor, Suite 1100

Austin, Texas

#### **AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the Texas Department of Housing and Community Affairs vs. James Randy Harris dba Prestige Housing East to hear alleged violations of the Act, §§7(j)(3)(5)(6), 8(b)(d), 14(f)(j)(m), 18(b) and 20(a) and the Rules §§80.28(a), 80.123(a)(b)(7), 80.131(b) and 80.132(6) by not properly compiling with the initial report and warranty orders of the Director and providing the Department with copies of completed work orders; selling a used manufactured home without giving a written warranty that the manufactured home is habitable with the failure to give proper warranties and notices to the consumer is associated with deceptive trade practice; selling a used manufactured home without giving the home owner a written warranty that the installation of the home was done in accordance with all standards, rules, regulations, administrative orders, and requirements of the Department with the failure to give proper warranties and notices to the consumer is associated with deceptive trade practice; selling a used manufactured home and failing to deliver the Formaldehyde Health Notice; selling a manufactured home without the appropriate, timely transfer of a good and marketable title; not properly submitting the Form T/Installation Report on a home sold to a consumer; and not properly submitting monthly Sales Summary Report showing the number of homes sold. SOAH 332-98-1533. Department MHD1997003367HB.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-9814144

Daisy Stiner

Acting Executive Director

Texas Department of Housing and Community Affairs

Filed: September 4, 1998



### **Notice of Amendments to the 1998 State of Texas Consolidated Action Plan**

The Texas Department of Housing and Community Affairs (the Department) announces amendments to the 1998 State of Texas Consolidated Action Plan; specifically the 1998 Action Plan which covers the allocation and distribution of Community Development Block Grant funds by the Texas Community Development Program.

The amendments change the method of distribution for \$1,534,000 of 1998 funds allocated to the Housing Rehabilitation Fund. Instead of accepting 1998 applications for the 1998 Housing Rehabilitation Fund allocation and selecting the 1998 grantees through a 1998 annual competition, the Department will select the 1998 Housing Rehabilitation Fund grantees from the applications that were received and scored for the 1997 Housing Rehabilitation Fund annual competition

that did not receive a grant through the 1997 Housing Rehabilitation Fund allocation of \$1,980,000. The Department will use the final 1997 program year Housing Rehabilitation application scoring rankings to determine the 1997 applicants that are selected to receive grants from the 1998 Housing Rehabilitation Fund allocation. The 1998 State of Texas Consolidated Action Plan, Community Development Block Grant 1998 Action Plan is being amended as follows:

Under Part II, titled "Allocation of CDBG Funds", Section B., titled "Description of Funds", Subsection 6b., titled "Housing Rehabilitation Fund", is changed to the following:

**6b. Housing Rehabilitation Fund**

This fund is available annually for grants to cities and counties to provide loan or deferred loan assistance for the rehabilitation of existing owner-occupied and renter-occupied housing units and, in strictly limited circumstances, the construction of new housing that is accessible to persons with disabilities. Application selection and scoring criteria for this fund will place some emphasis on housing activities that are targeted towards the provision of accessible housing for persons with disabilities. Housing units that are rehabilitated under this fund must be brought up to HUD Section 8 Existing Housing Quality Standards or local housing codes.

Applications for the 1998 program year will not be accepted. Cities and counties that submitted applications but did not receive grant awards under the 1997 program year statewide competition will be considered for 1998 program year funding. The final 1997 program year application scoring rankings will be used to determine the 1997 applicants that are selected for funding from the 1998 program year allocation (i.e., the highest ranked applications, to the extent that funds were available, were funded from the 1997 program year fund allocations; the next highest ranked applications will be funded from the 1998 program year allocation for the Housing Rehabilitation Fund to the extent that funds are available). Eligible activities under this fund are:

Loan or deferred loan assistance for the rehabilitation of owner-occupied housing units that are not inhabited by persons with disabilities.

Loan or deferred loan assistance for the rehabilitation of owner-occupied or renter-occupied housing units that are inhabited by per-

sons with disabilities or that will be occupied by persons with disabilities after completion of the housing unit rehabilitation. In this instance, the rehabilitated housing unit must include any improvements necessary to make the housing unit accessible to the actual or projected occupant(s) that are a person or persons with disabilities.

Loan or deferred loan assistance for the construction of new housing units that include accessibility amenities for persons with disabilities. Construction of new housing must be provided through an eligible subrecipient such as a neighborhood-based non-profit organization or a non-profit organization serving the development needs of the TCDP-eligible community. In this instance, the applicant must provide documentation that confirms: 1) a need for a housing unit or units, that are accessible to persons with disabilities; and 2) that there is no existing housing currently available in the applicant's jurisdiction that can satisfy or meet the documented need.

Soft costs associated with the delivery of the housing program assistance including the preparation of work write-ups; required architectural or professional services that are directly attributable to a particular housing unit; interim and final inspections; and inspections for lead-based paint, asbestos, termites, and existing septic systems.

Administrative costs associated with the housing assistance program.

Under Part III, titled "Application Information", Section B., titled "Application Cycles", is changed to the following:

**B. APPLICATION CYCLES**

As recommended by a majority of the written and oral comment received during the citizen participation process for the 1997 Action Plan (As part of the public notification process, the TCDP mailed over 2,000 flyers on December 10, 1996, explaining the biennial funding cycle.), TDHCA adopted 1997/1998 program biennial funding cycles for the Community Development Fund and the Planning and Capacity Building Fund. The biennial funding cycles for these two fund categories will improve the timeliness of the expenditure of CDBG funds and therefore prove more cost effective.

The following table summarizes the frequency of application submission for various application types:

TYPE OF APPLICATION	SUBMISSION CYCLE
1. Community Development Fund	Biennial (1)
2. Texas Capital Fund	
Real Estate Program	Three times Annually
Infrastructure Program	Three times Annually
Main Street Improvements Program	Annually
3. Colonia Fund	
Construction Fund	Annually
EDAP Fund	As needed
Planning Fund	Annually
4. Planning/Capacity Building Fund	Biennial (1)
5. Disaster Relief/ Urgent Need Fund	
Disaster Relief	As needed
Urgent Need	By notification
6. Housing Fund	
Housing Infrastructure Fund	Direct Award
Housing Rehabilitation Fund	Annually (2)
7. TCDP STEP Fund	Direct Award

10/28/98

(1) The applications submitted for program year 1997 Community Development Fund and Planning and Capacity Building Fund were scored and placed in rank order. Applications were funded to the extent that allocated 1997 funds were available. The final 1997 program year rankings under the Community Development Fund and Planning and Capacity Building Fund will also be used to determine the 1997 applicants that are selected for funding from the 1998 program year allocations (i.e., the highest ranked applications, to the extent that funds are available, will be funded from the 1997 program year fund allocations; the next highest ranked applications will be funded from the 1998 program year allocations for the Community Development Fund and the Planning and Capacity Building Fund to the extent that funds are available). Only one application for the Community Development Fund and the Planning and Capacity Building Fund could be submitted for the combined 1997 and 1998 program year period.

(2) Applications for the 1998 program year will not be accepted. Cities and counties that submitted applications but did not receive grant awards under the 1997 program year statewide competition

will be considered for 1998 program year funding. The final 1997 program year scoring rankings will be used to determine the 1997 applicants that are selected for funding from the 1998 program year allocation (i.e., the highest ranked applications, to the extent that funds were available, were funded from the 1997 program year fund allocations; the next highest ranked applications will be funded from the 1998 program year allocation for the Housing Rehabilitation Fund to the extent that funds are available).

Written comments concerning the amendments will be accepted for thirty days from the date of publication and should be submitted to Anne Paddock (apaddock@tdhca.state.tx.us), Deputy General Counsel, Texas Department of Housing and Community Affairs, 507 Sabine, P.O. Box 13941, Austin, Texas 78711-3941.

TRD-9814154

Daisy Stiner

Acting Executive Director

Texas Department of Housing and Community Affairs

Filed: September 8, 1998

◆ ◆ ◆

## Texas Department of Insurance

### Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application to change the name of AMERICAN LIFE AND CASUALTY INSURANCE COMPANY to CONSECO ANNUITY ASSURANCE COMPANY, a foreign life company. The home office is located in Chicago, Illinois.

Application for admission to Texas for BENEFIT LAND TITLE INSURANCE COMPANY, a foreign title company. The home office is located in Santa Ana, California.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Kathy Wilcox, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-9814035  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance  
Filed: September 3, 1998



### Notices

The Commissioner of Insurance, or his designee, will consider approval of a rating manual request submitted by the Government Employees Companies proposing to use a rating manual relative to classifications and territories different than that promulgated by the Commissioner of Insurance pursuant to TEX. INS. CODE ANN. art. 5.101, §3(l). They are proposing to implement two new discounts for private passenger automobile insurance that apply to bodily injury, property damage, medical payments, personal injury protection, collision and comprehensive coverages: one, offered by GEICO Indemnity Company, to allow an 8% discount for current and retired associates of the GEICO companies or any GEICO Direct Representative; and one, offered by Government Employees Insurance Company and GEICO General Insurance Company, to allow a military discount of 12% for risks receiving the Sponsored Marketing Group Discount or the Associates Discount; and 15% for risks not eligible for the Sponsored Marketing Group Discount or Associates Discount. The proposed discounts apply to the total policy premium.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless a properly filed objection, pursuant to Art. 5.101, §3(h), is made with the Deputy Commissioner, Automobile & Homeowners Group, David R. Durden, at the Texas Department of Insurance, MC 104-5A, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

TRD-9814036  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance  
Filed: September 3, 1998



The Commissioner of Insurance, or his designee, will consider approval of a rating manual request submitted by the Government Employees Companies proposing to use a rating manual relative to classifications and territories different than that promulgated by the Commissioner of Insurance pursuant to TEX. INS. CODE ANN. art. 5.101, §3(l). They are proposing a 5% discount, offered by Government Employees Insurance Company and GEICO General Insurance Company, for personal automobile insurance to an insured, applicant or their spouse if they are an active member, when the discount is initially applied to the policy, of 1) an organization that sponsors GEICO and GEICO General insurance as a benefit; or 2) is an active federal employee in General Services grades 11 or higher. The discount is applied to the total policy premium.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless a properly filed objection, pursuant to Art. 5.101, §3(h), is made with the Deputy Commissioner, Automobile & Homeowners Group, David R. Durden, at the Texas Department of Insurance, MC 104-5A, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

TRD-9814037  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance  
Filed: September 3, 1998



## Texas Juvenile Probation Commission

Request for Contract Proposals for a Coordinator to Oversee Technical Assistance and Training on the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

The Texas Juvenile Probation Commission is soliciting proposals for a qualified Coordinator to oversee technical assistance and training on the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders being provided by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to five Community Youth Development (CYD) sites in the U. S. Attorney's Office, Southern District of Texas.

### I. BACKGROUND

The Comprehensive Strategy specifies a number of critical policy assumptions to guide effective programming: 1) families must be strengthened in order to fulfill their primary responsibility to instill moral principles and provide guidance and support to children; 2) core social institutions-schools, religious organizations, youth service agencies, community organizations-must be supported in their roles of developing capable, mature and responsible youths; 3) delinquency prevention must be promoted as the most cost-effective approach to combating youth crime; 4) intervention should be immediate and effective when delinquent behavior is first manifested; and 5) the small group of serious, violent and chronic juvenile offenders should be identified and controlled through a range of graduated sanctions, including placement in secure facilities.

The U.S. Department of Justice has developed this Comprehensive Strategy to prevent serious and violent juvenile crime. The Criminal Justice Division (CJD) of the Governor's Office, as the state agency that administers the Office of Juvenile Justice and Delinquency Prevention (OJJDP) formula grant funds, has been awarded technical

assistance and training for the implementation of OJJDP's Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders. Five communities in Texas are receiving training and technical assistance to implement this strategy. Participating communities are Houston, Galveston, Corpus Christi, Brownsville, and McAllen. The training and technical assistance is being provided through Developmental Research and Programs, Inc. and the National Council on Crime and Delinquency who are federal contractors.

## II. QUALIFICATIONS AND DUTIES OF COORDINATOR

The Coordinator should be qualified by training and experience in working with local communities, families of at-risk children, and federal contractors. The Coordinator will provide technical assistance to participating communities regarding implementation of a comprehensive strategy to reduce serious and violent juvenile crime. The Coordinator will work closely with federal training contractors to follow up on training provided to local communities and to help those communities implement strategies in which training has been provided. Technical assistance must be provided on-site in each of five participating communities at least every other month. The Coordinator will submit monthly reports to the Governor's Criminal Justice Division regarding progress.

## III. FUNDING AVAILABLE

Funds to support this program are made available under the Juvenile Justice and Delinquency Prevention (JJDP) Act. A maximum of \$33,000 will be available for a single contract with a Coordinator to perform the duties identified above. Proposals must include a budget that would be effectively expended throughout a one year period to provide assistance. The budget should include consultant fees not to exceed \$450/day plus travel expenses to each of the sites providing at least one on-site visit every other month in each of the five sites.

## IV. CONTACT PERSONS

For questions regarding submission of proposals, contact Keith Rudeseal of the Texas Juvenile Probation Commission at 512/424-6679. For questions regarding the Comprehensive Strategy training and technical assistance, contact Leticia Pena Martinez of the Governor's Office at 512/463-1921.

## V. PROPOSAL DUE DATE

Proposals must be postmarked by or received at the Texas Juvenile Probation Commission, Post Office Box 13547, Austin, Texas 78711-3547 on or before October 1, 1998.

## VI. SELECTION PROCESS

The selection criteria are qualifications of the individual (75%) and program description and budget (25%).

TRD-9814136

Lisa Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Filed: September 4, 1998



## Legislative Budget Board

Schedule for Joint Budget Hearings (for the period of September 21-October 2, 1998) on Appropriations Requests for the 2000-2001 Biennium

*Schedule of Joint Budget Hearings (for the period of September 21 through October 2, 1998) on Appropriations Requests for the 2000-2001 Biennium*

The University of Texas Southwestern Medical Center at Dallas Monday, September 21, 1998	9:00 AM	UTSMCD-North Campus, Simmons Biomedical Research Bldg., Room NB 2.402/403 6000 Harry Hines Blvd. Dallas, Texas
The University of Texas M.D. Anderson Cancer Center Monday, September 21, 1998	9:00 AM	UTSMCD-North Campus, Simmons Biomedical Research Bldg., Room NB 2.402/403 6000 Harry Hines Blvd. Dallas, Texas
The University of Texas Health Center at Tyler Monday, September 21, 1998	9:00 AM	UTSMCD-North Campus, Simmons Biomedical Research Bldg., Room NB 2.402/403 6000 Harry Hines Blvd. Dallas, Texas
Midwestern State University Tuesday, September 22, 1998	9:00 AM	Radisson Hotel 2211 I-35 North Denton, Texas
University of North Texas Health Science Center at Fort Worth Tuesday, September 22, 1998	9:00 AM	Radisson Hotel 2211 I-35 North Denton, Texas
University of North Texas Tuesday, September 22, 1998	9:00 AM	Radisson Hotel 2211 I-35 North Denton, Texas
General Services Commission Tuesday, September 22, 1998	9:00 AM	Capitol Extension, E1.010, 14th & Congress Ave. Austin, Texas
Texas Woman's University Tuesday, September 22, 1998	9:00 AM	Radisson Hotel 2211 I-35 North Denton, Texas
Texas Department of Transportation Tuesday, September 22, 1998	10:30 AM	Capitol Extension, E1.014 14th & Congress Ave. Austin, Texas

9/9/98 9:23:02 AM

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*Schedule of Joint Budget Hearings (for the period of September 21 through October 2, 1998) on Appropriations Requests for the 2000-2001 Biennium*

The University of Texas at Pam American Thursday, September 24, 1998	10:00 AM	Capitol Extension, E1.026, 14th & Congress Ave.	Austin, Texas
Texas Tech University Health Sciences Center Thursday, September 24, 1998	10:30 AM	Capitol Extension, E1.026, 14th & Congress Ave.	Austin, Texas
Texas Tech University Thursday, September 24, 1998	1:30 PM	Capitol Extension, E1.026, 14th & Congress Ave.	Austin, Texas
Food and Fibers Commission Thursday, September 24, 1998	3:30 PM	Capitol Extension, E1.026, 14th & Congress Ave.	Austin, Texas
Texas A&M University – Kingsville Tuesday, September 29, 1998	9:00 AM	Early Childhood Development Center, Room 219 B&C 6300 Ocean Drive	Corpus Christi,
Texas A&M International University Tuesday, September 29, 1998	9:00 AM	Early Childhood Development Center, Room 219 B&C 6300 Ocean Drive	Corpus Christi,
Texas A&M University – Corpus Christi Tuesday, September 29, 1998	9:00 AM	Early Childhood Development Center, Room 219 B&C 6300 Ocean Drive	Corpus Christi,
The University of Texas at Dallas Thursday, October 01, 1998	9:00 AM	UT-Dallas, Cecil & Ida Green Center 2nd Floor Conference Room 2601 N. Floyd Rd.	Richardson, Texas
Texas A&M University-Texarkana Thursday, October 01, 1998	9:00 AM	UT-Dallas, Cecil & Ida Green Center 2nd Floor Conference Room 2601 N. Floyd Rd.	Richardson, Texas

9/9/98 9:23:03 AM

*Schedule of Joint Budget Hearings (for the period of September 21 through October 2, 1998) on Appropriations Requests for the 2000-2001 Biennium*

West Texas A&M University Thursday, October 01, 1998	9:00 AM	UT-Dallas, Cecil & Ida Green Center 2nd Floor Conference Room 2601 1 N. Floyd Rd.	Richardson, Texas
Texas A&M University-Commerce Thursday, October 01, 1998	9:00 AM	UT-Dallas, Cecil & Ida Green Center 2nd Floor Conference Room 2601 1 N. Floyd Rd.	Richardson, Texas
The University of Texas at Arlington Thursday, October 01, 1998	9:00 AM	UT-Dallas, Cecil & Ida Green Center 2nd Floor Conference Room 2601 1 N. Floyd Rd.	Richardson, Texas
The University of Texas at El Paso Thursday, October 01, 1998	10:00 AM	UT System-Ashbel Smith Hall Bldg., Ash 2 Conference Room 201 West 7th Street	Austin, Texas

9/9/98 9:23:04 AM

Page 3 of 3

TRD-9814255  
John Keel  
Director  
Legislative Budget Board

Filed: September 9, 1998

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Texas Natural Resource Conservation Commission

## Correction of Error

The Texas Natural Resource Conservation Commission proposed new 30 TAC §11.2 and §11.3. The rules appeared in the August 14, 1998, issue of the *Texas Register*, (23 TexReg 8358).

On page 8358, under the heading "EXPLANATION OF PROPOSED RULES," third paragraph, fourth sentence, the reference to "Contracts Manager" should be replaced with a reference to "his designee." Therefore, the sentence should read, "The protest will be reviewed by the Purchasing Manager (Manager) or his designee and a determination will be made."

On page 8358, also under the heading "EXPLANATION OF PROPOSED RULES," third paragraph, but the last sentence, the word "the" should be added before the word "commission."

On page 8359, under the heading "SUBMITTAL OF COMMENTS," a paragraph was included which pertains to persons with disabilities wishing to attend the public hearing. The commission has not scheduled a public hearing for this rulemaking, so this paragraph should have been omitted from the preamble.



## Texas State Board of Pharmacy

### Notification of Meeting of Task Force on Pharmacists' Working Conditions and Their Impact on the Public Health

The Texas State Board of Pharmacy announces that the Task Force on Pharmacists' Working Conditions and Their Impact on the Public Health will meet Wednesday, October 7, 1998. The meeting will be held in Tower 2, Room 2-225, William P. Hobby, Jr. State Office Building, 333 Guadalupe Street, Austin, Texas at 9:30 a. m. Any questions regarding this meeting should be directed to Allison Benz, R.Ph., Enforcement Officer, at 512-305-8037.

TRD-9814010

Gay Dodson, R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy  
Filed: September 3, 1998



## Public Utility Commission of Texas

### Applications to Introduce New or Modified Rates or Terms Pursuant to P.U.C. Substantive Rule §23.25

Notice is given to the public of an application filed with the Public Utility Commission of Texas on September 2, 1998 to introduce new or modified rates or terms pursuant to P.U.C. Substantive Rule §23.25, Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs).

Tariff Title and Number: Notification of Southwestern Bell Telephone Company (SWBT) to Introduce Contract Pricing for IntelliNumber Service, Pursuant to Substantive Rule §23.25. Tariff Control Number 19823.

The Application: SWBT proposes optional contract pricing for IntelliNumber Service. SWBT proposes under this application to offer discounted rates based on a 3-year or 5-year contract term for IntelliNumber Service. There will be a minimum billing charge applied each month for a minimum number of completed calls for the duration of the contract term. At the end of the contract, the customer may elect to renew the contract, however, if the customer elects not to renew the contract, service will continue for the per completed

call rate on a month- to-month basis. SWBT requests the proposed change be effective September 25, 1998.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by September 24, 1998. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9814279

Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 9, 1998



Notice is given to the public of an application filed with the Public Utility Commission of Texas on September 3, 1998 to introduce new or modified rates or terms pursuant to P.U.C. Substantive Rule §23.25, Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs).

Tariff Title and Number: Notification of Southwestern Bell Telephone Company (SWBT) to Revise the Cellular Mobil Telephone Interconnection Tariff and to Introduce the Local Exchange Routing Guide Update Service, Pursuant to Substantive Rule §23.25. Tariff Control Number 19828.

The Application: SWBT proposes to revise its Cellular Mobil Telephone Interconnection Tariff. These changes include the introduction of a new Local Exchange Routing Guide update service and a revision relaxing the restriction on the types of interconnection that can be provided with CCS/SS7 Signaling.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by September 24, 1998. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9814278

Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 9, 1998



### Notices of Application for Approval of Intralata Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on August 18, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of South Plains Telephone Cooperative, Inc. for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19765.

The Application: South Plains Telephone Cooperative, Inc.'s intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and

0+ intraLATA toll calls. The company proposes an implementation date of no later than February 8, 1999.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before September 25, 1998. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19765.

TRD-9814223  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 8, 1998

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Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on August 18, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Electra Telephone Company for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19766.

The Application: Electra Telephone Company's intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls. The company proposes an implementation date of no later than February 8, 1999.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before September 25, 1998. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19766.

TRD-9814224  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 8, 1998

◆ ◆ ◆

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on August 18, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Muenster Telephone Corp. of Texas for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19767.

The Application: Muenster Telephone Corp. of Texas' intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls. The company proposes an implementation date of no later than January 1, 1999.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before September 25, 1998. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19767.

TRD-9814225  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 8, 1998

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Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on August 18, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Tatum Telephone Company for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19768.

The Application: Tatum Telephone Company's intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls. The company proposes an implementation date of no later than February 8, 1999.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before September 25, 1998. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19768.

TRD-9814226  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 8, 1998

◆ ◆ ◆

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on August 19, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Blossom Telephone Company, Inc. for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19772.

The Application: Blossom Telephone Company, Inc.'s intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls. The company proposes an implementation date of no later than February 8, 1999.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission

Office of Customer Protection at (512) 936-7120 on or before September 25, 1998. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19772.

TRD-9814227  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 8, 1998



Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on August 19, 1998, pursuant to P.U.C. Substantive Rule §23.103 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Lipan Telephone Company for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §23.103. Project Number 19773.

The Application: Lipan Telephone Company's intraLATA equal access implementation plan will adopt a two-PIC methodology which will allow a telephone subscriber to select one primary interexchange carrier (PIC) for all 1+ and 0+ interLATA toll calls and either the same carrier or a different carrier for all 1+ and 0+ intraLATA toll calls. The company proposes an implementation date of no later than February 8, 1999.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before September 25, 1998. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Project Number 19773.

TRD-9814228  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 8, 1998



#### Notices of Intent to File Pursuant to P.U.C. Substantive Rule §23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas of an application pursuant to P.U.C. Substantive Rule §23.27 for a new PLEXAR- Custom service for Mansfield Independent School District (ISD) in Mansfield, Texas.

Tariff Title and Number: Southwestern Bell Telephone Company Notice of Intent to File a new PLEXAR-Custom service for Mansfield ISD in Mansfield, Texas Pursuant to P.U.C. Substantive Rule §23.27. Tariff Control Number 19819.

The Application: Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for Mansfield ISD in Mansfield, Texas. PLEXAR-Custom service is a central office-based PBX-type serving arrangement designed to meet the specific needs of customers who have communication system requirements of 75 or more station lines. The designated exchange for this service is the Fort Worth exchange, and the geographic market for this specific PLEXAR-Custom service is the Dallas LATA.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9814272  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission  
Filed: September 9, 1998



Notice is given to the public of the intent to file with the Public Utility Commission of Texas of an application pursuant to P.U.C. Substantive Rule §23.27 for an addition to the existing PLEXAR-Custom service for City of Bedford in Bedford, Texas.

Tariff Title and Number: Southwestern Bell Telephone Company Notice of Intent to File an addition to the existing PLEXAR-Custom service for City of Bedford in Bedford, Texas Pursuant to P.U.C. Substantive Rule §23.27. Tariff Control Number 19817.

The Application: Southwestern Bell Telephone Company is requesting approval for an addition to the existing PLEXAR-Custom service for City of Bedford in Bedford, Texas. PLEXAR-Custom service is a central office-based PBX-type serving arrangement designed to meet the specific needs of customers who have communication system requirements of 75 or more station lines. The designated exchange for this service is the Fort Worth exchange, and the geographic market for this specific PLEXAR-Custom service is the Dallas LATA.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9814277  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission  
Filed: September 9, 1998



#### Notice of Public Workshop

The Public Utility Commission of Texas will conduct a public, staff level workshop in Project Number 17549, Code of Conduct for Electric Utilities and Their Affiliates, and Project Number 18811, Rulemaking to Address Affiliate Activities for Telecommunications Utilities, at 1:30 p.m. on Monday, September 28, 1998.

The topic for discussion at the workshop will be draft report formats to meet the reporting requirements of the proposed new P.U.C. Substantive Rules §25.84, relating to Annual Reporting of Affiliate Transactions for Electric Utilities, and §26.84, relating to Annual Reporting of Affiliate Transactions for Dominant Certificated Telecommunications Utilities (DCTUs), developed in the above projects respectively. The workshop will address the rules in numerical order (electric first, followed by telecommunications).

Public Workshop (Staff Level)

September 28, 1998

1:30 p.m. - 5:00 p.m.

Commissioners' Hearing Room

Public Utility Commission of Texas

1701 North Congress Avenue, 7th Floor

Austin, Texas

Copies of the draft report formats are available under the respective project numbers in the commission's Central Records Division, 512/936-7180. For more information, contact Jan Barga at 512/936-7255.

TRD-9814229

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: September 8, 1998



## Texas Real Estate Commission

### Correction of Error

The Texas Real Estate Commission proposed an amendment to 22 TAC §535.223. The rule appeared in the August 21, 1998, issue of the *Texas Register*, (23 TexReg 8627).

On page 8628, §535.223(b), should read as follows: "(b) Except as provided by this section, inspections performed for a prospective buyer or prospective seller of one-to-four family residential property must be reported on Form REI 7A-0 ("the form") [~~forms adopted by the commission~~]. Licensed inspectors shall complete the applicable portions of the form [~~inspection report forms adopted by the commission~~] and provide the report within a reasonable period of time [~~reports~~] to the persons for whom the inspection has been performed. [~~Except as provided in this section, each inspector shall use either Property Inspection Report REI Number 7-0 or Property Inspection Report REI Number 7A-0 when reporting an inspection. If the inspector uses Property Inspection Report REI Number 7-0 and an inspection of an optional system is also to be performed, the inspector shall also complete the appropriate optional system property inspection report, REI Numbers 8-0 through 15-0, for each optional system inspected. When the inspection is limited to one or more of the optional systems, the inspector shall use either the appropriate optional system report form adopted by the commission or Property Inspection Report REI Number 7A-0.~~] If necessary to report the inspection of a part, component or system not contained in the [a] form, or space provided on the [a] form is inadequate for a complete reporting of the inspection, such as when the inspector provides a higher level of inspection performance than that required by §535.222 (relating to Standards of Practice), the inspector may attach additional pages to the form. When providing comments or additional pages to report on items listed on a form, the inspector shall arrange the comments or additional pages to follow the sequence of the items listed in the form adopted by the commission. If a part, component or system contained in the [a] form is present in the property and has not been inspected under the departure provisions of §535.222, the inspector shall make an appropriate notation on the form, clearly indicating the reason the part, component, or system has not been inspected."



## Texas Department of Transportation

### Request for Proposal

The Airport Sponsors listed below, through their agent, the Texas Department of Transportation (TxDOT), intend to engage Aviation Professional Services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT, Aviation Division will solicit and receive proposals for professional services as described in the project scope for each individual project listed below:

Airport Sponsor: County of Hutchinson; Hutchinson County Airport; TxDOT Project Number: 9904BORGR Project Scope: prepare an Airport Master Plan for the Hutchinson County Airport. HUB Goal is 10%. Project Manager: Michelle Hannah.

Airport Sponsor: County of Panola; Panola County-Sharpe Field Airport; TxDOT Project Number: 9919CARTH. Project Scope: Prepare an Airport Action Plan for the Panola County - Sharpe Field Airport. HUB Goal is 0%. Project Manager: Sandra Gaither.

Airport Sponsor: County of Rusk; Rusk County Airport; TxDOT Project Number: 9910HNDRS. Project Scope: Prepare an Airport Action Plan for the Rusk County Airport; HUB goal is 0%. Project Manager: Sandra Gaither.

Airport Sponsor: County of Kleberg; Kleberg County Airport; TxDOT Project Number: 9916KNGVL. Project Scope: Prepare an Airport Master Plan for the Kleberg County Airport. HUB goal is 10%. Project Manager: Bruce Ehly.

Airport Sponsor: City of Yoakum; Yoakum Municipal Airport; TxDOT Project Number: 9913YOKUM. Project Scope: prepare an Airport Action Plan for the Yoakum Municipal Airport. HUB goal is 0%. Project Manager: Jim Cummins.

The Proposal Shall Include:

1. Firm name, address, phone number and name of person to contact regarding the proposal.
2. Proposed project management structure identifying key personnel and subconsultants (if any).
3. Qualifications and recent, relevant experience (past five years) of the firm, key personnel and subconsultants relative to the performance of similar services for aviation planning projects.
4. Proposed project schedule, including major tasks and target completion dates.
5. Technical approach - a detailed discussion of the tasks or steps to accomplish the project.
6. List of in-state references including the name, address and phone number of the person most closely associated with the firm's prior performance of similar airport planning projects.
7. Statement regarding an Affirmative Action Program.
8. Certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.
9. Certification of Child Support payments as now required by Senate Bill 84, 73rd Legislature. Forms are available by calling TxDOT, Grant Management, at (512) 416-4500 or 1-800-68-PILOT.
10. Proposed Historically Underutilized Business (HUB) participation for each project above if appropriate.

Interested consultants should submit six copies of brief proposals for each project consisting of the minimum number of pages sufficient to provide the above information for project. Proposals must be postmarked by U. S. Mail by midnight October 17, 1998, (CDST). Mailing address: TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483. Overnight delivery must be received by

4:00 p.m. (CDST) on October 20, 1998; overnight address: TxDOT, Aviation Division, 200 E. Riverside Drive, Austin, Texas, 78704. Hand delivery must be received by 4:00 p.m. October 20, 1998 (CDST); hand delivery address: 150 E. Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704.

The airport sponsor(s) duly appointed committee will review all proposals and may select three to five firms for interviews. The final consultant selection by the sponsor's committee will be made following the completion of the review of proposals and/or interviews.

Each airport sponsor reserves the right to reject any or all proposals and to reopen the consultant selection process.

If there are any questions, please contact Linda Howard, Director, Planning and Programming, Aviation Division, Texas Department of Transportation, or the Aviation Division project manager, Aviation Division, Texas Department of Transportation, (512) 416-4500 or 1-800-68-PILOT.

TRD-9814261

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: September 9, 1998



#### Request for Proposal (Patent Matters)

The Texas Department of Transportation (the "department") requests proposals from law firms interested in representing the department in patent law matters. This request for proposals (RFP) is issued for the purpose of identifying qualified law firms able to provide legal representation required by the department and the Texas Transportation Commission (the "commission") on specific patent applications. Selection of outside counsel will be made by the department's executive director.

Description: The department is a state agency granted powers under Transportation Code, Section 201.205 to apply for, register, secure, hold, and protect patents. Transportation research activities and related pursuits produce design processes and other intellectual property that are carefully evaluated for protection and for licensing to governmental and commercial entities. The department will engage outside counsel to prepare, file, and prosecute applications to patent the department's current and possible future innovations. The department invites responses to this RFP from qualified firms for the provision of patent legal services under the direction and supervision of the department's Office of General Counsel. Outside counsel engaged by the department must demonstrate competence and expertise in patent law. Extensive prior experience in providing legal services related to patent law is required.

Responses: Responses to the RFP may be submitted by an individual law firm, attorney, or joint venture between two or more law firms and/or attorneys. Responses to the RFP should include at least the following information: (1) a description of the firm's qualifications for performing patent prosecution, developing patent applications, and obtaining patents, the names, experience, education, and scientific or technical expertise of the attorneys who will be assigned to work on such matters, the availability of the lead attorney and other firm personnel who will be assigned to work on these matters, and appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision of these legal services; (2) information relative to the capabilities and resources of the firm's Texas offices, including a summary of physical resources that would be assigned to the

department, and an organizational chart indicating the relevant areas of responsibility of each attorney assigned to work on these matters; (3) the submission of fee information (either in the form of hourly rates for each attorney and paralegal who will be assigned to perform services in relation to these matters, comprehensive flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; (4) an abstract of the firm's cost control procedures and how it charges for its services; (5) a comprehensive description of the procedures used by the firm to supervise the provision of legal services in a timely and cost effective manner; (6) disclosures of conflicts of interest (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the Texas Department of Transportation, or to the State of Texas or any of its boards, agencies, commissions, universities, or elected or appointed officials); and (7) confirmation of willingness to comply with the rules, policies, directives, and guidelines of the department, the commission, and the Attorney General of the State of Texas.

Format and Person to Contact: Eight copies of the proposal are requested. The proposal should be typed, preferably double spaced, on 8 1/2 x 11 inch paper with all pages sequentially numbered, and either stapled or bound together. They should be sent by mail or delivered in person, marked "Response to Request for Proposal" and addressed to Charles W. Heald, P.E., Executive Director, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. For questions, telephone Jennifer Soldano, Associate General Counsel at (512) 463-8630.

Deadline for Submission of Response: All proposals must be received by the Texas Department of Transportation at the previously stated address no later than 5:00 p.m., October 19, 1998.

TRD-9814260

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: September 9, 1998



#### Request for Qualifications

The Airport Sponsors listed below, through their agent, the Texas Department of Transportation (TxDOT), intend to engage Aviation Professional Engineering Services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT, Aviation Division will solicit and receive qualifications for professional engineering design services as described in the project scope for each individual project listed below:

Airport Sponsor: County of Hemphill; Hemphill County Airport; TxDOT Project Number: 9904CANAD; Project Scope: Prepare an Airport Layout Plan and provide engineering/design services to overlay, stripe and mark Runway 4-22; rehabilitate, stripe and mark Runway 18-36; rehabilitate and mark taxiway to Runway 22; rehabilitate and mark stub taxiway; rehabilitate apron and hangar taxiways; install taxiway centerline reflectors; install precision approach path indicators (PAPI-2s) for Runway 4-22; install runway end identifier lights for Runway 4-22; and correct airport drainage at the Hemphill County Airport. Project Manager: Bijan Jamalabad.

Airport Sponsor: City of Coleman; Coleman Municipal Airport; TxDOT Project Number: 9923COLMN; Project Scope: Prepare an Airport Layout Plan and provide engineering/design services to rehabilitate, stripe and mark Runway 15-33; rehabilitate and mark taxiway to Runway 15 end; rehabilitate and mark taxiway to

Runway 33 end; rehabilitate and mark stub taxiway; reconstruct and rehabilitate apron; install runway end identifier lights for Runway 15-33; replace rotating beacon and tower; and improve drainage at the Coleman Municipal Airport. Project Manager: Steve Roth.

Airport Sponsor: City of Gatesville and County of Coryell; Gatesville City-County Airport; TxDOT Project Number: 9909GATES; Project Scope: Prepare an airport layout plan and provide engineering/design services to extend Runway 17-35, 17 end; widen Runway 17-35; overlay, stripe and mark Runway 17-35; relocate medium intensity runway lights for Runway 17-35; extend medium intensity runway lights for Runway 17-35; overlay stub taxiway; rehabilitate hangar access taxiway; reconstruct apron and hangar access taxiway; install precision approach path indicators (PAPI-2s) for Runway 17-35; install runway end identifier lights for Runway 17-35; and install erosion/sedimentation controls at the Gatesville City-County Airport. Project Manager: Alan Schmidt.

Airport Sponsor: City of Giddings and County of Lee; Giddings-Lee County Airport; TxDOT Project Number: 9914GIDNG; Project Scope: Prepare an Airport Layout Plan and provide engineering/design services to rehabilitate, stripe and mark Runway 17-35; construct new stub taxiway; reconstruct hangar access taxiway; rehabilitate hangar access taxiway; reconstruct apron; install segmented circle; relocate rotating beacon and tower; install drainage improvements; and install erosion/sedimentation controls at the Giddings-Lee County Airport. Project Manager: Bijan Jamalabad.

Airport Sponsor: City of Granbury; Granbury Municipal Airport ; TxDOT Project Number: 9902GRNBY; Project Scope: Prepare a drainage study and provide engineering/design services to correct drainage south end of Runway 32; construct new hangar access taxiway; and expand apron at the Granbury Municipal Airport. Project Manager: Alan Schmidt.

Airport Sponsor: City of Hallettsville; Hallettsville Municipal Airport; TxDOT Project Number: 9913HALET; Project Scope: Prepare an Airport Layout Plan and provide engineering/design services to extend Runway 17-35, 35 end; widen Runway 17-35; reconstruct, stripe and mark Runway 17-35; extend medium intensity runway lights; replace low intensity runway lights with medium intensity runway lights; construct turnaround Runway 35; reconstruct stub taxiway and apron; replace rotating beacon and tower; and install erosion/sedimentation controls at the Hallettsville Municipal Airport . Project Manager: Bijan Jamalabad

Airport Sponsor: County of Fayette; Fayette Regional Air Center Airport; TxDOT Project Number: 9913LAGRA; Project Scope: Provide engineering/design services to extend Runway 16-34, 34 end; overlay, stripe and mark Runway 16-34; construct turnaround Runway 34 end; overlay taxiway; install taxiway centerline reflectors; overlay apron; expand apron; extend medium intensity runway lights for Runway 16-34; relocate precision approach path indicator; install runway end identifier lights for Runway 16-34; install supplemental windcone at Runway 3 end; and install erosion/sedimentation controls at the Fayette Regional Air Center Airport. Project Manager: Bijan Jamalabad.

Airport Sponsor: City of Palacios; Palacios Municipal ; TxDOT Project Number: 9913PALCS; Project Scope: Prepare an Airport Layout Plan; and provide engineering/design services to seal portland cement concrete joints on Runway 13-31; stripe and mark Runway 13-31; install segmented circle; and improve airport drainage at the Palacios Municipal Airport. Project Manager: John Wepryk.

Airport Sponsor: County of Calhoun; Calhoun County Airport; TxDOT Project Number: 9921PTLAV; Project Scope: prepare an

Airport Layout Plan; and provide engineering/design services to rehabilitate, stripe and mark Runway 14-32; rehabilitate and mark parallel taxiway; rehabilitate apron; upgrade airport signage; upgrade airport lighting; and install radio control for medium intensity runway lights at the Calhoun County Airport. Project Manager: John Wepryk.

Airport Sponsor: County of Refugio; Rooke Field Airport ; TxDOT Project Number: 9916REFGO; Project Scope: Provide engineering/design services to overlay, stripe and mark Runway 14-32; replace low intensity runway lights with medium intensity runway lights for Runway 14-32; overlay taxiway and apron; install precision approach path indicator-2s for Runway 14-32; replace rotating beacon and tower; install lighted windcone and segmented circle; install signage; and relocate wellhead at Rooke Field Airport. Project Manager: John Wepryk.

Airport Sponsor: City of Rockwall; TxDOT Project Number: 9918RCKWL; Project Scope: preparation of a site selection report for a new airport at Rockwall . Project Manager: Bruce Ehly.

Airport Sponsor: Texas State Technical College Waco; TSTC Waco Airport ; TxDOT Project Number: 9909TSTCW; Project Scope: provide engineering/design services to stripe and mark Runway 17L-35R; reconstruct taxiway D; construct taxiway to Runway 17R; install taxiway edge lights at taxiway A and D; install taxiway edge reflectors; upgrade airport signage; and install precision approach path indicators (PAPI-4s) for Runway 17L and 35R at the TSTC Waco Airport. Project Manager: Alan Schmidt.

Interested firms which do not already have a copy of the Form 439, entitled "Aviation Consultant Services Questionnaire", (August 1995 version) may request one from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form is also available on high density 3 1/2" diskette in Microsoft Excel 5.0, and may be ordered from the above address with remittance of \$2.50 to cover costs. The form may also be downloaded from the TxDOT web site, URL address <http://www.dot.state.tx.us/insddot/orgchart/avn/avninfo/avn-info.htm>. Download the file from the selection "Consultant Services Questionnaire Packet". The form may not be altered in any way, and all printing must be in black. QUALIFICATIONS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

Two completed, unfolded copies of Form 439 (August 1995 version), for each project of interest to the consultant must be postmarked by U. S. Mail by midnight October 3, 1998 (CDST). Mailing address: TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483. Overnight delivery must be received by 4:00 p.m. (CDST) on October 6, 1998; overnight address: TxDOT, Aviation Division, 200 E. Riverside Drive, Austin, Texas, 78704. Hand delivery must be received by 4:00 p.m. October 6, 1998 (CDST); hand delivery address: 150 E. Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704. The three pages of instructions should not be forwarded with the completed questionnaires. Electronic facsimiles will not be accepted.

Each airport sponsor's duly appointed committee will review all professional qualifications and select three to five firms to submit proposals. Those firms selected will be required to provide more detailed, project-specific proposals which address the project team, technical approach, Historically Underutilized Business (HUB) participation, design schedule, and other project matters, prior to the final selection process. The final consultant selection by the sponsor's committee will generally be made following the completion of review of proposals and/or consultant interviews. Each airport sponsor reserves the right to reject any or all statements of qualifications and to conduct new professional services selection procedures.



If there are any procedural questions, please contact Karon Wiedemann, Director, Grant Management, or the designated Project Manager for technical questions at 1-800-68-PILOT (74568).

TRD-9814262

Bob Jackson

Acting General Counsel

Texas Department of Transportation

Filed: September 9, 1998



## The University of Texas System

### Invitation for Consultants to Provide Offers of Consulting Services

Pursuant to the provisions of Texas Government Code, Chapter 2254, The University of Texas System procured the consulting services of Andersen Consulting LLP to identify Systemwide information technology strategic opportunities that will enable the components to better prepare to address higher education needs of the 21st century. These Systemwide opportunities propose to use information technologies strategically to help achieve the basic missions of The University of Texas System. Pursuant to a contract with The University of Texas System, Andersen Consulting LLP provided such consulting services to The University of Texas System. At this time, it is necessary to amend and extend the contract between The University of Texas System and Andersen Consulting LLP. As required by the provisions of Texas Government Code, Chapter 2254, prior to amending and extending its contract with Andersen Consulting LLP, The University of Texas System extends this invitation (Invitation) to qualified and experienced consultants interested in providing the consulting services described in this Invitation to The University of Texas System. Unless a better offer (as determined by The University of Texas System) is received in response to this Invitation, The University of Texas System intends to enter into negotiations with Andersen Consulting LLP to amend and extend The University of Texas System's contract with Andersen Consulting LLP.

#### Scope of Work:

The successful consultant shall work with The University of Texas System to articulate the vision, high-level conceptual model and business case required to bring distance education programs in The University of Texas System to the highest standards in the nation. Cost approximations in the business case will include the estimated cost of digitizing a major portion of The University of Texas System component libraries, performing an inventory of administrative and student information support systems, as well as developing and operating a fully functioning virtual university and state-of-the-art telecommunications program.

#### Specifications:

Any consultant submitting an offer in response to this Invitation must provide the following: (1) consultant's legal name, including type of entity (individual, partnership, corporation, etc.) and address; (2) background information regarding the consultant, including the number of years in business and the number of employees; (3) information regarding the qualifications, education, and experience of the team members proposed to conduct the requested services; (4) the hourly rate to be charged for each team member providing services; (5) the earliest date by which the consultant could begin providing the services; (6) a list of five (5) client references, including any complex institutions or systems of higher education for which consultant has provided similar consulting services; (7) a statement of consultant's approach to the project (i.e., the services described in the Scope of

Work section of this Invitation), any unique benefits consultant offers The University of Texas System, and any other information consultant desires The University of Texas System to consider in connection with consultant's offer; (8) information to assist The University of Texas System in assessing consultant's demonstrated competence and experience providing consulting services similar to the services requested in this Invitation; (9) information to assist The University of Texas System in assessing the consultant's experience performing the requested services for other complex institutions or systems of higher education; (10) information to assist The University of Texas System in assessing whether the consultant will have any conflicts of interest in performing the requested services; (11) information to assist The University of Texas System in assessing the overall cost to The University of Texas System for the requested services to be performed; and (12) information to assist The University of Texas System in assessing consultant's capability and financial resources to perform the requested services.

#### Selection Process:

Selection of the Successful Offer (defined below) submitted in response to this Invitation by the Submittal Deadline (defined below) will be made using the competitive process described below. After the opening of the offers and upon completion of the initial review and evaluation of the offers submitted, selected consultants may be invited to participate in oral presentations. The selection of the Successful Offer may be made by The University of Texas System on the basis of the offers initially submitted, without discussion, clarification or modification. In the alternative, selection of the Successful Offer may be made by The University of Texas System on the basis of negotiation with any of the consultants. At The University of Texas System's sole option and discretion, it may discuss and negotiate all elements of the offers submitted by selected consultants within a specified competitive range. For purposes of negotiation, a competitive range of acceptable or potentially acceptable offers may be established comprising the highest rated offers. The University of Texas System will provide each consultant within the competitive range with an equal opportunity for discussion and revision of its offer. The University of Texas System will not disclose any information derived from the offers submitted by competing consultant in conducting such discussions. Further action on offers not included within the competitive range will be deferred pending the selection of the Successful Offer; however, The University of Texas System reserves the right to include additional offers in the competitive range if deemed to be in its best interest. After the submission of offers but before final selection of the Successful Offer is made, The University of Texas System may permit a consultant to revise its offer in order to obtain the consultant's best final offer. The University of Texas System is not bound to accept the lowest priced offer if that offer is not in its best interest, as determined by The University of Texas System. The University of Texas System reserves the right to (a) enter into agreements or other contractual arrangements for all or any portion of the Scope of Work set forth in this Invitation with one or more consultants, (b) reject any and all offers and re-solicit offers or (c) reject any and all offers and temporarily or permanently abandon this procurement, if deemed to be in the best interest of The University of Texas System.

#### Criteria for Selection:

The successful offer (Successful Offer) will be submitted in response to this Invitation by the Submittal Deadline that is the most advantageous to The University of Texas System. Offers will be evaluated by University of Texas personnel. The evaluation of offers and the selection of the Successful Offer will be based on the information provided to The University of Texas System by

consultant in response to the Specifications section of this Invitation. Consideration may also be given to any additional information and comments if such information or comments increase the benefits to The University of Texas System. The successful consultant will be required to enter into a contract acceptable to The University of Texas System.

**Consultant's Acceptance of Offer Evaluation Methodology:**

Submission of an offer by a consultant indicates: (1) consultant's acceptance of (a) the Offer Selection Process, (b) the Criteria for Selection, and (c) all other requirements and specifications set forth in this Invitation; and (2) consultant's recognition that some subjective judgments must be made by The University of Texas System during this Invitation process.

**Submittal Deadline:**

To respond to this Invitation, consultants must submit the information requested in the Specification section of this Invitation and any other relevant information, in a clear and concise written format to: Dr. Mario J. Gonzalez, Vice Chancellor for Telecommunications and Information Technology, The University of Texas System, 201 West Seventh Street, Room 418, Austin, Texas 78701. Offers must be submitted in an envelope or other appropriate container. "Invitation No. OTIT-01Amend" and the Submittal Deadline must be clearly shown in the lower left-hand corner on the top surface of such envelope or container. In addition, the name and return address of the consultant must be clearly visible. All offers must be received at the above address no later than 5:00 p.m., CST, Thursday, October 15, 1998 (Submittal Deadline). Submissions received after the Submittal Deadline will not be considered.

**Questions:**

Questions concerning this Invitation should be directed to Dr. Mario J. Gonzalez, Vice Chancellor for Telecommunications and Information Technology, The University of Texas System, 201 West Seventh Street, Room 418, Austin, Texas 78701, 512/499-4207. The University of Texas System may in its sole discretion respond in writing to questions concerning this Invitation. Only The University of Texas System's responses made by formal written addenda to this Invitation shall be binding. Verbal and other written interpretations or clarifications shall be without legal effect.

TRD-9814283

Francie A. Frederick

Executive Secretary to the Board of Regents

The University of Texas System

Filed: September 9, 1998



**Texas Water Development Board**

**Correction of Error**

The Texas Water Development Board adopted new 31 TAC §§368.1-368.11. The rules appeared in the July 31, 1998, issue of the *Texas Register*, (23 TexReg 7837).

Section 368.4(a) was submitted with a reference to "§368.8 of this title (relating to Notice Requirements)." The reference should read as "§355.8 of this title (relating to Notice Requirements)."



**Eligible County List**

Pursuant to 31 TAC §355.72(a), the Texas Water Development Board (the board), through its executive administrator, publishes the following list of Texas counties which are eligible to apply for financial assistance from the Economically Distressed Areas Program. These counties will continue to be eligible for such assistance until the next list is published which will be 60 days after the executive administrator of the board receives sufficiently reliable statistics to establish the statewide per capita income and unemployment rates for the previous three years, which is anticipated to be in November of 1999. Brewster County, Brooks County, Cameron County, Coleman County, Crosby County, Culberson County, Dimmit County, Duval County, El Paso County, Frio County, Hidalgo County, Hudspeth County, Jeff Davis County, Jim Hogg County, Jim Wells County, Kinney County, Kleberg County, La Salle County, Marion County, Maverick County, Newton County, Panola County, Presidio County, Red River County, Reeves County, San Patricio County, Starr County, Terrell County, Tyler County, Uvalde County, Val Verde County, Webb County, Willacy County, Winkler County, Zapata County, and Zavala County.

TRD-9814011

Suzanne Schwartz

General Counsel

Texas Water Development Board

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# *Texas Register*

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